## THIRD AMENDATORY AGREEMENT

**THIS THIRD AMENDATORY AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **ACTIVE NETWORK, LLC,** a Delaware limited liability company, whose address is now 5850 Granite Pkwy, Suite 1200, Plano, TX 75024 (the "Contractor" or "Vendor"), individually a "Party" and collectively the "Parties."

**WHEREAS**, the Parties entered into an Agreement dated February 3, 2014, an Amendatory Agreement dated October 22, 2014, and a Second Amendatory Agreement dated December 20, 2018, to provide participant management for activity registrations, facility reservations, membership management, league scheduling, point of sales, marketing, donations, reports and public access (the "Agreement"); and

**WHEREAS**, the Parties now wish to modify the Agreement as set forth below.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above and amend the Agreement as follows:

**1.** Effective January 1, 2024, a new Exhibit 5 titled, "Active Network Statement of Work No. 2," is hereby added to this Agreement and shall read as provided and attached hereto.

**2.** Effective January 1, 2024, a new Exhibit 6 titled, "Schedule," is hereby added to this Agreement and shall read as provided and attached hereto.

**3.** Section 6 of the Agreement, titled "**EXCLUSIVITY FOR HOSTED SOFTWARE**," is amended to read as follows:

"**6**.     **EXCLUSIVITY FOR HOSTED SOFTWARE**. Except as set out herein, Contractor will, during all periods for which the City has subscribed for Hosted Software, be the sole and exclusive provider to the City's Department of Parks and Recreation of the Hosted Software and Online Services, or any products or services substantially similar thereto, for the City's Department of Parks and Recreation utilizing the Hosted Software and Online Services for activity registration, membership management, and facility booking and specifically excluding league scheduling and golf. The City may elect to engage a City-wide solution, involving three or more agencies or departments, for any of the previously listed functions. Notwithstanding the foregoing, Client's exclusivity obligations in this Section 6 shall not apply to campground reservations and operations."

**4.** Section 8 of the Agreement, titled "**TERM**," is amended to read as follows:

"**8.**     **TERM**: The term of the Agreement ("Term") shall commence on December 31, 2013, and expire, unless sooner terminated, on December 31, 2028."

**5.** Subsection 9(D) of the Agreement, titled "**COMPENSATION, PAYMENT AND FEES FOR HOSTED SOFTWARE AND SERVICES**," is amended to read as follows:

"**D.**  The total compensation payable to Vendor for Hosted Software Services Charges and SOW Professional Services, as set forth in the Exhibits for the Term, shall not exceed the amount of Four Million Twenty-Five Thousand Nine Hundred Fifty-One Dollars ($4,025,951.00) (the "Maximum Purchase Amount"), payable directly to the Vendor by the City. In the event that the Maximum Purchase Amount is inadequate to pay for any Products

or Services under this Agreement, the Vendor will not be obligated to provide any additional Products or Services under this Agreement, unless otherwise amended to increase the maximum Purchase Amount. Payment to Vendor for the Products and Service Charges invoiced by Vendor shall be made monthly by the City. Upon acceptance by the City of the applicable Professional Services, Vendor shall invoice the City for such Professional Services and the City shall pay such fees pursuant to Section 9 (f) below. The total obligation of the City hereunder shall be limited to funds appropriated for the purposes of this Agreement by the council of the City and County of Denver, paid into the Treasury of the City and encumbered for the purpose of this Agreement. Vendor acknowledges that (a) the City does not, by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. In the event that funds are not appropriated and Vendor has begun performance, the City will provide Vendor with prompt, not to exceed five (5) days', written notice and reasonable documentation of failure to appropriate funds. Upon receipt of such notice, Vendor may immediately terminate this Agreement without further obligation to the City. Notwithstanding anything herein to the contrary, for the period prior to the date of termination, the City will pay Vendor for all Professional Services rendered and accepted, Service Charges incurred, and the prorated amount of all non-cancelable commitments entered into by Vendor exclusively on behalf of the City."

6. Section 14 of the Agreement, titled "**EXAMINATION OF RECORDS**," is amended to read as follows:

"**14. EXAMINATION OF RECORDS AND AUDITS**: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. § 20-276."

7. Section 31 of the Agreement, titled "**NO DISCRIMINATION IN EMPLOYMENT**," is amended to read as follows:

"**31. NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under this Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or

discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts."

**8.** Except as amended here, the Agreement is affirmed and ratified in each and every particular.

**9.** This Third Amendatory Agreement is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**10.** The following attached exhibits are hereby incorporated into and made a material part of this Agreement: **Exhibit 5**, Active Network Statement of Work No. 2; **Exhibit 6**, Schedule.

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**Contract Control Number:**     TECHS-202370313-03 (201314203-03)
**Contractor Name:**              ACTIVE NETWORK, LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

**SEAL**                          **CITY AND COUNTY OF DENVER:**

**ATTEST:**                       By: _____

_____

**APPROVED AS TO FORM:**          **REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:                               By: _____

_____

                                  By: _____

**Contract Control Number:**  TECHS-202370313-03 (201314203-03)
**Contractor Name:**  ACTIVE NETWORK, LLC

By: _DocuSigned by:_
Kevin Farmer
ADCC9B70DF9B400...

Name: Kevin Farmer
(please print)

Title: Vice President of Sales
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit 5

# Active Network Statement of Work No. 2

## Active IT Services – City and County of Denver Pin Pad Integration

October 25, 2023

("SOW 2 Effective Date")

www.ACTIVENetwork.com

This Statement of Work No. 2 ("**SOW 2**") is entered into as of the SOW 2 Effective Date by and between Active Network, LLC, successor to The Active Network, Inc. ("**Active**"), and the City and County of Denver (the "**City**") and is governed by the Agreement dated February 13, 2014 (the "**Agreement**") entered into by and between Active and the City. For the avoidance of doubt, all deliverables, efforts, code, documentation, features, and functionality produced under this shall be "Professional Services" as that term is defined in the Agreement. Active and Client are each a "party" and collectively the "parties" to the Agreement, and this

SOW.  This SOW will be incorporated into, and is subject to, the Agreement.

## Active IT Services – Pin Pad Integration Overview

Active IT Services – Pin Pad Integration involve the designing, implementation, configuring, testing and deployment required to integrate Chase Paymentech pin pads via Datacap software to ACTIVENet within the City's Production environment.

## Tasks

### Design:

- Active will:
    - Determine the new Point of Sale PINPad device model and order test devices from the City and Chase Paymentech.
    - Establish the information required to communicate with supported payment processing device.
    - Architect the payment data workflow for the new Point of Sale (POS) PINPad.
    - Review and determine new POS PINPad Driver SDK Library APIs exposed to Active's internal products
    - Review and determine the integration between the new POS PINPad (Card Present) and eCommerce (Card not present) workflow
    - Design the integration between the new POS PINPad Driver SDK Library, Active's payment gateway and Datacap Host.
    - Design the Integration between Active's Payment gateway, Chase Paymentech and Datacap

### Implementation:

- Active will:
    - Implement the new POS PINPad Driver SDK Library prototype to connect new POS PINPad with Datacap Host.
    - Implement the new POS PINPad Driver SDK Library to connect Active's payment gateway.

    o   Implement the new POS PINPad Driver SDK Library to expose standard APIs for integration.

    o   Implement all transaction types of workflows through POS PINPad:

- Able to execute SALE transaction.
- Able to execute AUTHORIZATION and CAPTURE transactions.
- Able to execute CREDIT (Refund) transaction.
- Able to execute VOID transaction.
- Able to execute Wallet Save transaction.
- Able to generate Payment Token.

    o   Implement all transaction types of workflows through eCommerce/Card Not Present using Payment Token from POS PINPad.

- Able to execute SALE transaction.
- Able to execute AUTHORIZATION and CAPTURE transactions.
- Able to execute CREDIT (Refund) transaction.
- Able to execute VOID transaction.

    o   Implement the integration between Active's payment gateway and Datacap.

## Configure:

- Active will:
  - Configure the Test and Production environment's properties between Active's payment gateway and Datacap.
    - Test Merchant Accounts
    - Test Payment Service Endpoint URL
    - Production Merchant Accounts
    - Production Payment Service Endpoint URL

## Testing:

- Active will:
  - Conduct unit testing and integration testing on Datacap processing systems within Active's product(s).
  - Validate payment processing with new PINPad Device by processing payments and refunds to ensure settlement in your organization's merchant account to include but not limited to:
    - Use device for Payment transactions
    - Use device for Refund transactions (partial refund)
    - Use device for Refund transactions (full refund)
    - Use device to save credit card for customer account
    - Non-device payment using saved credit card
    - Non-device payment for Scheduled Auto Payment / Membership Renewals using saved credit card
    - Non-device refund using saved credit card

· Non-device refund for original payment made with device
· Void receipt which has a device transaction
· Test refund for stranded payments

- City will:
  o Provide payment PINPad devices and cards to be used for testing transactions in the City's ACTIVENet production environment.
  o The City's representative and Active will work together to process test payments and refunds in the City's ACTIVENet production environment.
  o The City's representative will confirm settlement of transactions within the City's merchant account.

## Deployment:

- Active will:
  o Deploy the implementation codes to Active's payment gateway and production environment with proper settings.
  o Work with the City's representative to deploy ACTIVENet Workstation Service and PINPad Device Drivers for use at all staff workstations.
- City will:
  o Work with Active and adhere to install instructions for Datacap and PINPad configuration.

# Assumptions

- The City's representative is empowered to represent the interests of the organization and can make configuration decisions as they pertain to your network environment.
- The City representative will understand the technical requirements and can make configuration decisions regarding the City's third-party payment processor configuration.
- The City's representative will have access to ACTIVENet, internet, phone and able to install and utilize software to participate in remote desktop sharing.
- The City will perform work associated with each task within the allocated timeframe. Missed deadlines will result in rescheduling services at additional cost to the City.
- The scope of this project is limited to what has been defined in this SOW 2. Newly identified tasks will impact the estimate and project timeline and will require a formal change request which may incur an additional cost.
- Valid test payment cards will be provided by the City. 1 of each of the following is required where applicable:
  o Visa,
  o MasterCard
  o American Express
  o Discover

- The City's representative will be able to validate processing and/or settlement within your merchant account during scheduled services.
- The City's representative will be required to order the appropriate number of devices for all workstations.
- Deployment processes and procedures to ACTIVENet production environment will be developed to ensure the City is able to replace and configure PINPad and associated hardware throughout the City's workstations without a front counter outage.
    - In the unlikely event that there is a PINPad issue with an individual ACTIVENet workstation, that workstation can temporarily be fallback to use the secure PCI Checkout CUI to process front desk credit card transactions while the device issue is being resolved to prevent further shutdown.

## Payment Terms

- Compensation will be paid to Active for the services provided under this SOW 2 according to the payment terms in the Agreement, and as specified in the Schedule (Quote Number: 00131244) between the parties.

## Constraints

Active IT Services are bound to the following constraints:

- All services will be conducted remotely.
- All services will be conducted between 6am to 6pm PST, Monday–Friday, excluding North American holidays.
- Any changes to project budget, timeline, or scope of services requires a formal change request which includes a new quote and statement of work.

**IN WITNESS WHEREOF**, the Parties hereto have executed this SOW 2 of the SOW 2 Effective Date.

| CITY AND COUNTY OF DENVER | ACTIVE NETWORK, LLC |
|---|---|
| Signature: | Signature: |
| Name: | Name: |
| Title: | Title: |
| Date: | Date: |

# APPENDIX A: ACCEPTANCE CERTIFICATE

Active will use the following acceptance certificate to confirm acceptance of each project milestone.

## Acceptance Certificate

Client: _____

Project Name: _____

Milestone/Deliverable: _____

Submitted By: _____

Submission Date: _____

Acceptance Date: _____

Acceptance Signature: _____

☐ **Accept**

☐ **Reject for Cause**

**Reason for Rejection, if Applicable**

| |
|---|
| |

**Comments**

**Acceptance Management**

Per SOW 2, the milestone/deliverable listed above will be considered accepted if the City approver does not accept or reject the deliverable or service within three (3) business days.

**Authorizations**

By signing below, I acknowledge that the above referenced deliverable and/or milestone has been reviewed and passes the acceptance criteria.

| CITY AND COUNTY OF DENVER | ACTIVE NETWORK, LLC |
|---|---|
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

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# Schedule

This is a Schedule pursuant to that certain Agreement (Agreement) entered into between (Active) and City and County of Denver (Client) with an effective date as of 12/31/2013.

| | | | |
|---|---|---|---|
| Company Address | 5850 Granite Parkway, Suite 1200<br>Plano, TX 75024<br>US | Created Date | 10/30/2023 |
| | | Quote Number | 00131244 |
| | | Currency | USD |

| | | | |
|---|---|---|---|
| Prepared By | Sharon Kramer | Contact Name | Joe Saporito |
| Opportunity Owner | Scott Yeske | Phone | (720) 913-4982 |
| Owner Email | scott.yeske@activenetwork.com | Email | joseph.saporito@denvergov.org |

| | | | |
|---|---|---|---|
| Bill To Name | City and County of Denver | Ship To Contact | Joe Saporito |
| Bill To Contact | Joe Saporito | Ship To Address | Atten: Johnny Valencia & Theresa Mitchelle |
| Bill To Address | 201 West Colfax Avenue, Citywide Accounts<br>Payable Dept #908<br>Denver, CO 80202 United States | | 4495 Jason St.<br>Denver, CO 80211 United States |

| Product | Product Type | Description | Quantity | Total Price* | Sales Price | Total Price |
|---|---|---|---|---|---|---|
| ACTIVENet - Project Management Services | Service | ACTIVENet - Project Management Services | 1 | USD 16,200.00 | USD 16,200.00 | 16,200.00 |
| ACTIVENet - Custom Development | Service | Datacap Integration Services | 1 | USD 15,912.00 | USD 15,912.00 | 15,912.00 |
| ACTIVENet - Custom Development | Service | ACTIVENet Product - Custom Development | 1 | USD 82,763.00 | USD 82,763.00 | 82,763.00 |

**Annual Support & Maintenance Fee will be $35,152.00 per year and will start in Year 2 and after.**

Total Price          USD 114,875.00

**Pricing Breakdown:**
Year 1 - Development & QA          $ 82,763.00
       Project Management/Admin  $ 16,200.00
       Datacap Integration Services $ 15,912.00
            Total          $114,875.00
Year 2 and after - Annual Support & Maintenance $35,152.00/year

Active reserves the right and may take additional measures to verify Client's account which may consist of reviewing publicly available data and/ confirmation of Client provided information. Such verification measures will be completed in advance of remittance.

All fees described herein are in consideration of the Products that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agree not to impose such a surcharge on any End User.

The payment options we offer may include MasterCard, Visa, American Express and Discover.

If your order includes hardware, please note that all hardware orders have a 30-day return policy, and it is recommended that you inspect your purchases upon delivery.

*Sales tax and shipping not included in total price. Sales tax and shipping, where applicable, will be added to your invoice.

**Capitalized terms used in this Schedule and not defined have the meaning set forth in the General Terms or Product Terms, as applicable.**

# Schedule

## Quote Acceptance Information

**Client**

Signature:

Printed Name:

Title:

Date:

PO# (if applicable):

**Active Network, LLC**

Signature:

Name:

Title:

Date:

**ACTIVE** network.

Exhibit 6

# Schedule

| | | | |
|---|---|---|---|
| Company Address | 5850 Granite Parkway, Suite 1200<br>Plano, TX 75024<br>US | Contract # | Agreement |
| | | Created Date | 8/21/2023 |
| | | Quote Number | 00130337 |
| | | Currency | USD |
| Prepared By | Sharon Kramer | Contact Name | Joe Saporito |
| Opportunity Owner | Melissa Houlahan | Phone | (720) 913-4982 |
| Owner Email | melissa.houlahan@activenetwork.com | Email | joseph.saporito@denvergov.org |
| Bill To Name | City and County of Denver - Fire Department | Ship To Contact | Victoria Clark |
| Bill To Contact | Joe Saporito | Ship To Address | 201 West Colfax Avenue<br>Denver, CO 80202 United States |
| Bill To Address | 201 West Colfax Avenue<br>Denver, CO 80202 United States | | |
| | | First Year Registrations | 400 |
| | | Average Registration Cost | USD 130.00 |
| | | Total Processing Volume | USD 52,000.00 |

| Product | Product Type | Description | Quantity | Fee % | Total Price |
|---|---|---|---|---|---|
| Camp & Class Manager - Credit Card Fee (%) | SaaS | Camp & Class Manager - Credit Card Fee (%) | 1 | 1.00 | |
| Camp & Class Manager - New Database | Service | Camp & Class Manager - New Database | 1 | | |
| Camp & Class Manager - Per Registration Fee | SaaS | Camp & Class Manager - Per Registration Fee | 1 | | 5.95 |
| Camp & Class Manager - Professional Services Onboarding - Advanced | Service | USD $1500 one-time Professional Services Onboarding Fee waived assuming client's operational use of the software for event registrations. Failure to transact within 120 days from contract execution will result in an invoice in the full amount of the Professional Services Fee. Missed consulting engagements without 7 days prior notice will result in a USD $150 cancellation fee. | 1 | | |
| Camp & Class Manager - SaaS | | Camp & Class Manager - SaaS | | | |
| Camp & Class Manager - Support Advanced Package | Maintenance | Camp & Class Manager - Support Advanced Package | 1 | | 250.00 |

| | |
|---|---|
| Total Price | USD 250.00 |
| Annual Projected Contract Value | USD 2,900.00 |

Schedule

Active reserves the right and may take additional measures to verify Client's account which may consist of reviewing publicly available data and/ confirmation of Client provided information. Such verification measures will be completed in advance of remittance.

All fees described herein are in consideration of the Products that Active provides. Active and Client acknowledge that certain credit card network rules and laws prohibit imposing a surcharge that is based on the type of payment method used (e.g., having a different fee for the use of a credit card vs. debit card), and therefore, each agree not to impose such a surcharge on any End User.

The payment options we offer may include MasterCard, Visa, American Express and Discover.

If your order includes hardware, please note that all hardware orders have a 30-day return policy, and it is recommended that you inspect your purchases upon delivery.

*Sales tax and shipping not included in total price. Sales tax and shipping, where applicable, will be added to your invoice.

**Capitalized terms used in this Schedule and not defined have the meaning set forth in the General Terms or Product Terms, as applicable.**

| Quote Acceptance Information |
|---|

Signature:
_____

Printed Name:
_____

Title:
_____

Date:
_____

PO# (if applicable):
_____

**Active Network, LLC**

Signature:
_____

Name:
_____

Title:
_____

Date:
_____