CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK,
       COUNCIL/PUBLIC SERVICES DIVISION   DATE:___7/19/19___
       ROOM 395, CITY HALL

(PLEASE DO NOT STAPLE THE CONTRACT FOR THE CLERK'S FILE)

**FORM MUST BE TYPEWRITTEN**

FROM (DEPARTMENT): Personnel Department _____

CONTRACT PERSON: Monica Chow _____ PHONE: **(213) 473-3309** ___

CONTRACT NO.: **C-127047** ___   COUNCIL FILE NO.:_____

ADOPTED BY COUNCIL: _____   NEW CONTRACT ___
                    DATE   AMENDED AND RESTATED **X**
APPROVED BY BPW: _____   ADDENDUM NO. ___
                    DATE   SUPPLEMENTAL NO. ___
                                        CHANGE ORDER NO. ___
                                        AMENDMENT ___

CONTRACTOR NAME: Cornerstone OnDemand, Inc. _____

TERM OF CONTRACT: February 11, 2016 ____ THROUGH: February 10, 2021 ____

TOTAL AMOUNT: $4,178,542 _____

PURPOSE OF CONTRACT:

Online Training Academy

**NOTE: CONTRACTS ARE PUBLIC RECORDS - SCANNED AND UPLOADED TO THE INTERNET**

PROFESSIONAL SERVICES AGREEMENT

Contractor: **Cornerstone OnDemand, Inc.**

Regarding: **Online Training Academy**

Contract Number: C-127047

Professional Services Agreement
Cornerstone OnDemand, Inc.

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**AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF LOS ANGELES
AND CORNERSTONE ONDEMAND, INC.**

THIS AMENDED AND RESTATED AGREEMENT is made and entered into by and between the City of Los Angeles, a municipal corporation ("City"), acting by and through its Personnel Department, and Cornerstone OnDemand, Inc., a Delaware corporation licensed to do business in the state of California ("Contractor"), with reference to the following:

RECITALS

1. The Personnel Department's mission is to deliver Human Resources (HR) solutions to employ, develop, and engage a dynamic City workforce. To accomplish this mission, City desires to use the services of a qualified organization to provide an integrated series of HR systems that includes onboarding, learning, performance, and succession;

2. In procuring these systems, it is City's intention to create consistencies across City departments and accomplish efficiencies and added functionality in these four areas;

3. City issued a Request for Proposals (RFP) on December 29, 2014, seeking qualified firms to provide onboarding and learning systems. City issued a Request for Qualifications (RFQ) on July 17, 2015 seeking qualified firms to provide performance and succession systems;

4. City reviewed Proposals that were submitted in accordance with City's requirements;

5. City found Contractor's proposal to be acceptable and complete responses to the services needed by City as articulated in the RFP and RFQ stated above, and determined that Contractor has the experience and qualifications to provide the types and levels of service required by City;

6. On or about February 11, 2016, City and Contractor entered into City of Los Angeles Contract Number C-127047 ("Original Contract"), pursuant to which Contractor agreed, for consideration and upon the terms and conditions provided in the Original Contract, to perform the above-referenced work and furnish deliverables;

7. One or more City Departments may elect to take advantage of the competitive process administered for the services provided under this Agreement by entering into different agreements with the same terms and conditions;

8. City and Contractor now wish to change the representatives of the respective parties authorized to administer this Agreement, and to whom formal notices, demands, and communications shall be given;

9. City and Contractor now wish to add two additional years to the term of the contract, commencing February 11, 2019 through February 10, 2021;

10. City and Contractor now wish to amend and modify the Original Contract to increase the scope of services to be provided by Contractor and increase City's total obligation under this Agreement for a new total amount not to exceed $4,178,542 for complete and satisfactory performance of the terms in accordance with this Agreement; and

11. City updated language and City's Standard Provisions for City Contracts to adhere to new City contracting requirements, and City and Contractor desire to incorporate the same into this Agreement;

NOW, THEREFORE, in consideration of the promises and of the covenants, representations, and agreements set forth herein, the parties hereby covenant, represent, and agree as follows:

ARTICLE I.
INTRODUCTION

1. Representatives of the Parties and Service of Notices

1.1 The representatives of the respective parties authorized to administer this Agreement, and to whom formal notices, demands, and communications will be given are as follows:

a. The representative of City will be, unless otherwise stated in the Agreement:

Wendy G. Macy
General Manager
Personnel Department
700 E. Temple Street, Room 305
Los Angeles, California 90012

With copies to:

Art Irigoyen
Senior Personnel Analyst II
Employee Development Section
700 E. Temple Street, Room 100
Los Angeles, California 90012

b. The representative of Contractor will be:

Brooks Masterson
Director, State & Local Government
Cornerstone OnDemand, Inc.
1601 Cloverfield Blvd, Suite 600 South
Santa Monica, CA 90404

With copies to:

Adam Weiss
General Counsel
Cornerstone OnDemand, Inc.
1601 Cloverfield Blvd, Suite 600 South
Santa Monica, CA 90404

1.2 Formal notices, demands, and communications required hereunder by either party will be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of mailing.

1.3 If the name of the person designated to receive the notices, demands, or communications, or the address of such person is changed, written notice will be given, in accordance with Article I, within five (5) business days of said change.

2. Definitions

2.1 "Active User" means, in a given calendar month, a user established on the Software with a designation of "active" at any time during that month. City may designate, limit, and measure whether a user is "active" and therefore an Active User.

2.2 "Aggregated Data" means anonymized, aggregated, and statistical data derived from City's use of the Software that is combined with other similar data of Contractor's other customers. Aggregated Data shall not include (directly or by inference) any: (i) information identifying City or any identifiable user, customer, City employee, or individual capable of re-identification to the foregoing; (ii) City Confidential Information; (iii) City intellectual property; (iv) data that is otherwise protected under Privacy Laws.

2.3 "City Content" means any and all courses, learning objects, certifications, quizzes, tests, materials, instructor-led sessions, or documents created and/or supplied by City.

2.4   "City Data" means all data and information provided to the Contractor by or on behalf of the City pursuant to this Agreement and any and all updates or modifications thereto or derivatives thereof made by the Contractor.

2.5   "Implementation" means implementation, deployment, and/or training relating to the Software.

2.6   "Service" means any service rendered by Contractor specifically to City, including, but not limited to:
   a. hosting of the Software;
   b. hosting, delivery, and/or distribution of eLearning content;
   c. provision of customer and/or technical support for the Software;
   d. implementation;
   e. development of Software functionality specially requested by City; and/or
   f. any consulting service.

2.7   "SCORM", Shareable Content Object Reference Model, is an XML-based framework used to define and access information about learning objects so they can be easily shared among different learning management systems

2.8   "Software" means:
   a. any and all of Contractor's proprietary web-based applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto, as well as applications that have been modified in any way by Contractor at the request of the City; and
   b. application functionality provided by Contractor-contracted third parties.

2.9   "Subscriber" means an Active User that accesses the Software for a flat fee.

ARTICLE II.
TERM AND SERVICES TO BE PROVIDED

1.   Time of Performance

The term of this Agreement will commence on February 11, 2016 and will end on February 10, 2021, subject to the termination provisions herein and availability of City budgeted funds.

1.1   Due to the need for Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that said services were performed in

accordance with the terms and conditions of this Agreement, those services are hereby ratified.

2. Services to be Provided

As directed by City Contractor shall provide onboarding and learning systems, as provided in **Attachment B, Scope of Work**, and perform such other services and provide such other deliverables as further articulated in this Agreement.

Each party agrees to: (i) provide the resources reasonably necessary to enable the performance of the Services; (ii) manage its project staffing, milestones, and attendance at status meetings; and (iii) ensure completion of its project deliverables and active participation during all phases of a Service project. The parties acknowledge that failure to cooperate during a Service project may delay delivery of the Service. If there is a delay, the party experiencing the delay will notify the other party as soon as reasonably practicable, and representatives of each party will meet to discuss the reason for the delay and applicable consequences. Changes beyond the scope of a Task Order and/or a party's delay in performing its obligations may require an amended Task Order. When Contractor notifies City that a given Service project has been completed, City shall either accept or reject the project based on whether the deliverables for that project have been performed in substantial and material accordance with the applicable Task Order. If City: (i) fails to provide written notice of acceptance or rejection of the Service to Contractor within twenty (20) days of Contractor's notification that the project is complete; or (ii) with respect to an Implementation, uses the implemented Product in a live environment for a total of twenty (20) days, then the project will be deemed accepted.

3. Statement of Work

Any modifications in the terms and/or conditions to this Agreement shall require the execution of an amendment, approved and signed by an authorized representative of both the requesting Department and Contractor. If Contractor performs any modification without a written amendment, City shall neither pay for, nor be obligated to accept said modification.

ARTICLE III.
GENERAL TERMS AND CONDITIONS

1. Deliverables, Payment Terms, and Invoicing

    1.1   Deliverables

Contractor shall provide all deliverables as required, described, and detailed herein, and shall meet all service and delivery timelines as provided in **Attachment D, Deliverables**

1.2 Payment Terms

City's total obligation under this Agreement shall not exceed $4,178,542 for the term of this Agreement for complete and satisfactory performance of the terms of this Agreement as provided in **Attachment E, Fee Schedule**.

1.3 Limitation of City's Obligation to Make Payments to Contractor

Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in said Agreement. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of said appropriation shall be free and without charge to the City and the City shall have no obligation to pay for said services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount until the City appropriates additional funds for this Agreement.

1.4 Invoicing

a. Invoices must be submitted to:

Art Irigoyen
Personnel Department
Employee Development Section
700 E. Temple St., Room 100
Los Angeles, California 90012
and / or to:
art.irigoyen@lacity.org

b. To ensure that services provided under personal services contracts are measured against services as detailed in the Agreement, the Controller of the City of Los Angeles has developed a policy requiring that specific supporting documentation be submitted with invoices.

c. Contractor shall submit invoices that conform to City standards and include, at a minimum, the following information:

i.   Name and address of Contractor
  ii. Name and address of City department being billed
  iii. Date of invoice and period covered
  iv. Contract number or authority (purchase order) number
  v.   Description of and amount due for completed task, including:
        - Name of personnel working on task
        - Hours spent on task and timesheet supporting charges (if applicable)
  vi. Rate per hour and total due
  vii. Certification by a duly authorized officer
  viii. Discount and terms (if applicable)
  ix. Remittance Address (if different from Contractor's address)

d. All invoices must be submitted on Contractor's letterhead, contain Contractor's official logo, or other unique and identifying information such as the name and address of Contractor. Evidence that tasks have been completed, in the form of a report, brochure, or photograph, shall be attached to all invoices. The City shall make payments in advance for the annual fees. Invoices must be submitted within 30 days of service, or monthly, and will be payable to Contractor no later than 30 days after acknowledged receipt of a complete invoice conforming to City standards and containing no less than the minimum required information.

e. Invoices and supporting documentation must be prepared at the sole expense and responsibility of Contractor. City shall not compensate Contractor for costs incurred in invoice preparation. City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. City reserves the right to request additional supporting documentation to substantiate costs at any time.

f. Subcontractor's Requirements

   Tasks that are completed by subcontractors must be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

g. *Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter Section 262(a),* which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

2. Contractor's Personnel/Subcontractors

2.1   Contractor shall use its own employees to perform the services described in this Agreement. City shall have the right to review and approve any personnel who are assigned to work under this Agreement. Contractor agrees to remove personnel from performing work under this Agreement if requested to do so by City.

2.2   Contractor may utilize subcontractors to assist in performance of this Agreement. Notwithstanding the fact that Contractor may utilize subcontractors, Contractor shall remain responsible for performing all aspects of this Agreement. City has the right to approve Contractor's subcontractors and City reserves the right to request replacement of a subcontractor. City does not have any obligation to pay subcontractors and nothing herein creates any privity between City and the subcontractors.

2.3   City may reasonably reject any project personnel and request that equally or better qualified staff be provided.

2.4   The Software may contain features capable of interoperating with third-party applications. To use such features, City may be required to obtain access to such applications from a third-party provider. Contractor shall not be responsible for City's access to, or operation of, third-party applications not offered or sold by Contractor to City.

3.   Representations and Warranties

Contractor represents and warrants that:

3.1   The Software meets City's functional requirements for LMS, Onboarding, Performance and Succession systems and that the Software will continue to meet these requirements for the Initial Term and any Renewal Term;

3.2   Contractor has disaster recovery plans in place to ensure absolute minimum downtime during various degrees of Software failure. Contractor represents that these disaster plans are documented, and have been tested;

3.3   Contractor has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on Contractor's ability to perform as required by this Agreement;

3.4   Contractor shall protect all of City's Confidential Information, including City Data using industry best practices to secure City Data, including, but not limited to, firewalls, IPS/IDS, encryption at rest (to the extent containing personally identifiable information) and encryption in transit, and administrative, physical and technical safeguards designed to protect the

confidentiality, integrity, and availability of City Data. Contractor shall maintain compliance with all applicable federal and state privacy statutes, rules, regulations, and orders ("Applicable Law");

3.5   Contractor shall perform the work contemplated in this Agreement in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances; and

3.6   Contractor possesses and maintains valid licenses and permits required to perform the services described herein.

3.7   Contractor represents that it has and will maintain during the Term of this Agreement Comprehensive General Liability, Technology Errors and Omissions Liability, Commercial Blanket Bond (including Electronic & Computer Crime or Unauthorized Computer Access Insurance) in amounts appropriate and sufficient for the industry in which it operates and the liabilities attendant to its services. Upon written request by Customer, Contractor shall promptly provide a certificate from its insurers indicating the amount of insurance coverage, the nature of such coverage, and expiration dates of each applicable policy.

3.8   Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party.

3.9   Contractor warrants that any and all services provided by it hereunder shall be performed in a professional manner consistent with prevailing industry standards, and that the software will perform substantially in material accordance with the agreement and applicable documentation provided by contractor. To the extent permitted by applicable law, contractor disclaims all other warranties, express or implied, statutory or otherwise, including without limitation warranties of merchantability, fitness for a particular purpose, non-infringement (except for the infringement indemnification provided hereunder) and any warranties arising from a course of dealing, usage or trade practice. Except for (i) a party's intellectual property indemnification obligations; (ii) a party's willful misconduct, each party's maximum aggregate liability arising out of or relating to this agreement, regardless of the theory of liability, will be limited to $3,000,000. The existence of more than one claim shall not expand such limit. The parties acknowledge that the fees agreed upon between city and contractor are based in part on these limitations, and that these limitations will apply

notwithstanding any failure of any essential purpose of any limited remedy. The foregoing limitation shall not apply to a party's payment obligations under the agreement.

4.   Confidentiality, Data Management, and Data Security

4.1   Confidentiality

All documents, records and information provided by City to Contractor, or accessed, reviewed, or produced by Contractor during performance of this Contract, including but not limited to personal applicant information, test methods and results, remain the property of City. All documents, records, and information provided by City to Contractor, or accessed, reviewed, or produced by Contractor during performance of this Contract, are confidential (hereinafter collectively referred to as "Confidential Information"). Contractor shall not provide Confidential Information, or disclose the content or information contained in Confidential Information, whether orally or in writing, to any other person or entity. Contractor shall not utilize any Confidential Information used or reviewed in connection with Contractor's work for City except as necessary for the purpose of performing City business pursuant to Contractor's obligations under this Contract. Contractor is responsible for protecting the confidentiality and maintaining the security of all Confidential Information in its possession.

Any Confidential Information provided by City to Contractor, or accessed, reviewed, or produced by Contractor, during performance of this Contract, shall be made available to its employees, agents, and subcontractors only on a need- to-know basis. Further, Contractor shall provide written instructions to all of Contractor's employees, agents and subcontractors with access to the Confidential Information about the penalties for its unauthorized use or disclosure.

Contractor shall not remove Confidential Information or any other documents or information used or reviewed in connection with Contractor's work for City from Contractor facilities without prior approval from City. Contractor shall, at the conclusion of this Contract and at the request of City, promptly return to City any and all Confidential Information and all other written materials, notes, documents, or other information obtained by Contractor during the course of work under this Contract. Contractor shall not make or retain copies of any such information, materials or documents. Contractor and its employees, agents, and subcontractors may have access to Confidential Information, to which access is controlled by statute. Misuse of such information may adversely affect the subject individual's civil rights and violates the law. Contractor shall implement such reasonable and prudent measures to keep secure and private all Confidential Information accessed by its employees, agents, and subcontractors during the

performance of this Contract as are required by law and this Contract. Contractor shall advise its employees, agents, and subcontractors of this confidentiality requirement.

The provisions of this Section survive termination of this Agreement.

4.2   Disclosure of Information

Contractor shall not, without the express written permission of the City: (i) disclose any detailed information regarding City's recruitment, selection, and applicant tracking methods to any third party; or (ii) disclose any personal information regarding an applicant, including the existence or nonexistence of an applicant or employee, except as these disclosures are necessary to conduct Contractor's business and provide the services identified in this Contract. Contractor shall not issue press releases without written authorization from the City and City approval of the content of the press release. Contractor shall not respond to any media inquiry regarding the program as a whole or individual applicants and shall refer such inquiries to the General Manager's designee. Upon execution and approval of this Agreement, Contractor may identify City as a client in promotional material but shall not provide specific information concerning the City's use of the Contractor's services.

Contractor shall not issue any press release mentioning City as a customer without City's consent (not to be unreasonably withheld or delayed). Notwithstanding the foregoing, Contractor may mention the City's name in investor-related communications.

4.3   City Restrictions

City may only use the Software for City's governmental purposes. City shall not: (i) use or deploy the Software in violation of applicable laws or this Agreement; (ii) resell the Software except through Transactions; (iii) create any derivative works based upon the Software; (iv) reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code from the Software or any part thereof (except to the extent that such restriction is not permitted under applicable law); (v) make the Software available to any unauthorized parties, including without limitation, competitors of Contractor; or (vi) perform, or release the results of, benchmark tests or other comparisons of the Software with other software. Should unexpected or inappropriate use of the Software (e.g., improperly formatted or constructed City Content; extraordinary bandwidth usage; uploaded files that contain viruses, worms, spyware, or other malicious content; load tests) result in denial of service with respect to the Software, Contractor may disable the implicated City Content and/or deny access to City's portal as necessary to remedy the issue, provided, however, that

Contractor shall inform City immediately of any such disabling or access-denying actions taken, as well as the conditions giving rise to the need to take such actions, and Contractor shall further provide City with regular status reports as to Contractor's progress mitigating the circumstances giving rise to the need for disabling Content or denying access to the portal. City will be responsible for Active Users' compliance with the Agreement and liable for Active Users' breach thereof. City will ensure that it has obtained all necessary consents and approvals for Contractor to access City Data for the purposes permitted under this Agreement. If City is in breach of this section, Contractor shall give the City an opportunity to cure the breach if notice is reasonably practicable under the circumstances. Should the City fail to cure the breach or should Contractor determine it cannot give notice under the circumstances, Contractor may suspend Services, in addition to any other rights and remedies Contractor may have at law or in equity.

4.4   Data Center

Contractor shall provide its hosting services to the City and its end users solely from data centers in the continental United States of America. Storage of Content at rest shall be located in the continental United States of America. The Contractor shall not allow its personnel or contractors to store City Data on portable devices, including personal computers, except for devices that are used and kept only at Contractor's continental United States of America headquarters or data centers. Contractor may permit its personnel and contractors to access City Data remotely only as required for purpose of Contractor providing to City the services of this Agreement.

4.5   Data Backup and Emergency Recovery

Contractor shall employ a multilayered approach to backups and disaster recovery including the use of a primary data center and a backup data center. Contractor shall perform both local and remote backups of the complete server infrastructure including server operating systems, applications, and data. Contractor shall perform Disaster Recovery Tests no less than semi-annually. Contractor shall maintain and comply with a reasonable written plan (the "DR Plan") setting forth procedures for (a) keeping the Software functioning during and after an earthquake, hurricane, other natural disaster, war, act of terrorism, act of cyber terrorism, and other natural or man-made disaster, including without limitation force majeure (as that term is used in PSC-6, Excusable Delays, of the Standard Provisions for City Contracts (Rev. 10/17) [v.3] (collectively, a "Disaster"); and (b) restoring Service functionality promptly after a Disaster. The DR Plan will include procedures no less protective than industry standard, and Vendor shall update the DR Plan as the industry standard changes.

4.6 Data Security

Without limiting Contractor's obligation of confidentiality as further described herein, Contractor shall be responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, which security program is designed to: (a) ensure the security and confidentiality of the City Data; (b) protect against any anticipated threats or hazards to the security or integrity of the City Data; (c) protect against unauthorized disclosure, access to, or use of the City Data; (d) ensure the proper disposal of the City Data if requested by the Department or required by applicable law; and, (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing.

4.7 Firewalls

Contractor shall use reasonable precautions, including but not limited to, physical software, and network security measures, employee screening, training and supervision, and appropriate agreements with employees, to: (a) prevent anyone other than the City from monitoring, using, gaining access to, or learning the import of the City Data; (b) protect appropriate copies of the City Data from loss, corruption, or unauthorized alteration; and (c) prevent the disclosure of City passwords and other access control information to anyone other than authorized City employees.

4.8 Security Audit

Upon execution of this Agreement and thereafter within three (3) days of City's request, Subcontractor shall make available for review by the City Subcontractor's Information Security Policy and any related SOC audits or other evidence that Subcontractor has in place appropriate policies and procedures regarding information protection and security. At City's discretion and upon City's request, in lieu of an on-site audit, Contractor shall complete, within forty-five (45 days) of receipt, an audit questionnaire provided by the City regarding Contractor's data privacy and information security program.

4.9 Vulnerabilities

Contractor's software applications and any third party software applications embedded in the Service must be free from vulnerabilities and defects. Contractor shall provide vulnerability scanning services for critical systems or systems hosting sensitive data.

4.10 Service Changes

Contractor shall notify the City of any changes in the Software, such as enhancements and upgrades that can impact the security of the Software.

4.11 Authorization and Access

Contractor shall enforce the following IT security best practices with respect to its Service: (a) Contractor shall authorize access only to the minimum amount of resources required for a function; (b) Contractor shall divide functions among its staff members to reduce the risk of one person committing fraud undetected; and (c) Contractor shall restrict access to authorized users and base access control on the role a user plays in an organization.

5. Service Levels

Contractor shall provide at least 99.5% availability per calendar month to Software (excluding reasonable and scheduled maintenance periods which occur between the hours of 5:30pm and 11:59pm US Pacific Standard Time on Fridays, and for which City is provided notice at least 48 hours in advance). In the event that Contractor has not complied with this Software availability obligation, then, for each 0.3% (or portion thereof) of availability below 99.5%, City will be entitled to a credit against City's next invoice equal to 1/365th of the annual fees for Software set forth in the Agreement.

To claim a credit, City must submit a credit request within thirty (30) days of the event giving rise to a credit. Upon receiving the request, Contractor shall have five (5) business days to respond.

6. Technical Support

Contractor shall continue to provide the level of technical support stated in the applicable Order. Only the number of administrators set forth in the applicable support package (i.e., not all Subscribers) may contact Contractor for support. City agrees to promptly provide Contractor with sufficient documentation, data and assistance with respect to any reported errors, and to reasonably cooperate with Contractor, in order for Contractor to comply with its support obligations hereunder. In no event shall Contractor be responsible or liable for any errors, bugs or other problems contained in or originating from hardware or software not provided by Contractor or its subcontractors.

7. Intellectual Property Indemnification

7.1 Contractor, at its own expense, shall defend, indemnify, and hold harmless the City, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action,

claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by City, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by Contractor, or its Subcontractors, in performing the work under this Contract; or (2) as a result of City's actual or intended use of any Work Product (as defined in PSC-21) furnished by Contractor, or its Subcontractors, under this Contract. The rights and remedies of City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

7.2 Indemnification by City

For the term of this Agreement, City agrees to indemnify, defend, and hold harmless Contractor from and against any and all Damages incurred or suffered by Contractor which directly relate to or directly arise out of the violation or infringement of any third-party intellectual property rights by City Data or City Content. The foregoing provisions of this section shall not be applicable to the extent the Damages relate to or arise from Contractor's use of City Data or City Content in violation of this Agreement.

7.3 Infringement Cures

Should the Software or any part thereof become, or in Contractor's reasonable opinion be likely to become, the subject of a claim for infringement of a third party intellectual property right, then Contractor shall, at its sole option and expense: (i) procure for City the right to use and access the infringing or potentially infringing item(s) of the Software free of any liability for infringement; or (ii) replace or modify the infringing or potentially infringing item(s) of the Software with a non-infringing substitute otherwise materially complying with the functionality of the replaced system and resulting in no diminution or degradation of the levels of services provided to City under this Agreement.

8. Limitation of Liability

Except for a party's willful misconduct, each party's maximum aggregate liability arising out of or relating to this agreement, regardless of the theory of liability, will be limited to $3,000,000. The existence of more than one claim shall not expand such limit. The parties acknowledge that the fees agreed upon between City and

Contractor are based in part on these limitations, and that these limitations will apply notwithstanding any failure of any essential purpose of any limited remedy. The forgoing limitation shall not apply to party's payment obligations under the Agreement.

9.   Exclusion of Consequential Damages

Neither party will be liable for lost profits, lost revenue, lost business opportunities, loss of data, interruption of business, providing replacement software (except as set forth in section "infringement cures"), or any other indirect, special, punitive, incidental or consequential damages arising out of or relating to this agreement, regardless of the theory of liability, even if it has been advised of the possibility of such damages.

ARTICLE IV.
MISCELLANEOUS

1.   Standard Provisions for City Contracts

Contractor agrees to, and shall comply with, the **Standard Provisions for City Contracts (Rev. 10/17) [v.3]**, which are attached hereto as **Attachment A** and made a part hereof as though fully set forth herein.

2.   Disclosure of Border Wall Contracting

Contractor shall comply with Los Angeles Administrative Code (LAAC) Section 10.50 et seq., "Disclosure of Border Wall Contracting." City may terminate this Contract at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

3.   Ownership and License

3.1   Data Ownership

Intellectual Property.   As between the parties, Contractor will and does retain all proprietary and intellectual property rights, title and interest in and to the Software, and City will and does retain all proprietary and intellectual property rights, title and interest in and to City Data and City Content.

The City is and will remain the owner of all data provided to Contractor by City pursuant to this Contract, including City Data. Contractor shall not use this data for any purpose other than providing services under the Contract. Contractor shall not allow any part of this data to be sold, assigned, leased or otherwise disclosed to third parties (except inasmuch as disclosure to

authorized subcontractors is necessary for purposes of performance of this Agreement) or exploited in any manner by or on behalf of Contractor. Contractor shall not possess or assert any lien or other right against such data. Contractor shall hold all such data in confidence in accordance with the requirements of this Agreement.

3.2   Ownership of Training Content

Contractor acknowledges and agrees that all training content and data, including but not limited to publications, databases, videos, reports, analyses, studies, drawings, information (hereinafter collectively referred to as "Materials"), originated and prepared by Contractor pursuant to the terms of this Agreement, are "Work Made for Hire" and shall become the property of City for its use in any manner it deems appropriate. Contractor assigns any and all of its respective interests and rights in such property to City. Notwithstanding the foregoing, neither the Software nor the Services shall be considered Works Made for Hire. For avoidance of doubt, any Content developed by Contractor or its subcontractor for the City pursuant to a statement of work hereunder shall be considered a Work Made for Hire.

3.3   License to Content

Subject to the other conditions of this Agreement, City hereby grants Contractor a non-exclusive, "as-is," perpetual, royalty-free license to use the materials and courses developed by Contractor in connection with Contractor's business, provided, however, that these materials and courses may not include or incorporate any City marks or City Data.

3.4   Aggregated Data

City hereby grants Contractor a non-exclusive, "as-is," perpetual royalty-free license to use Aggregated Data (defined above) in connection with its business. The foregoing shall not be construed as a representation or warranty by City that it has the rights, if any, to grant such license or to authorize such use. Contractor acknowledges and agrees that the Aggregated Data is provided by City as-is, without warranties of any kind. City hereby disclaims all warranties, express and implied, including the implied warranties of merchantability, fitness for a particular purpose, title/non-infringement, and quality of information with regard to the Aggregated Data. Contractor shall defend, indemnify, and hold harmless City and any of City's boards, officers, agents, employees, and assigns and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, experts' fees, and court costs as provided herein arising out of or relating to (i) the license granted in this Section; (ii) Contractor's failure to properly and adequately remove all entity and personally identifiable

information from the Aggregated Data; or (iii) any claims resulting from Contractor's use, distribution, sale, licensing, or other exploitation of Aggregated Data.

3.5   Title to Software and Software Documentation

All ownership right, title, and interest in and to the Software are and shall remain at all times the sole and exclusive property of Contractor. City acknowledges that no such ownership rights, title, or interest in or to the Software and the documentation is granted under this Agreement, and no such assertion will be made by City. The Software is and shall remain the sole property of Contractor with the exception of any documentation or software solely developed by City Staff for use or integration with the Software. City is granted only a license to use of the Software as set forth herein, which right of use is not coupled with an ownership interest

3.6   Reproduction of Documentation

Contractor hereby grants City license to reproduce the Software documentation provided by Contractor, provided that the reproductions (i) exclude Contractor's software code, (ii) are made for the internal use of City, and (iii) bear Contractor's copyright notices and other proprietary legends, as appropriate.

4.   Replacement and Separation Assistance

City may at its discretion replace the Software with another software.

Contractor shall provide City a means to retrieve City Data at any time during the term of this Contract, and in a SCORM compliant format. If requested, Contractor will assist with such data retrieval at a scope and price to be agreed.

5.   Compliance with Statutes and Regulations

Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

6.   Amendments to Agreement

Any changes in the terms of this Agreement, including changes in the services to be performed by Contractor, extension of the term, and any increase or decrease in pricing, must be incorporated into this Agreement by a written amendment properly executed by both parties.

7.   Ambiguity

No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement.

8.   Assignment.

Contractor shall not assign, subcontract, delegate, or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of City, and any attempted such assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void; provided, however, that Contractor may assign this Agreement in connection with a merger, acquisition, reorganization or sale of all or substantially all of Contractor's assets, if (i) the terms of this Agreement are made binding upon Contractor and Contractor's successors and permitted assigns, and (ii) Contractor reasonably believes that such assignment will not result in a diminution or degradation in the types and levels of services provided to City by Contractor pursuant to this Agreement.

9.   No Third Party Beneficiaries.

The representations, warranties and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns, and shall not be construed as conferring any rights on any other persons.

10.   Entire Agreement

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

11.   Purchase Orders

Purchase orders submitted by City are for City's internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force and effect.

12.   Order of Precedence

In the event of any inconsistency between the provisions in the body of this Agreement and the attachments, the provisions in the body of this Agreement take precedence, followed by Attachment A, Standard Provisions for City Contracts (Rev. 10/17) [v.3], followed by any other exhibits or attachments to this Agreement.

(Signature Page to Follow)

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

By: _____
WENDY G. MACY
General Manager,
Personnel Department

Date: _____7/8/19_____

CORNERSTONE ONDEMAND, INC*

By: _____
ADAM MILLER
President & CEO

Date: _____7/3/2019_____

CORNERSTONE ONDEMAND, INC*

By: _____
BRIAN SWARTZ
Chief Financial Officer

Date: _____7/3/2019_____

APROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: _____
SAMUEL PETTY
Deputy City Attorney

Date: _____7/u/19_____

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____7-17-19_____

* Approved Signature Methods:
    1) Two **signatures**: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.

    1) One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.

City Business License Number: 0002513065-0001-8
Internal Revenue Service Taxpayer Identification Number: 20-8272229
Agreement Number: C-127047

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. <u>Construction of Provisions and Titles Herein</u>

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. <u>Applicable Law, Interpretation and Enforcement</u>

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. <u>Time of Effectiveness</u>

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

A.   This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;

B.   This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;

C.   The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and

D.   This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. <u>Integrated Contract</u>

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. <u>Amendment</u>

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. <u>Excusable Delays</u>

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. <u>Waiver</u>

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8.   Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9.   Termination

    A.   Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice.   Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities.   **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination.   Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract.   All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination.   **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

    B.   Termination for Breach of Contract

        1.   Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default.   **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.

        2.   If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.

4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.

5. Acts of Moral Turpitude

   a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").

   b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.

   c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.

   d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.

6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.

7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.

8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or

B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR,** Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

    A.   **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.

    B.   If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

PSC-25. <u>Warranty and Responsibility of Contractor</u>

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. <u>Mandatory Provisions Pertaining to Non-Discrimination in Employment</u>

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

    A.   **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

    B.   The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.

    C.   The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.

    D.   The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. <u>Child Support Assignment Orders</u>

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28.   Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29.   Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30.   Access and Accommodations

CONTRACTOR represents and certifies that:

A.   **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;

B.   **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

C.   **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;

D.   Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and

E.   The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at https://www.labavn.org/, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at $1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at $100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least $100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least $100,000 for performance under this Contract:

> "Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections
>
> You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

PSC-38. <u>Contractors' Use of Criminal History for Consideration of Employment Applications</u>

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. <u>Limitation of City's Obligation to Make Payment to Contractor</u>

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR'S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. <u>Confidentiality</u>

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively "Confidential Information") are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT   For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds.   A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1.   Additional Insured/Loss Payee.   The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured.   The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY.   By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3.   Primary Coverage.   CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY.   The CITY'S program shall be excess of this insurance and non-contributing.

4.   Modification of Coverage.   The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change.   If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5.   Failure to Procure Insurance.   All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. Workers' Compensation. By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: **Personnel** Department   Date: 06/10/2019

Agreement/Reference: Cornerstone On Demand, Inc. - Online Training Academy

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

✓ **Workers' Compensation -** Workers' Compensation (WC) and Employer's Liability (EL)

WC *Statutory*

EL $1,000,000

☐ Waiver of Subrogation in favor of City   ☐ Longshore & Harbor Workers
☐ Jones Act

✓ **General Liability** $1,000,000 per occurrence, $2,000,000 aggregate $1,000,000

☑ Products/Completed Operations   ☐ Sexual Misconduct 3) Coverage to Include Fidu +
☐ Fire Legal Liability _____
☐ _____

____ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work)   _____

✓ **Professional Liability** (Errors and Omissions) $3,000,000

Discovery Period   See Note #3

____ **Property Insurance** (to cover replacement cost of building - as determined by insurance company)   _____

☐ All Risk Coverage   ☐ Boiler and Machinery
☐ Flood _____   ☐ Builder's Risk
☐ Earthquake_____   ☐ Fine Arts - Cover value of exhibit

____ **Pollution Liability**   _____

☐ _____

____ **Surety Bonds -** Performance and Payment (Labor and Materials) Bonds   100% of the contract price

____ **Crime Insurance**   _____

Other: _____

1) If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request For Waiver of Workers' Compensation Insurance Requirement" located at: http://cao.lacity.org/risk/InsuranceForms.htm

2) In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

3) Coverage to include Fiduciary Liability (if applicable), Errors & Omissions, Cyber Liability and Data Breach

Professional Services Agreement

CORNERSTONE ONDEMAND, INC.

Attachment B – Scope of Work

1. **Contractor shall:**

   1.1 Provide access to a Learning Management System (LMS) to meet specific requirements as stipulated in this Agreement;

   1.2 Provide access to an Onboarding System to meet specific requirements as stipulated in this Agreement;

   1.3 Provide access to a Performance System to meet specific requirements as stipulated in this Agreement;

   1.4 Provide access to a Succession Planning System to meet specific requirements as stipulated in this Agreement;

   1.5 Provide training and support to personnel assigned to administer the LMS, Onboarding, Performance and Succession Planning systems;

   1.6 Provide training, onboarding, performance, and succession data collected or received from City and its employees secure and confidential;

   1.7 Provide access to and/or furnish all training, performance, onboarding, and succession data to the City of Los Angeles at the completion of the contract;

   1.8 Develop or provide all aspects of the courses, including, but not limited to, software, graphics, audio and video presentation, and closed captioning;

   1.9 Certify they own copyright or have obtained permission to use the content in the training courses to sell to City, and release City from any liability as a result of infringement of copyright;

   1.10 Ensure images or video of actors and models used in training vignettes, if any, reflect the diverse population and workforce of the City of Los Angeles;

   1.11 Ensure training content conforms to SCORM 2004 or above standards;

   1.12 Use assessment tools, such as quizzes, to ensure participant learning and assess retention; and

1.13　In rare instances, if web-based training cannot be accommodated for the visually impaired or disabled, Contractor may be asked to provide instructor-based (in person) training.

Professional Services Agreement

CORNERSTONE ONDEMAND, INC.

Attachment C – Deliverables

1. Integrated HR System

   Contractor shall provide an integrated Software-as-a-Service Human Resources system that includes Learning Management, Onboarding, Performance and Succession Systems. The software must be compatible with City standard equipment (PC) and standard internet software (e.g. Google Chrome, Internet Explorer, Microsoft Edge, Firefox, and Flash). In addition:

   a. Systems shall be Web-based and delivered Software-as-a-Service (SaaS);

   b. Systems shall have advanced administration tools (multi-level administrator rights for system administrators, department coordinators, and users);

   c. Systems shall have customizable user Interface (color scheme, logo, etc.);

   d. Systems must have the ability to run customizable reports and extract data in CSV, XLS format, or PDF.

2. LMS

   a. Post training courses and track all aspects of employee use of system, including, but not limited to: employee name, identification number, employing department, job classification, email, course completion status, quiz scores, date, time spent completing the course, and other parameters, in SCORM format, as defined by the City of Los Angeles prior to implementation. LMS shall be SCORM 1.2, or SCORM 2004 compliant

   b. Provides electronic certificates of completion in portable document format (PDF);

   c. Must have survey tools (training evaluations)

3. Onboarding System

   a. Automate routing of information and reduces paper handling

   b. Pre-populate forms with relevant new hire information

   c. Contain custom forms - unlimited, no additional costs

   d. Include New Hire Checklists for new employees to complete

  e. Automate assignment of new hire curricula

  f. Place employees on forward-looking development plans

  g. Effectively communicate expectations and goals

  h. Track employees in the onboarding process

  i. Allow for completion of pre-hire paperwork

4. Performance

  a. Allow supervisors to create, record, and measure employees on goals

  b. Allow supervisors to select from a list of competencies and measure employees based on them

  c. Generate e-mail reminders for supervisors and employees to meet regularly and hold an annual evaluation.

  d. Track and report goals, competencies, meetings and evaluations.

5. Succession

  a. Integrate with the learning management and performance systems

  b. Create profiles of employees that contain lists of the employee's skills, interests, licenses and performance evaluations (for clarity, Contractor will not provide competency libraries)

  c. Identify internal candidates for future roles before a critical workforce gap occurs.

  d. Develop multiple succession scenarios for a number of positions to develop tomorrow's leaders

  e. Allow for individuals to update own profiles

6. Server Requirements

  a. Single or multi-tenant database

  b. Contractors must provide documentation of their facility's physical security

  c. Contractors must provide documentation of their network's logical security (e.g., internal server and firewall setup)

  d. Must be able to support a minimum of 500 simultaneous connections

7. Data Sync and Automation

   a. Integrate and automate data sync, such as Employee IDs, Names, Departments, Course information and Email, with the City's payroll system

   b. Automate E-mail reminders/notifications (editable)

   c. Contractor shall coordinate, when necessary, status meetings with the City to provide status updates.

8. City-produced SCORM Training

   a. City Staff (Administrator) must have the ability to incorporate City-produced SCORM compliant training into the LMS

   b. Should the City be unable to upload its SCORM training, Contractor agrees to upload SCORM compliant City-produced training, at no charge, in most cases within 24 hours and never in more than 48 hours.

9. Data and Communication

   a. Must be compatible with Windows 7 and Vista

   b. Be compatible with IE 9+ and Google Chrome.

   c. Must not require the installation of non-standard (Please see technical specifications below for standards.) or special software

10. Employees Unable to Complete Training

    Upon request by the City and subject to additional scoping and cost, the Contractor will deliver instructor-led courses to accommodate employees unable to complete the training using a computer format.

    City shall provide Contractor with three weeks' notice of a class being scheduled and training shall be provided within this three-week timeframe or as otherwise agreed by the parties in writing.

    If City cancels any scheduled classes not later than five (5) working days before presentation, City is not liable for any additional payment or charges. If less than five (5) working days, City shall be responsible for the full payment of fees for the canceled class.

Professional Services Agreement

CORNERSTONE ONDEMAND, INC.

Attachment D – Fee Schedule

1.   Project Cost

City will be invoiced for fees according to the applicable Order. Payment of fees will be due within 30 days after the date of the completed invoice. Except where otherwise stated, all fees set forth in an Order are in U.S. dollars and must be paid in the currency set forth in the Order.

Services are subject to suspension for failure to timely remit payment within thirty (30) days of receipt of past-due notice.

2.   Five-Year Schedule

	Implementation (One-time fee)**	Annual Training Fees [i]	# of Active Users	Annual Cost Per User	Annual Fee	Total Fee
Yr 1: 2015-16						
• LMS	$164,000	$6,750	10,000	$10	$100,000	$270,750
• OnBoarding	$35,000		5,000	$3	$15,000	$50,000
• Performance	$175,000		1,500	$10	$15,000	$190,000
• Succession (purchased in Year 2)						
Subtotal						***$510,750***
Yr 2: 2016-17						
• LMS		$6,750	41,000	$10	$410,000	$416,750
• OnBoarding			16,666	$3	$49,998	$49,998
• Performance			13,000	$10	$130,000	$130,000
• Succession	$87,500		2,500	$5	$12,500	$100,000
Subtotal						***$696,748***

Yr 3: 2017-18						
• LMS		$6,750	43,000	$10	$430,000	$436,750
• OnBoarding			16,666	$3	$49,998	$49,998
• Performance			3,000	$10	$30,000	$30,000
• Succession			2,500	$5	$12,500	$12,500
Subtotal						***$529,248***
Yr 4 projected estimate: 2018-19						
• LMS		$6,750	43,000	$10	$430,000	$436,750
• OnBoarding			16,666	$3	$49,998	$49,998
• Performance			3,000	$10	$30,000	$30,000
• Succession			2,500	$5	$12,500	$12,500
Subtotal						***$529,248***
Yr 5 projected estimate: 2019-20						
• LMS		$6,750	43,000	$10	$430,000	$436,750
• OnBoarding			16,666	$3	$49,998	$49,998
• Performance			3,000	$10	$30,000	$30,000
• Succession			2,500	$5	$12,500	$12,500
Subtotal						***$529,248***
Grand Total						***$2,795,242***

**(See Statement of Work attached as Attachment 1)

    a. Training Fees: $6,750 annually for up to ten (10) City staff to access Cornerstone Client Success Center for continued education and virtual training.

PAYMENT SCHEDULE		
Invoice Date	**Amount**	**Description**
Effective Date	$323,750	All Year 1 fees, except 50% of Year 1 Implementation Services fees.
Effective Date (due earlier of (i) completion of Design Phase or (ii) net 90)***	$112,200	30% of Year 1 Implementation Services fees.
December 15, 2015 (due earlier of (i) completion of UAT or (ii) net 90)***	$74,800	Remaining 20% of Year 1 Implementation Services fees.
First anniversary of Effective Date	$696,748	All Year 2 fees.
Second anniversary of Effective Date	$529,248	All Year 3 fees.
Third anniversary of Effective Date	$529,248	All Year 4 fees.
Fourth anniversary of Effective Date	$529,248	All Year 5 fees.
Total	**$2,795,242**	

3.   As-Needed Expenses

a. Additional services may be requested by individual departments within the City for an additional cost. A Task Order will be created in conjunction with the Personnel Department, to address the following additional costs to the Contractor. The following are potential annual costs but are not considered a minimal guarantee.

Task Order	Amount Not to Exceed
Governance Workshop	$20,000 annually
Business Alignment Workshop	$35,000 annually
Onsite Training	$25,000 annually
Advanced Named Administrators	$15,000 annually
Cornerstone Certified Program Manager	$125,000 annually
Additional User Licenses	$140,000 annually
Total	**$360,000 annually**

b. Technical Assistance for City Produced Courses: City staff (Administrator) must have the ability to incorporate City-produced SCORM 1.2 compliant or higher training into the LMS (real time content upload capability). Contractor may be asked to provide technical support on City-produced courses, which may include testing the content prior to publishing to ensure that everything is properly configured to report to the LMS correctly. The technical support cost is $250/hour, not to exceed 100 hours annually.

c. Contractor performs "releases", software upgrades, four times per year. Releases contain both new functionality and defect (bug) fixes. Minor releases (service patches) generally occur every two weeks. Software upgrades are deployed and at no additional cost. Changes to Contractor's existing LMS beyond those included in the scheduled releases will be billed at $250/hour not to exceed 100 hours annually.

d. Online Training Content may be purchased by City in one of two ways. Licenses for off-the-shelf courses may be purchased for training with general applicability on topics not specific to City of Los Angeles employees. For content that is generally more specific to the City of Los Angeles, training may be customized. The pricing for each customized course varies depending on the level of interactivity. The City will meet with the vendor and decide on the appropriate level of interactivity for each course. Course development shall take no longer than 12 weeks from the initial meeting with City staff. Fees for each course will be paid in three parts as specified:

    i. Fees for each course will be paid in three parts as specified:
        1. Client Sign off/completion of storyboard and scripts
        2. Delivery of 1st draft of course
        3. Finalization of course, following review by City
    ii. Revisions or edits to the training content made subsequent to the publishing of the course: $100 per hour
    iii. Potential cost for ADA retrofit of existing courses to meet Section 508 of the Rehabilitation Act of 1973 and Web-Content Accessibility Guidelines (WCAG) 2.0 is approximately $20,000 per course.
    iv. The cost per hour of each course is as follows on the following page:

Time and Cost Per Course		
	Estimated Time to Develop One Hour of Training Content	Cost for One Hour of Training Content
Limited interactivity (minimal animations, video, interactive content) Sample Basic Package: • Simple PowerPoint like presentation with basic text navigation, table of contents & graphics • Minimal instructional & graphic design • Without assessment/knowledge checks • SCORM compliant file for LMS compatibility	150 hrs	$15,000

Moderate interactivity (limited animations, video, interactive content) • Additional components to addresses specific performance goals • Basic assessment /knowledge checks • Deeper level of instructional design & enhanced graphics • Increased users retention • SCORM compliant file for LMS compatibility	200 hrs	$20,000
High interactivity (multiple animations, video, interactive content) • Heavy focus on performance goal fulfillment • Strong emphasis on simulation & engaging activities • See and do functionality incorporated throughout the course • Usage of proven techniques to increase retention & compliance • SCORM compliant file for LMS compatibility	300 hrs	$30,000

    e. Classroom Training
        i. Includes trained and or certified instructor delivering course materials.
        ii. Does not include travel-related expenses

Course Development

Length of Course (Hours)	Hourly Rate*
1 to 4	$185
5 to 8	$167
9 to 12	$148
* Estimated course development hours = 30 hours per course	

Course Delivery

Length of Course (Days*)	Overall Cost	Cost per Day
1	$3,000	
2	$3,600	$1,800/day
3	$4,200	$1,400/day
4	$4,800	$1,200/day
5	$5,000	$1,000/day
* One day is 6 hours of training		

f. The sum of the 5-year schedule and additional costs will not exceed $4,178,542. A summary of the total cost is reiterated below:

Task	Cost
Licensing Years 1 to 3 of Contract	$1,736,746
Licensing Years 4 to 5 of Contract	$1,058,496
Optional Services & Additional Licenses (2 years)	$ 720,000
Online Training Content	$ 400,000
Retrofit for ADA Compliant Content	$140,000
Classroom Course Development & Delivery	$123,300
Total	**$ 4,178,542**