

**AGREEMENT
(UTILIZING CITY OF JACKSONVILLE CONTRACT NO. 9948)
BETWEEN
THE CITY OF JACKSONVILLE
AND
NEMO-Q, INC.**

FOR CUSTOMER QUEUING SYSTEM FOR BUILDING INSPECTION DIVISION

THIS AGREEMENT is made and entered into in duplicate this 8 day of Aug, 2014 (hereinafter the "Effective Date"), by and between the CITY OF JACKSONVILLE (hereinafter the "CITY"), a municipal corporation existing under the Constitution and the laws of the State of Florida, and NEMO-Q, INC. (hereinafter the "Contractor"), a foreign profit corporation with principal office at 4023 W. University Dr., Building B, McKinney, Texas 75071, for a customer queuing system for the City of Jacksonville's Building Inspection Division.

RECITALS:

WHEREAS, effective February 1, 2014, the City of Jacksonville, by and through the Duval County Tax Collector's Office, entered into City Contract No. 9948 with NEMO-Q, Inc. (hereinafter the "City Contract"), attached hereto as **Exhibit A** and incorporated herein by this reference, for a customer queuing system; and

WHEREAS, said City Contract is in full force and effect until September 30, 2018, with a one year renewal option, and has been competitively procured and awarded by the City of Jacksonville as contracting authority according to law; and

WHEREAS, the Jacksonville Procurement Code, more particularly Section 126.211, *Ordinance Code*, authorizes and allows departments and agencies of the CITY to use *inter alia* contracts of other departments and agencies of the CITY which have been competitively procured and awarded; and

WHEREAS, the City Contract is broad enough to allow CITY to procure a customer queuing system (hereinafter the "Services") for the Building Inspection Division and Contractor has agreed to allow CITY to use the City Contract; and

WHEREAS, it is in the best interests of the parties to use the City Contract for procurement of the Services; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained and for other good and valuable consideration the parties agree as follows:

ARTICLE 1: Incorporation of Recitals

The above-stated recitals are accurate, true, and correct and are made a part hereof and are incorporated herein by this reference.

ARTICLE 2: Engagement of Contractor

CITY hereby engages Contractor and Contractor hereby accepts said engagement for the purpose of providing to CITY the Services according to the provisions of the City Contract and its exhibits, amendments, equipment descriptions, and quotations. The payment schedule and prices are more specifically set forth in the Price Schedule, attached hereto as **Exhibit B** and incorporated herein by this reference.

ARTICLE 3: Coordination and Services Provided by CITY

CITY shall designate for the procurement of the Services a Project Coordinator who will, on behalf of the CITY, coordinate with Contractor and administer this Agreement according to the terms and conditions contained herein and in the exhibits attached hereto and made a part hereof. It shall be the responsibility of Contractor to coordinate all purchases of the Services with the designated Project Coordinator. CITY's Project Coordinator shall be Tom Goldsbury (Telephone: 904-255-8799; Fax: 904-255-8504; Email: TomG@coj.net).

ARTICLE 4: Duration of Agreement/Pricing Available to Other Entities

The term of this Agreement shall commence on the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein to September 30, 2018, unless sooner terminated as provided in **Exhibit A**. This Agreement may be renewed for one (1) additional one (1) year period upon provisions, terms, and conditions mutually acceptable to the parties. During said period of time, the Services pricing provided hereunder shall be available to all using agencies and other political subdivisions, boards, agencies, or authorities existing in Duval County that may desire to purchase the same at the contract price provided herein.

ARTICLE 5: Payments for Services of Contractor

5.1. CITY will compensate Contractor for the Services purchased hereunder in accordance with purchase orders issued and used by the City of Jacksonville Procurement Division; *provided however*, payment invoices shall be sent to the authorized CITY representative as specified in said purchase order or other subsequent written instrument signed by CITY's Project Coordinator.

5.2. Notwithstanding any contrary provision in **Exhibit A**, the maximum indebtedness of the CITY for all fees, reimbursable items, or other costs for the Services sold by Contractor to CITY pursuant to this Agreement shall not exceed the sum of TWENTY-SEVEN THOUSAND TWO HUNDRED NINETY-FIVE and 00/100 USD (\$27,295.00).

ARTICLE 6: Notice

ARTICLE 6: Notice

Notice to CITY under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

Tom Goldsbury, Chief
Building Inspection Division
City of Jacksonville, Florida
214 North Hogan Street, 2nd Floor
Jacksonville, Florida 32202

Gregory Pease, Chief
Procurement
Ed Ball Building
214 North Hogan Street, 8th Floor
Jacksonville, Florida 32202

Notice to Contractor under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

Michael Berg
NEMO-Q, Inc.
4023 W. University Dr., Building B
McKinney, Texas 75071

ARTICLE 7: Counterparts:

The parties agree that for the execution of this Agreement, time is of the essence. Therefore, this Agreement and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile (“fax”) transmission of all signatures with originals to follow shall constitute and be evidence of an executed Agreement.

[Remainder of page left blank intentionally. Signature page follows immediately.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE:

By James R. McCain, Jr.
James R. McCain, Jr.
Corporation Secretary



By Karen Bowling
Alvin Brown, Mayor

Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

WITNESS:

NEMO-Q, INC.

By [Signature]
Signature

By [Signature]
Signature

David Myers
Type/Print Name

MICHAEL BORG
Type/Print Name

VP of Sales
Title

PRESIDENT
Title

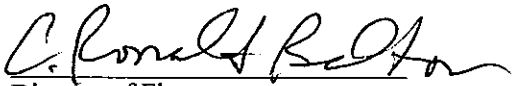
Encumbrance and funding information for internal City use:

Account PDBZ159AD-06427

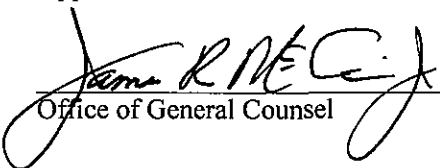
Total Amount. . . \$27,295.00

This above stated total amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by one (1) or more subsequently issued Purchase Order(s) that must reference the foregoing Contract. All financial examinations and fund control checking will be made at the time such Purchase Order(s) are issued.

In accordance with Section 24.103(e), of the Ordinance Code of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; provided however, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance(s) shall be made by subsequent purchase order(s) as specified in said Contract.


Director of Finance
City Contract # 9948 A
BT

Approved as to form:


Office of General Counsel

**PROCUREMENT, LICENSE, AND SOFTWARE DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
NEMO-Q, INC.
FOR
CUSTOMER QUEUING SYSTEM FOR DUVAL COUNTY TAX COLLECTOR'S OFFICE**

THIS PROCUREMENT, LICENSE, AND SOFTWARE DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into this 1 day of February, 2014, by and between Nemo-Q, Inc. (the "Provider") and the City of Jacksonville ("City") for a Customer Queuing System for the Duval County Tax Collector's Office (the "Project").

WHEREAS, City prepared Bid No. SC-0640-13 for the Project; and

WHEREAS, Provider submitted a proposal to City and was selected by City as the best and most qualified applicant to perform the Project; and

WHEREAS, City and Provider have negotiated mutually satisfactory terms for the execution of such services as are necessary to perform the Project; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, City hereby engages Provider for professional services for the Project in accordance with the following:

1 **DEFINITIONS.**

- 1.1 **Acceptance.** As defined in Exhibit A.
- 1.2 **Agreement.** This document and all of the accompanying appendices, schedules, and exhibits, together with any future written and executed amendments as defined in Article VI of the Procurement, License, and Software Development Agreement.
- 1.3 **Documentation.** Technical publications or user manuals relating to use of the System provided by Provider to City.
- 1.4 **Goods.** All tangible personal property required to be furnished under this Agreement, including Software.
- 1.5 **Project Manager.** The person who will, on behalf of the City, coordinate with Provider and administer this Agreement according to the terms and conditions contained herein and in the exhibits attached hereto and made a part hereof. The City's Project Manager for the Project shall be: Kevin Rock - (904) 630-7593; KRock@coj.net.
- 1.6 **Services.** Services to be furnished by Provider in order to fulfill the requirements of this Agreement, including but not limited to analysis, scheduling, coordination, installation, testing,

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repair, and maintenance.

- 1.7 Software. The term "Software" shall mean the computer program in object code only and the user manuals described in the specifications set forth in Exhibit A. The term "Software" includes any corrections, bug fixes, enhancements, updates, or other modifications, including custom modifications, to such computer program and user manuals.
- 1.8 Specifications. Exhibit E consisting of written technical descriptions of materials, equipment, standards, and workmanship as applied to the Goods and Services, and certain administrative details applicable thereto.
- 1.9 Testing. As defined in Exhibit A.

2 CONTRACT DOCUMENTS. The Contract Documents are as follows:

- Exhibit A – Scope of Work
- Exhibit B – Payment Terms
- Exhibit C – Software License Terms
- Exhibit D – Support and Maintenance Agreement
- Exhibit G – Remote Access Agreement

3 SERVICES. Subject to the terms and conditions set forth in this Agreement, Provider shall provide to County the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 3.1 Term of Services. The term of this Agreement shall begin on February 1, 2014, and shall continue in full force and effect until September 30, 2018, unless the term of the Agreement is otherwise terminated or modified as provided for in Section 12. The time provided to Provider to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 12.
- 3.2 Standard of Performance. Provider shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Provider is engaged in the geographical area in which Provider practices its profession. Provider shall prepare all work products required by this Agreement in a professional manner and shall conform to the standards of quality normally observed by a person practicing in Provider's profession.
- 3.3 Assignment of Personnel. Provider shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any person assigned to perform Services under this Agreement, Provider shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 3.4 Time. Provider shall devote such time to the performance of Services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 3.1 above and to satisfy Provider's obligations hereunder.

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- 3.5 Primary Provider of Services. Provider designates Michael Berg, Provider's President, who shall serve as Provider's principal contact for the services provided under this Agreement.

4 COMPENSATION/MAXIMUM INDEBTEDNESS

- 4.1 The City shall pay Provider for all Services described in said Scope of Services, attached hereto as Exhibit A.
- 4.2 Payment shall be made pursuant to the fee schedule attached hereto and incorporated herein as Exhibit B.
- 4.3 The cost of Services provided to Provider by others shall be reimbursed at the invoiced amount without markup by Provider. Travel expenses, if provided for as a reimbursable expense in said "Scope of Services," shall be reimbursed only to the extent provided by Chapter 106, Part 7, *Ordinance Code*. Travel expenses not specifically covered by said chapter shall be reimbursed only to the extent provided by the uniform policies and practices of the City.
- 4.4 Maximum Indebtedness. The maximum indebtedness of City for all Services to be performed pursuant to this Agreement shall not exceed the sum of TWO HUNDRED SEVENTY THOUSAND THREE HUNDRED FORTY-SIX AND 00/100 USD (\$270,346.00).
- 4.5 Total Payment. City shall pay for the Services to be rendered by Provider pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Provider in rendering Services pursuant to this Agreement unless Provider obtains the written consent of the City prior to incurring such additional expense or cost. City shall make no payment for any extra, further, or additional service pursuant to this Agreement unless agreed to in writing by the City. In no event shall Provider submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 4.6 Hourly Fees. Fees for work performed by Provider on an hourly basis shall not exceed the amounts shown on the fee schedule attached hereto as Exhibit B.
- 4.7 Reimbursable Expenses. Reimbursable expenses are specified in Exhibit B. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 4.8 Payment of Taxes. Provider is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 4.9 Payment upon Termination. In the event that the City or Provider terminates this Agreement pursuant to Section 12, the City shall compensate the Provider for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Provider shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 4.10 Authorization to Perform Services. The Provider is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from

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the Project Manager.

5 DISPUTES.

- 5.1 Project Manager shall notify Provider in the event that the Software furnished by Provider does not meet the true intent of the Specifications, as provided in Exhibit A. Provider's project manager shall meet with Project Manager within ten (10) days of the notification (by telephone, if applicable) and shall attempt to determine the nature of the Project Manager's concern.
- 5.2 In the event that Provider's project manager and Project Manager cannot resolve the matter, the Project Manager shall render his written decision within fifteen (15) days.
- 5.3 Within ten (10) days of receiving the Project Manager's written decision, Provider may submit a written request to the Tax Collector for resolution of the dispute, including a meeting to further discuss the nature of the dispute and the Provider's non-compliance with the requirements of Exhibit E. The Tax Collector shall render a written decision within ten (10) days. Nothing herein shall be interpreted to preclude the Tax Collector from issuing a notice of termination pursuant to Section 12 concurrently with his or her decision. Time limits for the effective date of the termination shall not be extended by virtue of the process described herein unless otherwise agreed to by the City in writing.
- 5.4 Provider shall continue performance of this Agreement throughout the course of any and all disputes. Provider agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement. Provider also agrees that should Provider discontinue performance of this Agreement due to dispute or disputes, the City may terminate this Agreement for cause.

6 WARRANTIES. Provider warrants the following with respect to Services performed:

- 6.1 Compliance with Specifications. Provider's Software, Goods, files, documentation, and all other work product will strictly comply with the descriptions and representations as to the Services, including performance capabilities, completeness, specifications, configurations, and functions that appear in the Specifications, attached as Exhibit A.
- 6.2 Compliance with Specifications after Acceptance. For a period of one-hundred eighty (180) days after Acceptance pursuant to Section 3.2 of Exhibit A, any computer programs developed under this Agreement will operate in conformance with the specifications for such computer programs.
- 6.3 It may lawfully grant the license set forth in Exhibit C, Software License Terms.
- 6.4 Neither the licensed software, including all subsequent versions, updates, enhancements, and/or releases, nor licensed materials, nor the use thereof within the scope of the License, infringes a patent or copyright or is claimed to be a trade secret of any person who has not consented to the granting of the License.
- 6.5 At the time of installation, and so long thereafter as City pays renewal license fees hereunder, the software, including all subsequent versions, updates, enhancements, and/or releases, will conform to applicable documentation (i.e., all reference manuals) delivered by Provider to the City via electronic

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download.

- 6.6 Neither the software, including all subsequent versions, updates, enhancements, and/or releases, nor the licensed materials contain any virus, time bomb mechanism, or other software or code that can disable or adversely affect any and all of the software of the licensed materials or destroy any data or other software.
- 6.7 Disclaimer of any other warranty. THE LIMITED WARRANTY SET FORTH IN SECTION 6 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7 ACCURACY OF WORK

- 7.1 Provider shall be responsible for the performance of its work in accordance with industry standards, including work by any subcontractors, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of Provider or subcontractors without additional compensation. Acceptance of the work by City shall not relieve Provider of the responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.
- 7.2 At any time during the performance of the Project provided for by the Contract Documents or during any phase of work performed by others based on data furnished by Provider under this Agreement, Provider shall confer with City for the purpose of interpreting the information furnished and/or to correct any errors and/or omissions made by Provider. Provider shall prepare all drawings or data to correct its errors and/or omissions without added compensation, even though final payment may have already been received therefor.
- 7.3 Provider shall be and shall remain liable, in accordance with applicable law, for all damages to City caused by Provider's breach of contract or its negligent performance of any of the Services furnished under this Agreement. Provider shall not be responsible for any time delays in the Project caused by circumstances beyond Provider's control.

8 CONFIDENTIALITY.

- 8.1 Confidential Information and Disclosure. During the term of this Agreement, either party (the "Disclosing Party") may find it necessary to disclose confidential, proprietary, or trade secret information (the "Information") to the other party (the "Receiving Party"). All such Information made available in a tangible medium of expression (such as, without limitation, on paper or by means of magnetic tapes, magnetic disks, or other computer media) shall be marked in a prominent location to indicate that it is the confidential, proprietary, and trade secret information of the Disclosing Party at the time of disclosure to the Receiving Party. The Receiving Party shall hold the Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer, or disclosure of such Information. The Receiving Party shall not attempt to reverse engineer or in any manner create any product or information which is similar in appearance to or based on the Information provided by the Disclosing Party. The Receiving Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors, and subcontractors who have a need to know in connection with this Agreement.

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- 8.2 The Receiving Party's confidentiality obligations hereunder shall not apply to any portion of the Disclosing Party's Information which:
- 8.2.1 Has become a matter of public knowledge other than through an act or omission of the Receiving Party;
 - 8.2.2 Has been made known to the Receiving Party by a third party in accordance with such third party's legal rights without any restriction on disclosure;
 - 8.2.3 Was in the possession of the Receiving Party prior to the disclosure of such Information by the Disclosing Party and was not acquired directly or indirectly from the other party or any person or entity in a relationship of trust and confidence with the other party with respect to such Information;
 - 8.2.4 The Receiving Party is required by law to disclose; or
 - 8.2.5 Has been independently developed by the Receiving Party from information not defined as "Information" in this Agreement, as evidenced by Receiving Party's written records.
- 8.3 The Receiving Party shall destroy or return to the Disclosing Party the Disclosing Party's Information (including all copies thereof) promptly upon the earliest of any termination of this Agreement or the Disclosing Party's written request. Notwithstanding the foregoing, the Receiving Party may retain one copy of such Information solely for archival purposes, subject to the confidentiality provisions of this Agreement. Provider understands that City is a public agency and is subject to the laws that may compel it to disclose information about Provider's business.
- 9 **SUBCONTRACTING AND ASSIGNMENT.** Provider is prohibited from subcontracting or assigning this Agreement or any part of it unless such subcontracting or assignment is approved by City in writing.
- 10 **INSURANCE.** Not less than ten (10) days prior to commencing any work, Provider shall furnish to the City satisfactory proof that Provider has taken out for the entire period covered by this Agreement, as further defined below, the following insurance in a form satisfactory to the City and with an insurance carrier satisfactory to the City, authorized to do business in Florida, and rated by A. M. Best & Company A- VII or better, which will protect those described below from claims described below which arise or are alleged to have arisen out of or result from the Services of Provider for which Provider may be legally liable, whether performed by Provider, its subcontractors, or sub-consultants of any tier or by those employed directly or indirectly by them or any of them, or by anyone for whose acts any of them may be liable:
- 10.1 **Commercial General Liability Insurance:** Comprehensive or Commercial General Liability Insurance with limits not less than \$2,000,000 General Aggregate, \$2,000,000 Products/Comp. Ops Aggregate, \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products, and Completed Operations.
 - 10.2 **Business automobile liability insurance:** Primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92, including symbol 1 (Any Auto). Limits shall be not less than one million dollars (\$1,000,000) each occurrence including coverage for owned, non- owned, and hired vehicles, subject to a deductible of not more than ten thousand dollars (\$10,000) payable by Provider.
 - 10.3 Full workers' compensation insurance for all persons whom Provider may employ in furnishing

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the Goods and providing the Services required hereunder. Workers' compensation policy shall include Employer Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident. There shall be a waiver of subrogation as to the City and each named and additional insured under such policy.

- 10.4 Insurance policies shall contain an endorsement containing the following terms:
- 10.4.1 The City, and its directors, officers, representatives, employees, consultants, sub-consultants, and agents shall be named as additional insured's and there shall be a waiver of subrogation as to each named and additional insured.
 - 10.4.2 The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability, except as otherwise stated herein.
 - 10.4.3 Written notice of cancellation, non-renewal, or of any material change in the policies shall be mailed to the City 30 days in advance of the effective date thereof, and ten (10) days' written notice to the same in advance of payment of any insurance claims under such policies to any person, firm, or entity.
 - 10.4.4 Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insured other than the Provider shall be called upon to contribute to a loss covered by insurance for the named insured.
- 10.5 Prior to commencing any work on the Project, Provider shall furnish to the City Certificates of Insurance approved by City's Risk Manager evidencing the maintenance of said insurance. Certificates of Insurance and Endorsements shall have clearly typed thereon the City contract number and title of contract, shall clearly describe the coverage, and shall contain a provision requiring the giving of written notice described above in subparagraph 10.4.3. Endorsements naming the City as additional insured shall be attached to the Certificate of Insurance.
- 10.6 Nothing herein contained shall be construed as limiting in any way the extent to which Provider or any of its subcontractors or sub-consultants may be held responsible for payment of damages resulting from their operations.
- 10.7 Insurance shall be maintained by Provider in full force and effect during the entire period of performance of the Agreement, except that general commercial liability insurance completed operations coverage shall be kept in force for a period of one (1) year after final termination of this Agreement.
- 10.8 If Provider fails to maintain insurance, the City may take out insurance to cover any damages of the above mentioned classes for which the City and others to be insured referenced above might be held liable on account of Provider's failure to pay such damages, or compensation which the City might be liable to under provisions of Workers' Compensation Insurance and Safety Act, by reason of employee of Provider being injured or killed, and deduct and, in addition to any other remedy, retain amount of premium from any sums due Provider under Contract.

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11 INDEMNIFICATION.

- 11.1 Provider shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City and its officials, commissioners, officers, employees, agents, and volunteers from and against any and all losses, liabilities, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Provider or its employees, subcontractors, or agents by acts for which they could be held strictly liable, or by the quality or character of their work.
- 11.2 The foregoing obligation of Provider shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Provider or its employees, subcontractors, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Provider to indemnify and hold harmless includes the duty to defend as set forth in Section 768.28, Florida Statutes. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Provider from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Provider agrees to the provisions of this Section and acknowledges that it is a material element of consideration.
- 11.3 Provider shall indemnify and hold harmless City from and against any claims, including reasonable legal fees and expenses, based upon infringement of any United States copyright or patent by the Software. City agrees to notify Provider of any such claim promptly in writing and to notify and to allow Provider to control the proceedings. City agrees to cooperate fully with Provider during such proceedings. Provider shall defend and settle at its sole expense all proceedings arising out of the foregoing. In the event of such infringement, Provider may replace, in whole or in part, and at its own expense, the Software with a substantially compatible and functionally equivalent computer program or modify the Software to avoid the infringement.
- 11.4 All indemnification provisions contained in this Section 11 are separate and apart from, and are in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This Section 11 relating to indemnity shall survive the term of this Agreement and any holdover and/or Agreement extensions thereto whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

12 CANCELLATION AND TERMINATION

- 12.1 Termination. The City may terminate this Agreement for any reason or no reason by giving thirty (30) days' written notice to Provider. As soon as practical after receipt of a notice of termination without cause, Provider must submit a statement to the City showing in detail the products provided and services performed under this Agreement up to the date of termination. The City will pay Provider for all undisputed invoices related to Products provided and Services performed as of the date of termination (including any accrued retainage), provided that Provider delivers to the City all work completed as of the termination date and provided further that the City will not be required to pay for defective work. In no event will Provider be entitled to profit on unperformed services due to an early termination or adjustment of the Scope of Work.
- 12.2 Termination for Cause.

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- 12.2.1 **By Either Party.** Either party may terminate this Agreement by giving written notice to the other party upon the occurrence of one or more of the following events, each of which is a cause for termination.
- 12.2.1.1 The other party violates or fails to perform any covenant, provision, obligation, term, or condition contained in this Agreement. However, unless otherwise provided in this Agreement, the default will not be cause for termination if both of the following are satisfied: (1) the default is reasonably susceptible to cure; and, (2) the other party cures the default within thirty (30) days of receipt of written notice of default or presents a plan to cure acceptable to the other party;
- 12.2.1.2 The other party attempts to assign, terminate, or cancel this Agreement contrary to the terms of this Agreement;
- 12.2.1.3 The other party takes or fails to take any action which constitutes grounds for termination under the terms of this Agreement, including but not limited to failure to comply with the requirements contained in Section 10, Insurance; or
- 12.2.1.4 The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy, or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of the party is continued and performance of all of its obligations under this Agreement will continue), or if a receiver, trustee, or liquidator is appointed for it or any substantial part of the party's assets or properties.
- 12.2.2 **By City.** In addition to the above grounds, the City may terminate this Agreement upon the occurrence of the following events, each of which is also a cause for termination:
- 12.2.2.1 The System is unable to meet the Specifications set forth in Exhibit A, and this inability is not cured or Provider has not presented a plan to cure acceptable to the City within thirty (30) days after the City gives Provider written notice;
- 12.2.2.2 Provider fails to complete any material task, subsystem, component, or interface by the completion date specified in the Project Schedule and does not remedy that failure within ten (10) days after demand by City that Provider do so, provided that if any such failure cannot reasonably be remedied within that ten (10) day period, the City will not terminate this Agreement if Provider commences the remedying of that failure within that ten (10) day period and thereafter continues diligently and in good faith to take such steps as may be necessary to remedy that failure, and that failure is in fact remedied within a period of not more than thirty (30) days, after which, if not remedied, the City will be entitled to exercise its right of termination under this subsection;
- 12.2.2.3 City becomes aware or receives notice that Provider is insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any domestic bankruptcy or insolvency law, or publicly announces liquidation

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proceeding

- 12.2.3 By Provider, Provider may terminate this Agreement by giving written notice to the City if: (a) the City fails to pay any undisputed invoice due under this Agreement; and (b) the failure to pay is not cured within sixty (60) days after Provider gives the City written notice of the failure and of Provider's intention to terminate this Agreement if the failure is not cured.
- 12.2.4 Suspension of Services. Notwithstanding any other provision of this Agreement, if City disputes an allegation of default by Provider, Provider shall not terminate this Agreement, suspend or limit Services or warranties, or repossess, disable, or render unusable any Software supplied by Provider unless: (a) the parties agree in writing; or (b) a court of competent jurisdiction determines otherwise.
- 12.2.5 Obligations upon Expiration or Termination. Unless otherwise owned or licensed under the terms of this Agreement, upon expiration or termination of this Agreement, each party will promptly return to the other all computer programs, files, documentation, data, media, related material, and any other material and equipment that is owned by the other. In addition, Provider will deliver to the City all Work Product currently in existence and for which payment has been made.
- 13 FORCE MAJEURE. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, or any act or failure to act by the other party or such other party's employees, agents, or contractors; provided, however, that lack of funds shall not be deemed to be a reason beyond a party's reasonable control. The parties will promptly inform and consult with each other as to any of the above causes which in their judgment may or could be the cause of a delay in the performance of this Agreement.
- 14 RETENTION OF RECORDS. Provider and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred in the work and shall make such materials available at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under this Agreement for inspection, copying, and/or audit.
- 15 DRUG FREE WORKPLACE. Provider acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Provider agrees that any violation of this prohibition by Provider, its employees, agents, or assigns will be deemed a material breach of this Agreement.
- 16 DISALLOWANCE. In the event Provider claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of Florida or United States Government, Provider shall promptly refund the disallowed amount to City upon City's request.
- 17 WAIVERS. Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require performance of any of the terms, covenants, conditions, or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any right to which that party is entitled and shall not in any way affect, limit, modify, or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition, or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.

EXHIBIT "A"

18 PROHIBITED DISCRIMINATION.

- 18.1 Provider warrants that it has adopted and shall maintain a policy of nondiscrimination against an employee or applicant for employment on account of race, religion, sex, color, national origin, age, or handicap and that such policy applies to all areas of employee relations throughout the term of this Agreement.
- 18.2 On written request, Provider shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission of City for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement. Provider shall not be required to produce for inspection any records covering periods of time more than one (1) year prior to the date of this Agreement.
- 18.3 Provider agrees that if any of the obligations of this Agreement are to be performed by a subcontractor, then the provisions of the above two paragraphs shall be incorporated into and become a part of the subcontract.
- 18.4 Provider shall provide the services specified in this Agreement in a manner that complies with the Americans with Disabilities Act and any and all other applicable federal, state, and local disability rights legislation. Provider agrees not to discriminate against disabled persons in the provision of services, benefits, or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Provider, its subcontractors, sub-consultants, employees, representatives, agents, or assigns shall constitute a material breach of this Agreement.

19 PROMPT PAYMENT TO SUBCONSULTANTS, ETC.

- 19.1 Generally. When provider receives payment from City for labor, services, or materials furnished by subcontractors and suppliers hired by Provider, Provider shall remit payment due (less proper retainage) to those subconsultants, subcontractors, and suppliers within fifteen (15) calendar days after Provider's receipt of payment from City. Nothing herein shall prohibit Provider from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subconsultants, subcontractors, and suppliers. In the event of a dispute, Provider may withhold the disputed portion of any such payment only after Provider has provided notice to City and to the subconsultant, subcontractor, or supplier whose payment is in dispute, which notice shall (i) be in writing, (ii) state the amount in dispute, (iii) specifically describe the actions required to cure the dispute, and (iv) be delivered to City, the subconsultant, subcontractor, or supplier within 10 calendar days after Provider's receipt of payment from City. Provider shall pay all undisputed amounts within the time limits imposed by this section.
- 19.2 Jacksonville Small Emerging Business ("JSEB") and Minority Business Enterprise ("MBE") Participation. Notwithstanding Chapter 126, Part 6, *Ordinance Code*, Provider shall pay all contracts awarded with certified JSEB's and MBE's, as defined therein, their pro-rata share of their earned portion of any progress payments made by City under this Agreement within seven (7) business days after Provider's receipt of payment from City (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, and services performed by the certified JSEB or MBE at the time of payment. As a condition precedent to progress and final payments to Provider, Provider shall provide to City with its requisition for payment, documentation that sufficiently

EXHIBIT "A"

demonstrates that Provider has made proper payments to its certified JSEB's or MBE's from all prior payments that Provider has received from City. Provider shall not unreasonably withhold payments to certified JSEB's or MBE's if such payments have been made to Provider. If Provider withholds payment to its certified JSEB's or MBE's when payment has been made by City to Provider, Provider shall return said payment to City. Provider shall provide notice to City and to the certified JSEB or MBE whose payment is in dispute, which notice shall (i) be in writing, (ii) state the amount in dispute, (iii) specifically describe the actions required to cure the dispute, and (iv) be delivered to City, the subconsultant, subcontractor, or supplier within 5 calendar days after Provider's receipt of payment from City. Provider shall pay all undisputed amounts due within the time limits imposed by this section. The failure to pay undisputed amounts to the certified JSEB's or MBE's within seven (7) business days after Provider receives payment from City shall be a breach of contract compensable by one percent (1%) of the outstanding invoice's being withheld by City, not as a penalty but as liquidated damages for additional and extra contract administration by City. Continued failure to adhere to this section may be cause for termination of this Agreement.

- 19.3 The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between the City and any subconsultant, subcontractor, supplier, JSEB, MBE, or any third party, or create any City liability for the Provider's failure to make timely payments hereunder. However, Provider's failure to comply with these Prompt Payment requirements shall constitute a material breach of the Provider's contractual obligations to the City. As a result of said breach, City, without waiving any other available remedy it may have against Provider may (i) issue joint checks and (ii) charge Provider a 0.2% daily late payment interest charge or other charges specified in Chapter 126, *Ordinance Code*, for JSEB's and MBE's, and Chapter 218, Florida Statutes, for non-JSEB's or non-MBE's, whichever is greater.
- 20 SETTLEMENT OF CLAIMS. In any case where Provider claims that extra compensation is due it for services or materials not clearly covered in this Agreement or not ordered in writing by City as an additional service, Provider shall notify City in writing before it begins the work on which it bases the claim. Provider shall not commence such work without prior written authorization from City. If such authorization is not previously given or the claim is not separately and strictly accounted for, Provider shall not in any way be construed as proving the validity of the claim. Any dispute not otherwise settled shall be resolved by Executive Order 98-01.
- 21 PROHIBITION AGAINST CONTINGENT FEES. Provider warrants that it has not employed or retained any company or person other than a bona fide employee working solely for Provider to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Provider any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
- 22 TRUTH IN NEGOTIATION CERTIFICATE. Provider understands and agrees that execution of this Agreement by Provider shall be deemed to be the simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes. Pursuant to such certificate, Provider hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, Provider agrees that the compensation hereunder shall be adjusted to exclude

EXHIBIT "A"

any significant sums where City determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

23 MISCELLANEOUS PROVISIONS.

- 23.1 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in courts of competent jurisdiction in Jacksonville, Duval County, Florida.
- 23.2 Governing Law. The laws of the State of Florida shall govern this Agreement without regard for the choice of law doctrine.
- 23.3 Compliance with Applicable Laws. Provider and any subcontractors shall comply with all laws, including all City policies, rules, and regulations that are applicable to the performance of the work hereunder.
- 23.4 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Provider and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 23.5 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 23.6 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 23.7 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 23.8 Solicitation. Provider agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 23.9 Contract Administration. This Agreement shall be administered by Donna LaSala, Department of Information Technology, or his/her designee, who shall act as the City's representative. All correspondence shall be directed to or through Amy Lee, Project Manager, or her designee.
- 23.10 Notices. Any written notice to Provider shall be sent to:

Michael Berg, President
NEMO-Q, Inc
10055 Aeronca Ln #200
McKinney TX 75071

EXHIBIT "A"

Any written notice to City shall be sent to:

Kevin Rock
231 E. Forsyth Street, Room 300
Jacksonville, Florida 32202

23.11 Integration; Incorporation. This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between City and Provider and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

23.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[Remainder of page left blank intentionally. Signature page follows immediately.]

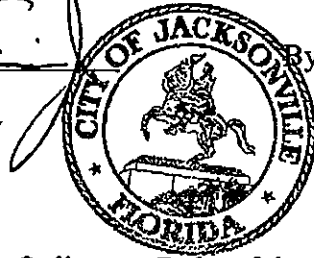
EXHIBIT "A"

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE

By James R. McCain, Jr.
James R. McCain, Jr.
Corporation Secretary



By Alvin Brown
Alvin Brown
Mayor

Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

In accordance with the Ordinance Code, of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; and that provision has been made for the payment of monies provided therein to be paid.

Director of Finance
CITY Contract Number: _____

Form Approved:

James R. McCain, Jr.
Office of General Counsel

ATTEST:

NEMO-Q, INC.

By Debbie Dickenson
Signature

By Michael Berg
Signature

Debbie Dickenson
Type/Print Name

Michael Berg
Type/Print Name

Secretary
Title

President
Title

EXHIBIT "A"

Encumbrance and funding information for internal City use:

Payment(s) by various subsequently issued Purchase Orders

Account Summary..... TCSG017 – 06403

Total Contract Amount..... \$270,346.00

This above stated amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by one (1) or more subsequently issued Purchase Order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Order(s) are issued.

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance[s] shall be made by subsequent purchase order[s], as specified in said Contract.



Director of Finance

City Contract # 9948

EXHIBIT "A"

Exhibit A Scope of Work

1. Deliverables

Provider shall provide the City with complete project management, licensed software and hardware; installation, configuration, customization, training, associated with delivering a Customer Routing / Queuing System.

Project deliverables are outlined in detail in Section 2, Specifications. Acceptance & Testing are detailed in Section 3. Pricing, invoices and payment terms are detailed in Exhibit B.

The following Products and Services are provided within this Scope of Work:

Queue/Customer Flow Management System

<u>QTY.</u>	<u>PART NO</u>	<u>DESCRIPTION</u>	<u>UNIT PRICE</u>	<u>PRICE</u>
HARDWARE				
	11041-			
9	NP	Black Touchscreen Kiosk w/ NP Printer	\$4,950	\$44,550
1	12806	Amplifier for voice incl. one Speaker	\$499	\$499
1	91000	Installation Hardware	\$99	\$99
SOFTWARE				
9	13105	NQS Queing Software Site License - Site License Includes:	\$6,950	\$62,550
1	13111	NQ Statistics Level II - Multiple Site Collector		\$0
1	13232	NQ Touch Screen Software		\$0
1	12500	Automatic Voice License, English included		\$0
		NQ Media XML File for TV		
1	13520	Application		\$0
1	13208	NQ SMS Branch License		\$0
1	13508	NQ Web Panel Dashboard - Unlimited Licenses		\$0
1	13519	NQ Web Supervisor/Management Dashboard - Unlimited Licenses		\$0
9	13211	NQ Online Appointment Scheduler License	\$1,985	\$17,865
		EQUIPMENT TOTAL:		\$125,563
SERVICES				
9	99000	Installation Labor, Travel & Training	\$1,500	\$13,500
9	13303	Online Appointment Server Setup Fee	\$299	\$2,691
9	99010	Software Installation & Configuration	\$450	\$4,050
	73030	Box of Thermal Ticket Paper (50 Rolls)	\$139	\$1,251
		Shipping Charge	\$199	\$1,791
		GRAND TOTAL	-	\$148,846
		Annual maintenance agreement. Activates after the 1-year Warranty period. Covers parts and labor.		\$12,555
		Annual Online Appointment Scheduler License (3800 Appointments per month branch)		\$1,308

EXHIBIT "A"

Pricing Explained

1. Hardware & Installation

- Hardware total \$45,148
- Thermal Ticket Rolls \$1,251 (\$139 per box x 9 locations)
- Installation \$13,500 (\$1,500 per location x 9 locations)
- Shipping \$1,791 (\$199 per location x 9 locations)

COST \$61,690

2. Hardware Support & Maintenance (5 Years)

- \$4514 (10% of hardware cost) x 5 years

COST \$22,570

3. Software & Installation

- Software \$62,550
- Installation & Configuration \$4,050 (\$450 per location x 9 locations)
- NEMO-Q utilizes a site license pricing structure. The site license is applied on a per location basis and provides an unlimited number of CSR, Supervisor/Management Licenses as well as all applicable queuing software application licenses. The site license DOES NOT include Online Appointment Scheduling

COST \$66,600

4. Software Support & Maintenance

- \$8014 (10% of software cost) x 5 years.

COST \$40,070

5. Kiosks Programming, Hardware Installation, Maintenance & Support (5 years)

- Included in Hardware Installation & Support and Maintenance

COST \$0

6. SMS Texting, Maintenance & Support (5 years)

- Included in NEMO-Q Software Site License
- SMS pricing is dependent on Duval City providing the necessary SMS text packages. Pricing is subject to change if NEMO-Q is asked to provide texting packages.

COST \$0

7. Hosted Online Appointment Scheduling, Maintenance & Support (5 years)

- Online Appointment Branch License Fee - \$17,865 (\$1985 per location license fee x 9 locations)
- Online Appointment Server Setup Fee - \$2,691 (\$299 per location x 9 locations)
- Online Appointment Annual License Fee - \$11,772 (\$1308 annual license fee x 9 locations)
- \$58,860 (\$11,772 annual license fee x 5 years)

COST \$79,416

EXHIBIT "A"

8. Training - 2-Day, 4 hour minimum, 20 Managers, staff & materials (One-time Management Training)

- On-site training will be conducted on a per office basis focusing on CSRs and Supervisors>
- Included in Hardware/Software Installation

COST \$0

9. Travel & Additional Expenses

- Included in Hardware/Software Installation

COST \$0

GRAND TOTAL \$270,346

EXHIBIT "A"

9. Documentation: Contractor will provide any relevant documentation, as appropriate.

2. Specifications

The Tax Collector's office will provide the following items:

- Microsoft SQL Server 2008 running in a Microsoft SQL server cluster, for Level 2 Supervisor/Administrator statistics - termed the Collector Database
- Any cabling required as part of this project
- Network connectivity for all components except the host Web appointment application
- Static counter numbers (if the vendor does not support the existing counter displays)
- Any servers for the branch agencies or central data repository .
- PC workstations for calling customers and issuing tickets

- Contracts with Motor Vehicle Network which will include displays, hardware and installation
- Contracts for texting services required for SMS texting feature below
- Any per text cost or site licensing for texting solution
- Tax Collector staff will install any desktop application software at the PC workstations

The contractor will provide the following:

- All hardware and software to support nine (9) branch agencies with functionality as described below
- Termination of any cables
- Complete installation at all locations
- Database setup for central repository with the City of Jacksonville assistance
- Installation of any server based software at the central location and branch offices
- All travel and related expenses
- Training for the system as described below
- Web hosting of the appointment application
- Hosting for the SMS text application
- Service, maintenance and support for five (5) years
- Interface to texting service as described below

Operating requirements

The section below describes by major systems components that will be required as part of this project. A separate line item for each section will appear in the pricing matrix. Pricing for sections listed as "optional" will be included in the overall price evaluation. The Tax Collector reserves the right to exclude from the final implementation any section listed as optional.

EXHIBIT "A"

The proposed software must have the following minimum capabilities:

Queuing System Functionality- Server and Client Software- Mandatory

- The ability to function locally if the computer network is down.
- The ability to store in one central location all transaction and customer information.
- The ability to manage the system from a central location.
- The ability to provide a real time display, in the form of a management portal, showing information regarding the current number of waiting customers, open stations and average wait time for all office locations on a single screen. The management portal must allow the user to drill down to individual office statistics.
- The ability to report in detail all transaction information by branch, date, clerk, workstation and transaction type for at least two (2) years.
- At a minimum, reports should include wait times, idle time, number of workstations active for a period of time, number of customers served, and transaction time.

Reports should be customizable and have the ability to be exported to standard formats (CSV, XML, Excel, etc).

- The ability to call a customer from client or browser based software.
- The ability to issue tickets from a client or browser software.
- The ability to set a default place in queue for transferred tickets.
- The software must have the ability to have at a minimum twelve (12) different customer queues.
- The software must have the ability for a clerk to enter, through a pull down menu, detailed information regarding the transaction. The system must allow for multiple codes related to a single customer transaction.
- Ability to print a user customizable ticket.
- The software must have the ability to differentiate roles through security so that the clerk only sees the functionality needed for that person's job responsibilities (viewing queues, calling customers, changing priorities, "picking" customers, etc).
- The proposed system must have the ability to interface with Motor Vehicle Network (MVN) to display the next customer called, station number and other information.
- The proposed software must have the ability to generate a voice to call the next available customer over a speaker system.
- The software must have the ability to transfer a customer to a different queue based on varying business rules.
- The proposed software must be the latest version of production software at the time of this

EXHIBIT "A"

bid proposal.

- The software must have the ability to set priorities by workstation or clerk. The priority will determine the order customers are called based on business rules.
- The software must have the ability to export real time statistics in an industry standard format to an external site. The data will be used to update the Tax Collector website so that customers can see current number of customers waiting and wait times at specific branch offices. The ftp site and Website will be hosted and maintained by the Tax Collector/ITD.

System Hardware- Mandatory

- Ticket printer: NEMO-Q will not utilize existing hardware (Q-matic 8 button printer). NEMO-Q will provide floor or desktop mounted touchscreen kiosks with non-proprietary printers.
- Voice hardware: NEMO-Q will not utilize the existing hardware (Q-matic voice module). NEMO-Q will provide amplifiers and speakers as needed at any location.
- Any necessary hardware to provide queue information to the MVN system.
- The vendor must include in this line the cost for all support, hardware and maintenance for a five-year period.

Kiosk -Tax Collector Option

- Self-service kiosk that will prompt customers to choose the correct category and queue.
- Automatically dispense customer tickets based on customizable prompts.
- Minimum 15" touch screen display.
- The Tax Collector's Office reserves the right to utilize self-service kiosks only in offices where a need exists.
- Vendor must include all programming costs.
- Vendor must include shipping and installation costs.
- The vendor must include in this line the cost for all support, hardware and maintenance for a five year period.

Appointment Scheduling Website- Tax Collector Option

- The software must have the ability for a customer to schedule an appointment through an online interface.
- The software must have the ability to remind a customer via email or SMS text about their appointment (i.e. 30 minute reminder prior to the appoint time with an option to cancel the appointment).
- The software must have the ability to send an email or SMS text when the customer's number

EXHIBIT "A"

is called.

- Vendor must provide hosting for the Website. A link from the Tax Collector Website will send customers to the online appointment scheduler.
- The vendor must include in this line the cost for all support, hardware and maintenance for a five-year period.

SMS Texting- Tax Collector Option

- The system must provide the ability for a customer to create an appointment via SMS text.
- The system must provide the ability to customize the message to the customer.
- The system must provide the ability to customize by the user when appointments can be set via text message (i.e. same day, next day, etc.).
- The system must provide the ability to send SMS text of current wait times at branch offices.
- The system must provide the ability to notify the customer via SMS text that their number is being called.
- Vendor must include in this line the cost for all software, hardware and maintenance for a five year period.

Training- Mandatory

- Vendor must provide, at a minimum, four (4) hour training sessions in a train-the-trainer format at an onsite location determined by the Tax Collector. The training must include all functionalities listed above that have been selected as part of the project by the Tax Collector.
- Vendor must provide a one-time Management Training session for twenty (20) managers and staff.
- Training will be for a minimum of several hours per location
- Vendor must provide training materials.

Hardware Support- Mandatory

- Vendor must provide hardware support for a minimum of five (5) years for all components in the proposed project.

Software Support- Mandatory

- The vendor must provide software support and upgrades for a minimum of five (5) years for all components in the proposed project.

Travel and Miscellaneous Expenses- Mandatory

- The vendor must provide a single line item quote for all travel related to installation and

EXHIBIT "A"

implementation of the proposed project. Travel will be broken down into four (4) sections:

1. System software, hardware implementation and training for all items listed as mandatory.
2. Any travel and additional expenses related to the implementation of kiosk option.
3. Any travel or additional expenses related to the implementation of the hosted online appointment scheduler option.
4. Any travel or additional expenses related to the implementation of the SMS texting option.
5. Any travel or additional expenses related to system training as described above.

Vendors responding to this bid must provide evidence (screenshots, etc) that the software has the functionalities listed above as part of the bid response package. The vendor must be able to provide all of the services listed above. The lowest responsive, responsible vendor will be required to demonstrate their software and display the above functionalities prior to award.

2.5 Project Management

The City shall provide a project manager/single point of contact for the Provider. Likewise, the Provider shall provide a project manager/single point of contact responsible for adherence to all timetables, facilitation of efficient and effective communication, and coordination of all activities included in this project.

A project kick-off meeting will be scheduled within thirty (30) days of the execution of this agreement. A preliminary project plan and schedule will be produced at that meeting. The project plan will detail the dates and durations of the major steps of the project, such as installation, configuration, and development of customizations, testing, acceptance and a "go-live" date. For the duration of this agreement, any changes to the project plan must be provided in writing 30 days in advance of the proposed change and approved by both parties.

3. Testing and Acceptance

3.1 Testing

City shall have fourteen (14) days, commencing upon completion of installation, configuration and customization, to test the Software ("the Testing Period") for substantial compliance with the specifications set forth in Exhibit A. During the Testing Period, City shall immediately provide notice to Provider of any failure of the Software to substantially comply with such specifications. Upon receipt of such notice, Provider shall use its best efforts to remedy the failure and install a fix within fourteen (14) days. Once a remedy has been delivered, a new fourteen (14) day Testing Period shall commence.

3.2 Acceptance

Acceptance shall occur (i) upon City's delivery of notice of Provider that the Software substantially complies with the specifications set forth in Exhibit A upon completion of the Testing Period or (ii) if City does not provide notice of a failure of the Software within thirty (30) days of the close of the Testing Period, then upon the close of the Testing Period.

EXHIBIT "A"

Exhibit B Payment Terms

This is an Exhibit attached to, made a part of an incorporated by reference with the Agreement on November 15th, 2013, between the City of Duval ("City), and Nemo-Q ("Provider") providing for the procurement, licensing, and services related to the Customer Queuing System.

1. Total Contract Price

- 1.1 Contract Price for the furnishing of all Licenses, Services and Equipment shall not exceed Two Hundred and Seventy Thousand and Three Hundred and Forty-Six Dollars. \$270,346
- 1.2 Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.

2. Timing of Payments

- 2.1 Fifty percent (50%) of the payment due for a specific office, including licensing fees, equipment fees and installation fees, upon shipment of NEMO-Q equipment to the specified office. The other fifty (50%) for that office shall be invoiced upon completion of the NEMO-Q system installation. All invoices shall be net 30 terms from the date of receipt by Customer."
- 2.2 Annual Online Appointment Scheduler License for each branch office in the amount Thirteen Hundred and Eight Dollars (\$1308) and a grand total for nine (9) branch locations of Eleven Thousand and Seven and Seventy Two Dollars (\$11,772) will be invoiced at the end of the first year of each installation on service anniversary date and every year on the anniversary throughout the life of the contract. All invoices shall be net 30 terms from the date of receipt by Customer."

3. Software Maintenance / Support Fees

- 3.1 Provider shall submit to the City an invoice for Software Maintenance / Support Services thirty (30) days prior to the effective date of the Software / Hardware Maintenance Agreement (Exhibit D).
- 3.2 For Software Maintenance / Support Services as described in Exhibit D, City shall pay to Provider
 - 3.2.1 First year of Software / Hardware Maintenance Agreement fees is waived.
 - 3.2.2 \$12,555 year two of Software / Hardware Maintenance Agreement on the first anniversary of the execution of this agreement and within 30 days of receipt of a properly supported invoice or 10% of the vendor's list price for total software and hardware purchased from vendor at the anniversary date.

EXHIBIT "A"

Exhibit C Software License

Grant of License. Provider hereby grants to City a royalty free, perpetual, irrevocable, nontransferable and nonexclusive license to use the Licensed Software or any portion thereof on any equipment at any location within the City limits of Duval, Florida. This license shall apply to all commercially available Updates throughout the term of this Agreement and any subsequent SSMA period. City shall have the right and license to use, enhance, or modify the Licensed Software only for City's own use as necessary to (a) operate the System, (b) conduct internal training and testing, and (c) perform disaster recovery, backup, archive and restoration testing and implementation as may be required in the City's judgment. Provider will successfully install all Licensed Software and all Upgrades as may become commercially available during the term of this Agreement (in machine readable form compatible with the specified operating environment) and provide to City one copy of all related Licensed Documentation in both written and electronic format.

Authorized Equipment and Site. City shall use the Software only on any equipment it possesses or procures, provided said equipment possess the minimum capacities to permit the software to perform according the specifications described in Exhibit A.

Copies. City, solely to enable it to use the Software, may make one archival copy of the Software's computer program, provided that the copy shall include Provider's copyright and any other proprietary notices. The Software delivered by Provider to City and the archival copy shall be stored at City's Site. City shall have no other right to copy, in whole or in part, the Software. Any copy of the Software made by City is the exclusive property of Provider.

Modifications, Reverse Engineering. City agrees that only Provider shall have the right to alter, maintain, enhance or otherwise modify the Software. City shall not disassemble, decompile or reverse engineer the Software's computer program.

Ownership. Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by Provider pursuant to this Agreement shall be the property of the City at the moment of their completed preparation. All materials and records of a finished nature, such as final plans, specifications, reports, and maps, prepared or obtained in the performance of this Agreement, shall be delivered to and become the property of the City. All materials of a preliminary nature, such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this Agreement, shall be made available upon request, to City at no additional charge and without restriction or limitation on their use consistent with the intent of the original design. Provider shall be allowed to maintain one file copy of all materials and records prepared or obtained in performance of this Agreement. Provider shall also make a back-up copy of the most recent version of all software on-site with City so that City is able to re-install the software onto the City's system. Any reuse by City of such materials for purposes not consistent with the original design shall be at the City's sole risk and without liability to Provider.

Title. City and Provider agree that Provider owns all proprietary rights, including patent, copyright, trade secret, trademark and other proprietary rights, in and to the Software and any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications, to the Software, whether made by Provider or any third party.

EXHIBIT "A"

Transfers. Under no circumstances shall City sell, license, publish, display, distribute, or otherwise transfer to a third party the Software or any copy thereof, in whole or in part, without Provider's prior written consent.

EXHIBIT "A"

Exhibit D SUPPORT AND MAINTENANCE AGREEMENT

I. **Scope of Agreement.** During the term of this Agreement, as set forth in Section 2, Provider agrees to provide City standard maintenance, custom enhancement, on-site support, and training services, as set forth in Sections 3, 5, 6, 7, 8, 9, 10 and 11 for the software and hardware listed in Exhibit A to this Agreement.

II. **Term.**

A. **Effective Date.** This Agreement shall take effect Acceptance pursuant to Section 3.2 of Exhibit A

B. **Termination Date.** This Agreement shall terminate upon the earlier to occur of (i) the one (1) year anniversary of the Effective Date, (ii) the effective date of a subsequent agreement concerning maintenance services entered into between City and Provider, or (iii) an event listed in Section 12 below.

III. **Support and Maintenance Services.**

Scope of Services. During the term of this Agreement, Provider will provide City the following Support and Maintenance Services:

In the event of component failure, Provider shall ship the new component per below schedule to the address and person(s) as defined by the Customer. Provider shall provide unlimited and ongoing phone support 8am – 5pm (CST), free of charge, during the term of this coverage. City staff can expect a response time of 20 minutes or less for troubleshooting calls during our business day.

Incident Severity	Response Time Targets	Resolution Time Targets	Escalation Procedure
High Impact - System unusable	1 Hour Maximum	Final Resolution within: 4 hours Parts Shipped: Next Day	See Below
Medium Impact - System useable with restricted functionality or performance	4 Hours Maximum	Final Resolution within: 8 Business hours Parts Shipped: 2nd Day	See Below
Low Impact - System useable with minor impact on functionality or performance	8 Business Hours Maximum	Final Resolution within: 40 hours (1 business week) Parts Shipped: Ground	See Below

High Impact Escalation Procedure

A Provider authorized technician shall work with City staff to walk through trouble shooting steps to isolate and identify the issue. High Impact issue not resolved within 4 business hours the issue shall be escalated to Provider's management.

If an issue cannot be resolved over the phone, with a minor part replacement or with a minor repair then a Provider authorized technician shall be sent to the location at the next available opportunity.

EXHIBIT "A"

Medium Impact Escalation Procedure

A Provider authorized technician shall work with City staff over the phone to diagnose and fix the problem. If it has been determined that a minor part replacement will resolve the issue, Provider shall send the replacement part to the City. City will provide assistance to replace the part with Provider's support and instruction over the phone. Should a Medium Impact issue not be resolved within 8 business hours the issue shall be escalated to Provider's management.

If an issue cannot be resolved over the phone, with a minor part replacement or with a minor repair then a Provider authorized technician shall be sent to the location at the next available opportunity.

Low Impact Escalation Procedure

A Provider authorized technician shall work with City staff over the phone to diagnose and fix the problem. If it has been determined that a minor part replacement will resolve the issue, Provider shall send the replacement part to the City. City will provide assistance to replace the part with Provider's support and instruction over the phone. Should a Low Impact issue not be resolved within 4 business days the issue shall be escalated to Provider's management.

IV. System Warranty

The Customer Routing / Queuing System; ticket printers, displays, interfaces and other hardware, hereafter called the "equipment", that were purchased from NEMO-Q are covered under this warranty. The Customer Routing / Queuing System equipment must be fully operational at the time of purchase of this warranty.

Equipment from NEMO-Q is warranted to the original purchaser for a period of one (1) year from the date of the purchase of the warranty. Extended warranty coverage is in 12 month increments.

During the above one year period Provider shall repair, adjust and / or replace the equipment or its defective parts with a new or reconditioned model of equivalent quality, at NEMO-Q's discretion, without charge to the City. If any equipment is replaced it shall continue with the warranty of the original equipment.

The warranty does not cover equipment that has been damaged by one or more of the following, but not limited to:

- accident
- unreasonable use
- neglect
- improper service through an agent other than NEMO-Q
- acts of God
- power outages
- power surges
- network spikes
- Performing service, remedial maintenance or part replacement activity on a system without first contacting the NEMO-Q Technical Support Center
- Using unauthorized "paper" tickets in NEMO-Q provided printers

EXHIBIT "A"

V. Telephone and Email Support

Telephone support:

Customer Service # 866-725-3277: 8:00 A.M. to 5:00 P.M. Monday – Friday Central Time Zone USA,

Email support: support@nemo-q.com : Monitored 8:00 A.M. to 5:00 P.M. Monday – Friday Central Time Zone (9:00 A.M. to 6:00 P.M. Eastern Daylight Time); Emails will be handled with the same sense of urgency as telephone calls to the customer service number.

VI. Remote Access Support

All remote support by Provider will be conducted in accordance with the terms of the Remote Support Agreement in Exhibit G.

TeamViewer is a program that Provider uses to remote access to the City's computers in order to assist the City with questions or problems. Provider uses TeamViewer with a corporate licensed copy for NEMO-Q. The TeamViewer program can be obtained from <http://www.nemo-q.com/contact.html>.

When launched, the program does not actually install TeamViewer on your computer—it runs independently as a stand-alone program. This requires someone at your office to start the support session every time. Provider shall not set up unattended access unless this is asked for and approved by the City.

Encryption: TeamViewer includes full encryption, based on RSA private-/public key exchange and AES (256 Bit) session encoding. This technology is based on the same standards as https/SSL.

The key exchange also guarantees a full client-to-client data protection.

Access Protection: In addition to the PartnerID, TeamViewer generates a session password that changes with every software start to provide additional security against unauthorized access to a remote system. Security relevant functions like file transfer require additional, manual confirmation of the remote partner.

Code Signature: All program files are secured using VeriSign code signing technology. This allows the City to verify the origin of the executables received.

Port Information: TeamViewer uses port 80 / 443 tcp as well as a proprietary port (5938 tcp) that can be used to establish a connection from client to TS-keepalive server or direct peer-to-peer connections (if this port is forwarded to the client).

VII. Periodic Updates

Periodic updates of the Software that may incorporate (A) corrections of any substantial defects, (B) fixes of any minor bugs, and (C) at the sole discretion of Provider, enhancements to the Software.

EXHIBIT "A"

VIII. **Charged-For-Enhancements.** From time to time, at Provider's sole discretion, Provider will make available to City Charged-for-Enhancements to the Software that City may license from Provider upon payment of the license fee established by Provider.

IX. **Custom Programming Services.**

X. **On-Site Support.** Provider, upon receipt of a written request from City, will provide City On-Site Support at a mutually agreed time. City agrees to pay Provider all costs associated with the provision of on-site support, including charges for (i) Provider's personnel, (ii) and taxes pursuant to Exhibit B, Section 2.4 Services.

XI. **Training.** Upon receipt of a written request from City, Provider will provide Training at a mutually agreed time at the offices of Provider, unless Provider agrees to conduct the Training elsewhere. City agrees to pay Provider all costs associated with this Training, including (i) charges for Provider's personnel, which may include a surcharge for training conducted at City's location, (ii) charges for travel, lodging and miscellaneous expenses, and (iii) taxes pursuant to Exhibit B, Section 2.4 Services.

XII. **Maintenance Fee.**

- A. **Warranty Period.** Provider will not charge City any Maintenance Fee for the Warranty Period, as defined in City's Software License Terms.
- B. **Amount of Fee.** City agrees to pay Provider a Maintenance Fee, in the amount set forth in Exhibit B, Section 3, for Support and Maintenance Services provided by Provider pursuant to this agreement.
- C. **Discontinuance.** City understands that if City discontinues and then resumes purchase of Standard Maintenance Services, City will not be required to pay Provider the entire Maintenance Fees for the period of discontinuance.

XIII. **Payment Terms.**

A. **Due Date.** City agrees to pay the Maintenance Fee to Provider on or before the Maintenance Fee Due Date set forth in Exhibit B. City agrees to pay all other amounts due Provider for services under this Agreement in accordance with the payment schedule set forth on the invoice for the services.

B. **Taxes.** "Taxes" means all federal, state, local and other taxes, including sales, use and property taxes, related to this Agreement, City's use of the Software, or any services provided by Provider to City related to the Software, excluding taxes based on Provider's net income. Provider is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

XIV. **Obligations of City.**

A. **City Contact.** City shall notify Provider of City's designated City Contact. To the maximum extent practicable, City's communications with Provider will be through the City Contact.

EXHIBIT "A"

B. **Installation.** City agrees to install all corrections of substantial defects, minor bug fixes and updates, including any enhancements, for the Software in accordance with the instructions and in order of receipt from Provider.

C. **Facility and Personnel Access.** City agrees to grant Provider access to City's facilities and personnel concerned with the operation of the Software to enable Provider to provide services. All remote support by Provider will be conducted in accordance with the terms of the Remote Support Agreement in Exhibit G.

D. **No Modification of Software.** City agrees not to modify, enhance or otherwise alter the Software, unless and only to the prior written consent of Provider is obtained.

E. **Error Documentation.** Upon detection of any error in the Software, City, as requested by Provider, agrees to provide Provider a listing of output and any other data, including databases and backup systems, that Provider reasonably may request in order to reproduce operating conditions similar to those present when the error occurred.

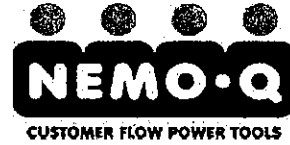
EXHIBIT "B"

QUOTATION FROM NEMO-Q

6/23/2014

By: David Myers Phone: 972-347-1766

Customer: City of Jacksonville - Building Inspection Division
 Address:
 Phone:



<u>QTY.</u>	<u>PART NO</u>	<u>DESCRIPTION</u>	<u>UNIT PRICE</u>	<u>PRICE</u>
HARDWARE				
2	11090	Non-Proprietary Thermal Printer	\$998	\$1,996
2	11077	All in One Touch Screen Monitor/PC	\$2,550	\$5,100
1	11160	NEMO-Q Hardware Control Module	\$1,835	\$1,835
3	42011	Modular Connection Box for 6 units	\$381	\$1,143
1	12806	Amplifier for voice incl. one Speaker	\$979	\$979
2	12804	Additional Indoor Speaker/ceiling	\$119	\$238
1	12800	NQ Video Transmitter	\$1,739	\$1,739
3	12803	NQ Video Receiver	\$752	\$2,256
1	91000	Installation Hardware	\$499	\$499
DISPLAYS				
14	11603	Three Digit Workstation Display	\$397	\$5,558
14	11612	"Half Moon" Workstation Number Sign	\$69	\$966
SOFTWARE				
1	13105	NQS Queing Software with MSSQL Database	\$6,950	\$6,950
1	13232	NQ Touch Screen Software		\$0
1	12500	Automatic Voice License, English included		\$0
1	12703	NQ Multi-Media License	\$2,550	\$2,550
14	13508	NQ Software Panel Dashboard License		\$0
EQUIPMENT TOTAL:				\$31,809
LESS DISCOUNT: 25%				-\$7,952
NET PRICE EQUIPMENT:				\$23,857
SERVICES				
1	99000	Installation Labor, Travel & Training	\$2,950	\$2,950
1	73030	Box of 50 Rolls of Thermal Ticket Paper		\$149
		Shipping Charge		\$339
GRAND TOTAL				\$27,295

Annual maintenance agreement. Activates after the 1-year Warranty period. Covers parts and labor. \$3,580

Additional fees apply if permits or third party labor is mandated
 Customer is responsible for any taxes or local user fees
 Quote is valid for 90 days

NEMO-Q, L.P.
 10055 Aeronca Ln, Ste 200
 McKinney, TX 75071
 Phone: 972-347-1766

Fed ID: 14-1906060
 DUNS: 19-274-2901