

K21-1342



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# Column Technologies, LLC.

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Application Support & Maintenance Contract

**COLUMN SUPPORT CONTRACT**  
**01/01/2021 to 12/31/2021**

**City of New Orleans**

December 13, 2021

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**Column Technologies LLC.**  
10 E. 22nd Street  
Suite 300  
Lombard, IL 60148

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**Proprietary & Confidential**

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Application Support & Maintenance Contract between  
The City of New Orleans and Column Technologies, LLC  
Column Continuous Support Contract for 1/1/2021 thru 12/31/2021  
BRASS #2527; K21-1342

## Overview

This annual frontline support and maintenance agreement ("**Agreement**") is made and entered into by and between Column Technologies, LLC. an Illinois corporation ("**Column Technologies**" or "**Column**"), and the City of New Orleans, represented by LaToya Cantrell, Mayor ("**Client**" or "**Customer**" or "**City of New Orleans**") with an effective date of January 1, 2021 (the "**Effective Date**").

Column and City of New Orleans hereby wish to renew and amend the Agreement, which was originally solicited in 2010. All Terms and Conditions set forth in the 2010 agreement remain in place except for those Terms and Conditions modified herein.

## Column Technologies' Frontline Support

Client will receive and Column will provide **Column Continuous Support** and Maintenance, as defined below.

## Column Support Plan Overview

| Customer Support Offering        | Hours of Operation                                                                                        | Initial Response Goals                                                                                    | Available with the Purchase of*:                                       |
|----------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| <b>Column Continuous Support</b> | Continuous Hours for Critical Production Issues<br><br>24 hours x 7 days<br>(Includes published holidays) | Critical = 1 Clock Hour<br>High = 2 Business Hours<br>Medium = 2 Business Hours<br>Low = 2 Business Hours | + Service management products**<br><br>+ System Management products*** |

\*\* Service Management consists of most BMC Remedy, BMC Remedy, BMC Service Desk Express, BMC Service management products and select BMC Identity Management products.

\*\*\* System Management products consist of most Mainframe and Distributed Systems Management products.

Column Technologies will provide City of New Orleans with Front-Line Support for software as listed in **Exhibit A. - Installed Software**.

Column shall provide:

- One Hour Business Response
- 24 x 7 Hours of Operation
- Web-ticket Submission
- Phone Support
- E-mail Support
- Maximum of 5-minute hold-time
- Voice Mail
- Access to Web Knowledge Base
- Access to Patches & Downloads
- Access to all Documentation
- Access to manufacturer Support Website
- See Support Escalation Matrix Defined in Exhibit A

Although Column Technologies will be providing the client with Continuous Support, City of New Orleans can utilize the following as provided by BMC Software:

- Search the Knowledge Base on the Web.
- Download Software Patches on the Web.
- Free Upgrades.
- Search and download documentation on the Web.
- Review the Compatibility Matrix.
- Search product issues on the Web.
- Submit enhancement requests.
- Download new Product Releases from the Web.

### **Exhibit A.**

| City of New Orleans Initial Supported License Configuration |                                                                         |     |
|-------------------------------------------------------------|-------------------------------------------------------------------------|-----|
| No                                                          | Description                                                             | Qty |
| 1                                                           | BMC Remedy IT Service Management Suite                                  | 1   |
| 2                                                           | BMC Remedy Service Management Specialist - Floating User Add-On License | 74  |
| 3                                                           | BMC Service Management Specialist – User License Add-on                 | 3   |
| 3                                                           | Column Investigative Case Management System                             | 1   |
| 4                                                           | CCMS Application License – Floating User License                        | 75  |
| 5                                                           | CCMS Application License – Fixed User License                           | 3   |
| 5                                                           | JasperSoft Reporting Solution - OEM                                     | 1   |
| 6                                                           | Thinkmap SDK                                                            | 1   |

## Escalation Matrix

Below is a chart that describes our basic definitions and policies for each level of escalated issue:

| Severity Level  | Definition of Business Impact                                                                                                                                                     | Customer Action Required                                                                                                                                                                                                                                                | Column Action Required                                                                                                                                                                                                                                                                                                                                |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Critical</b> | <b><i>Impacts production environments only.</i></b> The application is mission critical and the situation is an emergency for the Customer. The loss of service must be complete. | Provide Column with a contact either on-site, via telephone, or by pager during the entire time the problem is being resolved. The customer must be able to act immediately on any request Column makes to gather data, test, and apply all fixes to their environment. | Column schedules critical issues as highest priority, requiring immediate attention, and promptly commits the necessary resources to identify and resolve the problem. The goal is to restore acceptable production functionality as fast as possible.                                                                                                |
| <b>High</b>     | Impacts the production environment or initial deployment in which the application is mission critical to the business.                                                            | Provide Column with a contact during the entire period the problem is being handled. The customer must respond to Column requests within one business day and agree to do whatever is required to gather data, test, and apply all fixes to their environment           | High issues are scheduled below Critical issues, but the problems are worked on a high priority basis during Column's normal business hours.                                                                                                                                                                                                          |
| <b>Medium</b>   | Impacts non-mission critical applications, the development environment, or a secondary, non-mission critical production environment.                                              | Provide Column with a contact that can answer questions, if needed.                                                                                                                                                                                                     | Column will respond to issues and when technically feasible, the manufacturer may provide a patch for the issue prior to the next maintenance release. (Such patches will be made by the manufacturer at their sole discretion on a case-by-case basis.) The manufacturer will also prioritize the error correction for the next maintenance release. |
| <b>Low</b>      | The problem is an inconvenience that results in a minor loss of service, if any, and requires a minor workaround to restore functionality.                                        | Provide Column with a contact that can answer questions, if needed.                                                                                                                                                                                                     | Column will respond to the issues and may resolve the issue in a future release.                                                                                                                                                                                                                                                                      |



## **Support Contract Stipulations & Terms**

The duration of the proposed Column Support Contract is one year.

Escalation Path:

Support Contract #: 434972

Support Contract Term: 1/01/21 – 12/31/21

The first level of contact should go through the main support number and escalate from there as follows.

Support

Phone: 1-888-500-7840

Email: [CustomerService@Columnhm.com](mailto:CustomerService@Columnhm.com)

Web: [www.columnit.com](http://www.columnit.com)

### **No response within 1 Business Hour (24x7 for Critical Issues)**

Jameson Ford

Support Manager

630-541-2160

### **No response within 2 Business Hours (24x7 for Critical Issues)**

Giorgio Tsiagalis

Cell: 888-500-7840

### **Additional Contacts for escalation**

Tim Yario

Account Manager

Office/Cell: (708) 408-7715

## Software Support Maintenance Terms and Conditions

### 1 DEFINITIONS:

- 1.1 "**Criteria for Escalation**" shall mean the then current criteria used by Column Technologies to address any technical support request that cannot be answered by a Column Technologies technical support engineer. City of New Orleans is encouraged to view the current Criteria for Escalation located at <http://supportweb.remedy.com>. The Criteria for Escalation may change without prior notice at the sole discretion of Column Technologies Inc.
- 1.2 "**Documentation**" shall mean any user manuals, release notes, installation notes, or other materials in any form provided by the manufacturer in conjunction with the Software.
- 1.3 "**Error**" means a problem that causes the Software to not perform substantially in accordance with the specifications set forth in the product's Documentation.
- 1.4 "**Major Release**" shall mean a specific edition of the Software and is designated by a number located to the left of the decimal point (such as V1.x or V2.x). Each new Major Release of the Software contains significant functionality changes and/or improvements.
- 1.5 "**Minor Release**" shall mean any update, enhancement, or code corrections to the Software which is substantially similar to and is marketed under the same product number and nomenclature. A Minor Release is designated by a number to the right of the first or second decimal point (such as Vx.1 or Vx.2 or Vx.2.2).
- 1.6 "**Order**" shall mean a written or electronic ordering document that has been agreed to by City of New Orleans and Column identifying the Software to be supported.
- 1.7 "**Software**" shall mean the manufacturer software in object code form, computer software programs, applications, updates and all associated documentation, provided to City of New Orleans by manufacturer under a separate license agreement.
- 1.8 "**Software Support Maintenance**" shall mean the standard maintenance and support provided by Column Technologies for the Software as set forth in Section 2 of this Agreement.
- 1.9 "**Support Plan**" shall mean the Continuous Support Plan as defined herein.

### 2 SOFTWARE SUPPORT MAINTENANCE:

- 2.1 Pursuant to this Agreement and in consideration for the applicable Software maintenance fee paid by City of New Orleans pursuant to City of New Orleans Order and this Agreement, City of New Orleans shall receive from Column Technologies the following Software Support Maintenance services:
- 2.2 Provide City of New Orleans with responses to a reasonable amount of technical questions regarding the Software via World Wide Web and electronic mail. Telephone support is also available but is dependent upon City of New Orleans Support Plan.
- 2.3 Provide City of New Orleans with responses to operational questions and the ability to report irregularities within the Software during Column Technologies' on a continuous basis.

- 2.4 Make reasonable effort to update the Software as required to support new versions of the operating system and/or third-party products. Occasionally, new releases of operating systems and/or third-party products may require architectural changes to the Software to ensure compatibility. Under certain circumstances, these changes may not be feasible. Column will only support operating systems and/or third-party products that are still supported by the manufacturer.
- 2.5 Use commercially reasonable efforts to supply City of New Orleans with code corrections to correct Software malfunctions in order to bring the Software into conformity with the then current published specifications as set out in the Documentation for the most current version of the Software unless such malfunctions have been caused by modifications of the Software made by City of New Orleans or a third party under the direction of City of New Orleans or unless City of New Orleans modifications prohibit or hamper such corrections.
- 2.6 Column Technologies supply all new Major Releases and Minor Releases, enhancements, and other changes which the manufacturer deems to be logical improvements incorporated into the Software which Column Technologies elects to generally furnish without additional charge to City of New Orleans enrolled in Software Support Maintenance for the particular Software City of New Orleans shall receive one (1) copy of each new Major or Minor Release, at no additional charge, and Column Technologies shall provide reasonable assistance with technical support issues that arise during the installation of each new Major or Minor Release.
- 2.7 Replace the Software at no charge if the media becomes destroyed or damaged to such an extent that the Software becomes unusable.

### **3 LIMITATION OF SOFTWARE SUPPORT MAINTENANCE:**

- 3.1 Column shall have no obligation to provide Software Support Maintenance for:
  - 3.1.1 Major or Minor Releases of the Software that are older than the two (2) preceding Releases after a Release becomes generally commercially available; or
  - 3.1.2 Altered or City of New Orleans /third party-modified Software; or
  - 3.1.3 Altered or City of New Orleans /third party-modified Documentation; or
  - 3.1.4 Derivative Works; or
  - 3.1.5 Any combination of the supported Software with other software not covered by this Agreement; or
  - 3.1.6 Errors created through City of New Orleans negligence, abuse or misapplication of the Software or used for purposes other than those specified in the Documentation: or
  - 3.1.7 Software Errors resulting from a hardware malfunction or City of New Orleans failure to backup data; or
  - 3.1.8 Software used on non-qualified computer systems or hardware: or
  - 3.1.9 City of New Orleans questions concerning the adaptation or modification of the supported Software.
- 3.2 Column Technologies reserves the right to discontinue Software Support Maintenance for the Software if the manufacturer generally discontinues such Software Support Maintenance to City of New Orleans of the applicable Software. Notwithstanding the foregoing, Column Technologies shall provide a twelve (12) month notice to City of New Orleans of its intent to terminate such Software Support Maintenance. Column Technologies' obligation to provide Software Support Maintenance is dependent on the continued existence of the license to use the Software; and if the license is terminated for any reason, Column Technologies' obligations to provide Software Support Maintenance will cease automatically on the occurrence of such event.



**4 COLUMNS RESPONSIBILITIES:**

- 4.1 Column Technologies shall, in consideration for payment of the applicable Software Support Maintenance fee paid by City of New Orleans as detailed in and in accordance with the applicable Order, the License Agreement between the City of New Orleans and the manufacturer and this Agreement, provide Software Support Maintenance. Once an Error is reported to Column Technologies, Column Technologies shall be responsible for investigating such Error in the Software pursuant to the then current Criteria for Escalation.
- 4.2 Provided that fees due Column Technologies under this Agreement remain current, Column Technologies shall provide Software Support Maintenance to City of New Orleans which includes providing City of New Orleans with the most recent Major and Minor Releases of the Software.

**5 CITY OF NEW ORLEANS RESPONSIBILITIES:**

- 5.1 City of New Orleans shall appoint at least one technical representative who will be fully trained, at City of New Orleans expense, and qualified to maintain the integrity of the Software on City of New Orleans system. The technical representative shall at least have a general understanding of City of New Orleans platform and the AR System®. Both parties shall determine how many technical representatives should be appointed based on such factors as the number and complexity of the applications being run and the size of the system being supported. The technical representative(s) shall make all technical communications by City of New Orleans to Column. All information and materials provided by Column Technologies pursuant to this Agreement shall be routed to the technical representative(s) and shall be protected as Confidential Information in accordance with Section 6 of this Agreement.
- 5.2 City of New Orleans shall read, comprehend, and follow operating instructions and procedures specified in the Documentation.
- 5.3 City of New Orleans shall notify Column Technologies, in writing, if problems or Errors with the Software are encountered. City of New Orleans shall provide descriptions of the Error to Column and shall answer questions and assist Column's efforts to duplicate any Software Errors or problems. Subject to City of New Orleans reasonable security requirements, City of New Orleans shall provide Column with access to and use of information and system facilities determined necessary by Column to provide timely Software Support Maintenance.
- 5.4 City of New Orleans shall provide remedial corrective action, if necessary, under the direction of Column's support personnel.

**6 CONFIDENTIAL INFORMATION:**

- 6.1 If either party receives from the other party information which is either marked as being confidential or which due to the nature of such information and the circumstances under which it was disclosed, should reasonably be treated as confidential information of the disclosing party, the receiving party agrees to protect such information by exercising the same degree of care it uses to protect its own information of like importance but in no event less than reasonable care. The receiving party further agrees that it will only use or disclose such information in the performance of this Agreement.
- 6.2 "Confidential Information" shall include all nonpublic information, including, without limitation, these terms and conditions, as well as any financial, marketing, research and development, organizational, technical, merger or acquisition, and other information related to the other party, information relating to released or unreleased Software products, the marketing or promotion of



either party's products, a party's business policies or practices, and information received from third parties that a party is obligated to treat as confidential. Confidential Information includes not only written information but also information transferred orally, visually, electronically, or by any other means including copies thereof. Confidential Information disclosed to the receiving party by any affiliate and/or agent of the disclosing party is covered by this Agreement.

- 6.3 The foregoing obligations of non-use and nondisclosure shall not apply to any information that:
- 6.3.1 Is or becomes available to members of the public other than by breach of this Agreement or other duty by the receiving party.
  - 6.3.2 Is in the rightful possession of the receiving party without an obligation of confidentiality.
  - 6.3.3 Is required to be disclosed by operation of law; provided, however, that prior to any such disclosure the receiving party shall provide the disclosing party with prompt notice of such disclosure so that the disclosing party may seek, at its expense, an appropriate protective order or waiver of compliance with the terms of the applicable law requiring disclosure; or
  - 6.3.4 Is independently developed by the receiving party without reference to information disclosed by the disclosing party hereunder. The obligations of confidentiality set forth in this Section shall survive for three (3) years following disclosure of the Confidential Information, with the exception of trade secret information, which the parties agree not to disclose during or following the term of this Agreement without the disclosing party's prior written consent.

- 6.4 Notwithstanding anything herein to the contrary, Column acknowledges that it has read and understands the requirements mandated by Louisiana Revised Statute 44:1 (Louisiana's public records law), et seq., including Sec. 44:3.2, which states in pertinent part, that Column Technologies shall provide a cover sheet when submitting all records containing proprietary or trade secret information that shall state in bold type, "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION." Column Technologies shall clearly mark each instance of information which is, in its opinion, proprietary or trade secret information. Nevertheless, the determination of whether such information is in fact proprietary or trade secret information, shall be made by City within thirty days of a submission. If City receives a public records request within the thirty-day time period, the determination shall be made within the time period prescribed by Louisiana Revised Statutes 44:32(D) and 33(B). City shall immediately notify Column prior to the disclosure of the information requested pursuant to a public records request and of the determination of whether or not the information requested is subject to disclosure.

To the extent it is necessary in the scope of its services for Column to provide information to the City which cannot or is not transmitted in documented record form, Column agrees to provide the City with a memorandum setting forth the type of information that contains proprietary or trade secret information. The determination of whether such information is in fact proprietary or trade secret information shall be made by the City within thirty days of a submission.

Notwithstanding anything herein to the contrary, the parties acknowledge that all information related to this Agreement, including Proprietary or Trade Secret Information submitted by Column to Customer, is subject to Louisiana Revised Statutes 44:1, et. seq. and the parties are bound by the requirements presented therewith.

## **7 TERM:**

- 7.1 Unless terminated earlier as provided herein, this Agreement is effective for the Software Support Maintenance period, January 1, 2020 through December 31, 2020 ("Term"). The terms conditions, and durations of this Agreement may be modified by an executed written amendment to this Agreement. For the avoidance of doubt and unless expressly stated otherwise, no refund of any fees payable under this Agreement will be made in the event that this Agreement is terminated for any reason.

## **8 RENEWAL:**

- 8.1 Except for 9.1 which shall be quoted each year, this Agreement may be extended at the option of the City, provided that funds are allocated by the City Council of the City of New Orleans, and the extension of the Agreement facilitates the continuity services provided herein. This agreement may be extended by the City on an annual basis no longer than five (5) one-year periods each additional year being a "Renewal". Each Renewal will be quoted at the then current rates for BMC support. Any additional licenses purchased during the Term or any Renewals shall increase the amount due to Column under this Agreement and shall be billed at the time the additional licenses are purchased, due net 30.
- 8.2 In the event Software Support Maintenance is terminated by City of New Orleans, the City of New Orleans may re-enroll in Software Support Maintenance by paying, in addition to the liquidated damages above, the annual charge for Software Support Maintenance for the next year in advance.

## **9 PAYMENT TERMS:**

- 9.1 The City of New Orleans agrees to pay to Column Technologies \$57,988.63 for the services provided under this Agreement for the software listed on quote NEWOPD-123121.nm. The relevant Software Support Maintenance fees are based on current list price of all City of New Orleans purchased Software. No Order issued pursuant to this Agreement is binding on Column unless and until accepted by Column. Acceptance by Column of any Order placed pursuant to this Agreement is conditioned on City of New Orleans' assent to the terms set forth herein.
- 9.2 In the event City of New Orleans elects to receive Software Support Maintenance for additional Software during any current annual term, City of New Orleans shall pay to Column Technologies the then current annual fee for the Continuous Support plan prorated to the end of the then current annual term.
- 9.3 Column Technologies may invoice for all sums payable under this Agreement as they become due and payable and City of New Orleans shall pay each such invoice within thirty (30) days of the date of the invoice. All payments will be made in United States dollars.
- 9.4 The City of New Orleans will provide a copy of tax-exempt certificate with Purchase Order or payment.

## **10 TERMINATION:**

- 10.1 Upon default in the performance of any provision of this Agreement, the non-defaulting party will issue a written notice to the defaulting party; and if the default is not cured or the defaulting party does not submit a plan for cure acceptable to the non-defaulting party, then this Agreement shall automatically terminate within thirty (30) days from such written notice.
- 10.2 Either party may terminate this Agreement immediately upon written notice in the event the other party shall (a) become insolvent or files or have filed against it a petition for bankruptcy (which is not dismissed within thirty (30) days after it is filed), or (b) make an assignment for the benefit of creditors, or (c) dissolve or cease to do business in the ordinary course.



**11 LIMITATION OF LIABILITY:**

11.1 IN NO EVENT SHALL COLUMN BE LIABLE IN CONTRACT OR TORT FOR LOSS OF REVENUES, PROFITS, GOODWILL, LOST COMPUTER TIME, DAMAGE OR LOSS OF DATA, OR ANY INDIRECT, INCIDENTAL, PUNITIVE, PUNITIVE or CONSEQUENTIAL DAMAGE SUFFERED OR INCURRED BY CITY OF NEW ORLEANS IN CONNECTION WITH OR ARISING FROM ANY CITY OF NEW ORLEANS SUPPORT MAINTENANCE SERVICES PERFORMED UNDER THIS AGREEMENT. COLUMN'S LIABILITY FOR DAMAGES RESULTING FROM OR RELATING TO SOFTWARE SUPPORT MAINTENANCE, INCLUDING THE BENEFITS PROVIDED THERETO SHALL NOT EXCEED THE AMOUNTS PAID BY CITY OF NEW ORLEANS DURING THE PREVIOUS TWELVE (12) MONTH PERIOD FOR SOFTWARE SUPPORT MAINTENANCE. COLUMN'S LIABILITY SHALL FURTHER BE LIMITED TO DIRECT DAMAGES SUFFERED BY CITY OF NEW ORLEANS. THIS AGREEMENT SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY ENFORCEABLE RIGHT IN ANY THIRD PERSON, FIRM, CORPORATION, OR OTHER ENTITY.

**12 ASSIGNMENT:**

12.1 This Agreement and the rights hereunder are not transferable or assignable without the prior written consent of the parties hereto, except for rights to payment and except to a person or entity who acquires all or substantially all of the assets or business of a party, whether by sale, merger or otherwise.

**13 GENERALS:**

13.1 Headings: Headings and captions are for convenience only and are not to be used in the interpretation of these Terms and Conditions.

13.2 Jurisdiction: The Contractor hereby consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and does hereby formally waive any pleas of jurisdiction on account of the residence elsewhere of the Contractor.

13.3 Audit and other oversight: It is agreed that Column or applicant will abide by all provisions of City Code §2-1120, including but not limited to City Code §2-1120(12), which requires Column to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. In signing this contract, Column agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

13.4 Solicitation: Column swears that it has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject contract. Column has not paid or agreed to pay any person, other than a bona fide employee working for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject contract.

13.5 No Waiver: Failure by either party to enforce any provision of these Terms and Conditions will not be deemed a waiver of future enforcement of that or any other provision.

13.6 Invalidity: If any portion of these Terms and Conditions is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect.



- 13.7 Third Parties: The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms and Conditions and no rights or benefits expressly or implied by it shall be enforceable under that Act against the parties to it by any other person.
- 13.8 The issuance of an Order by City of New Orleans for Software Support Maintenance shall constitute agreement by City of New Orleans of the terms and conditions contained herein. This Agreement shall supersede all prior or contemporaneous agreements and/or terms and conditions or representation whether oral or written regarding the subject matter of this Agreement. This Agreement may not be modified or varied in any way except where such amendment or variation is in writing and signed by both parties. The Terms and Conditions of any City of New Orleans Order or other document submitted by City of New Orleans shall not apply to the subject matter of these Terms and Conditions nor shall they be of any force or affect or govern or amend in any way the terms of these Terms and Conditions. Column's failure to object to provisions contained in any Order or other communication from City of New Orleans shall not be construed as a waiver of this section.
- 13.9 Convicted Felon Statement: Column swears that it complies with Section 2-8 (c) of the Code of the City of New Orleans. No Column principal, member, or officer has, within the preceding five (5) years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.
- 13.10 Ownership Interest Disclosure: Column shall provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in Column and stating that no other person holds an ownership interest in the contractor via a counter letter. For the purposes hereof, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If Column fails to submit the required affidavits, City of New Orleans may, after thirty (30) days' written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.
- 13.11 Subcontractor Reporting: Column shall provide a list of all persons, natural or artificial, who are retained by Column at the time of the contract's execution and who are expected to perform work as subcontractors in connection with Column's work for City of New Orleans. In regard to any subcontractor proposed to be retained by Column to perform work on the contract with City of New Orleans, Column must provide notice to City of New Orleans within thirty (30) days of retaining said subcontractor. If Column fails to submit the required lists and notices, City of New Orleans may, after thirty (30) days' written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required lists and notices are submitted.
- 13.12 Employee Verification: Column swears that (i) it is in compliance with Louisiana Revised Statutes 38:2212.10, and is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to Column a sworn affidavit verifying compliance with items (i) and (ii) above. Column acknowledges and agrees that any violation of the provisions of this paragraph may subject this Agreement to cancellation, and may further result in Column being ineligible for any public contract for a period of three (3) years from the date the violation is discovered. Column further acknowledges and agrees that it shall be liable for any additional costs incurred by City of New Orleans occasioned by the cancellation of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of La. R.S. 38:2212.10. Column agrees to provide to City of New Orleans a sworn affidavit attesting to the above provisions if requested by City of New Orleans to do so; failure to provide such affidavit upon request shall give City of New Orleans the option to cancel this Agreement.

13.13 Cost Recovery: In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations.

13.14 Living Wages:

A. Definitions. Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

B. Compliance. To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code ("Living Wage");
2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and
3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

C. Living Wage. In accordance with the Living Wage Ordinance, Living Wage shall be as follows:

1. \$11.19 per hour for any work performed on or before December 31, 2021;
2. \$13.25 per hour for any work performed on or before December 31, 2022;
3. \$15.00 per hour for any work performed on or before December 31, 2023; and
4. \$15.00 per hour plus any adjustment provided in subsection D below for any work performed during calendar year 2024 or thereafter.

D. Adjusted Living Wage. In accordance with Section 70-806(2) of the City Code, the Living Wage shall be annually adjusted for inflation, as defined by the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics as applied to the South Region, except that in no instance shall the Living Wage be adjusted downward. The first adjustment shall become effective on January 1, 2024 using the Consumer Price Index figures provided for the preceding year, and thereafter on an annual basis.

E. Subcontract Requirements. As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance ("Article"). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

F. Reporting. On or before January 31<sup>st</sup> and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development  
Living Wage - Compliance



1340 Poydras Street – Suite 1800  
New Orleans, Louisiana 70112

- G. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the "OWD") and/or the Chief Administrative Office ("CAO"). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (iii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.
- H. **Remedies.** If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

13.15: Force Majeure:

A. **Event.** An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. **Notice.** To seek the benefit of this Article, the City must provide notice in writing to the Contractor stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended

C. **Effect.**

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:
  - a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Contractor must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or
  - b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Contractor and without any further compensation due.



2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

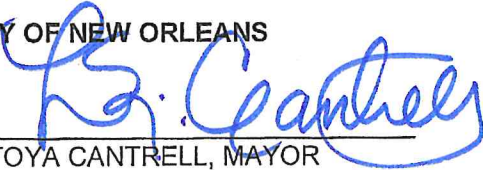
**[The remainder of this page is intentionally left blank]**

**[SIGNATURES CONTAINED ON NEXT PAGE]**

## Acceptance

The parties have accepted the terms and provisions of this Agreement as evidenced by the signatures below of their duly authorized representatives.

CITY OF NEW ORLEANS

  
\_\_\_\_\_  
LATOYA CANTRELL, MAYOR  
MAYOR

FORM AND LEGALITY APPROVED

Law Department

By: 

Printed Name: Tracy Tyler

COLUMN TECHNOLOGIES, LLC.

  
\_\_\_\_\_  
PAUL LUKA  
VP OF FINANCE

12/14/21  
\_\_\_\_\_  
DATE OF SIGNATURE