AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into as of the date stated on City's signature page below (the "Effective Date") by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting on behalf of its Department of Aviation ("City"), and **B2GNOW/ASKREPLY INC.**, a corporation organized under the laws of the State of Arizona and authorized to do business in Colorado ("Consultant") (collectively "Parties").

W I T N E S S E T H:

WHEREAS, City owns, operates, and maintains Denver International Airport ("DEN"); and

WHEREAS, Consultant is an Application Service Provider engaged in the design, implementation, hosting and support of automated web based diversity management and prevailing wage compliance systems and has developed expertise in these areas;

WHEREAS, City desires to obtain the services of an Application Service Provider to support the certification and contract compliance functions of Denver's Division of Small Business Opportunity and the prevailing wage compliance activities of Denver's Auditor, with necessary project management, training, technical and customer support, maintenance and upgrade services and software implementation, licensing and consulting services; and

WHEREAS, the Consultant has submitted a proposal and is qualified and ready, willing and able to provide the Application Service Provider services as set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the Parties hereto agree as follows:

ARTICLE I LINE OF AUTHORITY

The City's Director of the Division of Small Business Opportunity, his or her designee or successor in function (hereinafter referred to as the "Director") authorizes all Work (as defined below) performed under this Agreement related to the Diversity Management System. The City's Auditor, his designee or successor in function authorized all Work (as defined below) performed under this Agreement related to prevailing wage compliance. The Director's authorized representative for day-to-day administration of the Contractor's services under this Agreement is the Project Manager. The Contractor shall submit its reports, memoranda, correspondence and submittals to the Project Manager. The Director may rescind or amend any such designation of representatives or delegation of authority, and the Director may from time to time designate a different individual to act as Project Manager, upon notice to the Contractor.

ARTICLE II DUTIES AND RESPONSIBILITIES OF CONSULTANT

A.   Scope of Services. Consultant will provide professional services and provide deliverables for the City as designated by the CEO, and/or her designee, from time to time and

as described in the attached **Exhibit A** ("Scope of Work") in accordance with schedules and budgets set by City.

B.   Work to be Performed. The Consultant, after it receives a written Notice to Proceed from the Director, will furnish to the City a turn-key, hosting Application Service Provider automated system consisting of B2Gnow Diversity Management System software and LCPtracker certified payroll wage compliance software, both with Enhanced Implementation, with necessary project management, training, technical and customer support, maintenance and upgrade services, software implementation, licensing and consulting services, all as further described in the attached Exhibit B, Scope of Work. These goods, services and software licenses are hereinafter referred to in this Agreement as the "Contractor's Scope of Work," or the "Work."

C.   Standard of Performance. Consultant shall faithfully perform the work required under this Agreement in accordance with the standard of care, skill, efficiency, knowledge, training, and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement. Consultant hereby represents and warrants to City it will perform its services skillfully, carefully, diligently, and in a first-class manner. Consultant agrees and understands City, in its sole discretion, shall determine whether services are provided in a first-class manner. Consultant acknowledges that time is of the essence in its performance of all work and obligations under this Agreement.

D.   Key Personnel Assignments.

1.   All key professional personnel identified in the Scope of Work, **Exhibit B**, will be assigned by Consultant or subconsultants to perform work under this Agreement. Only the key personnel identified in **Exhibit B** will perform work under this Agreement, unless otherwise approved in writing by the Project Manager. It is the intent of the Parties that all key professional personnel be engaged to perform their specialty for all such services required by this Agreement and that Consultant's and the subconsultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed.

2.   If, during the term of this Agreement, the Project Manager determines that the performance of approved key personnel is not acceptable, the Project Manager shall notify Consultant, and may give Consultant notice of the period of time which the Project Manager considers reasonable to correct such performance. If the Project Manager notifies Consultant that certain of its key personnel will not be retained on this project, Consultant will use its best efforts to obtain adequate substitute personnel within ten days from the date of the notice. Such substitute personnel shall be approved in writing by the Project Manager. Failure to obtain the requisite approval shall be grounds for termination for cause in accordance with Article 3, Section B.

E.   Subcontractors.

1.   Although Consultant may retain, hire, and contract with outside subcontractors for work under this Agreement, no final agreement or contract with any such subcontractor shall be entered into without the prior written consent of the CEO. Requests for such approval must be made in writing and include a description of the nature and extent of the services to be provided, the name, address and professional experience of the proposed subcontractor, and any other information requested by City. Any final

agreement or contract with an approved subcontractor must contain a valid and binding provision whereby the subcontractor waives any and all rights to make any claim of payment against City or to file or claim any lien or encumbrance against any City property arising out of the performance or non-performance of the contract.

2.   Because Consultant's represented qualifications are consideration to City in entering into this Agreement, the CEO shall have the right to reject any proposed outside subcontractor for this work deemed by the CEO, in the CEO's sole discretion, to be unqualified or unsuitable for any reason to perform the proposed services, and the CEO shall have the right to limit the number of outside subcontractors or to limit the percentage of work to be performed by them, all in the CEO's sole and absolute discretion.

3.   Consultant is subject to D.R.M.C. § 20-112 wherein Consultant is to pay its subcontractors in a timely fashion. A payment is timely if it is mailed to the subcontractor no later than seven (7) days after receipt of any payment from City. Any late payments are subject to a late payment penalty as provided for in the prompt pay ordinance (§§ 20-107 through 20-118).

F.   Ownership and Deliverables. Upon payment to Consultant, all records, data, deliverables, and any other work product prepared by the Consultant or any custom development work performed by the Consultant on or before the day of payment shall become the sole property of the City. Consultant, upon request by the City, or based on any schedule agreed to by Consultant and the City, Consultant shall provide City with copies of the data/files that have been uploaded to any database maintained by or on behalf of Consultant or otherwise saved or maintained by Consultant as part of the services provided to the City under this Agreement. All such data/files shall be provided to the City electronically in a format agreed to by the Consultant and the City. Consultant also agrees to allow the City to review any of the procedures the Consultant uses in performing any work or other obligations under this Agreement, and to make available for inspection any and all notes, documents, materials, and devices used in the preparation for or performance of any of the scope of work, for up to three years after termination of this agreement. Upon written request from the City, the Consultant shall deliver any information requested pursuant to this Article II, Section F within 10 business days in the event a schedule or otherwise agreed upon timeframe does not exist.

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ARTICLE III TERM AND TERMINATION

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A.   Term. The Term of this Agreement shall commence on April 1, 2017 and shall terminate March 31, 2022, unless sooner terminated in accordance with the terms stated herein ("Expiration Date"). Should for any reason the Term expire prior to the completion by Consultant, in the Director's sole discretion, this Agreement shall remain in full force and effect to permit completion of any services commenced prior to the Expiration Date.

B.   Termination.

1.   City has the right to terminate this Agreement without cause on thirty (30) days prior written notice to Consultant, and with cause on ten (10) days prior written notice to Consultant. In the event of termination by City for cause, Consultant shall be allowed five (5) days to commence remedying its defective performance, and in the event Consultant diligently cures its defective performance to City's satisfaction, within a reasonable time as determined solely by City, then this Agreement shall not terminate.

However, nothing herein shall be construed as giving Consultant the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the Director.

2. If Consultant is discharged before all the services contemplated hereunder have been completed, or if Consultant's services are for any reason terminated, stopped or discontinued because of the inability of Consultant to provide services in accordance with the terms of this Agreement, Consultant shall be paid only for those services deemed by the Director satisfactorily performed prior to the time of termination.

3. Upon termination of this Agreement by City, Consultant shall have no claim of any kind whatsoever against City by reason of such termination or by reason of any act incidental thereto, except as follows: if the termination is for the convenience of City, Consultant shall be entitled to reimbursement for the reasonable cost of the work to the date of termination, and reasonable costs of orderly termination, provided request for such reimbursement is made no later than six (6) months from the effective date of termination. Consultant shall not be entitled to loss of anticipated profits or any other consequential damages as a result of any such termination for convenience, and in no event shall the total sums paid exceed the Maximum Contract Liability.

ARTICLE IV COMPENSATION AND PAYMENT

A. **Maximum Contract Liability**. Notwithstanding any other provision of this Agreement, in no event shall City be liable for payment for services rendered and expenses incurred by Consultant under the terms of this Agreement for any amount in excess of the sum of Eight Hundred Thirty Thousand Nine-Hundred Fifty Dollars and Zero Cents ($830,950.00) ("Maximum Contract Liability") which amount includes all reimbursable and other expenses, except as otherwise specifically herein provided by the Consultant which have been approved by the City.

B. The obligations of City under this Agreement shall extend only to monies encumbered for the purposes of this Agreement. Consultant acknowledges and understands City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City.

C. City has no obligation to make payments from any other source. City is not under any obligation to make any future encumbrances or appropriations for this Agreement nor is City under any obligation to amend this Agreement to increase the Maximum Contract Liability above.

D. **Payment Schedule.** Subject to the Maximum Contract Amount set forth in Section IV A. of this Agreement, Consultant's fees and expenses shall be paid in accordance with this Agreement. Unless otherwise agreed to in writing, Consultant will invoice the City on a regular basis in arrears, and the City will pay each invoice in accordance with Denver's Prompt Pay Ordinance, Denver Revised Municipal Code ("D.R.M.C.") § 20-107, *et seq.*, subject to the Maximum Contract Liability set forth above. Consultant understands and agrees interest and late fees shall be payable by City only to the extent authorized and provided for in City's Prompt Payment Ordinance.

E. **Reimbursable Expenses**: The Consultant may be reimbursed for Additional Services hereunder, at cost, for its reasonable expenses necessarily incurred in connection with

its services rendered hereunder. The Consultant shall obtain prior written approval of its proposed reimbursable expenses from the Director or from the Director's designee. Costs approved by the Director or the Director's designee shall be eligible for reimbursement as follows:

Mileage	At Federally approved rate per mile
Parking at DEN	At Cost
Photocopies	$0.10 per page

F.   **Invoices**. Payments shall be based upon monthly progress invoices and receipts submitted by Consultant, audited and approved by City and this Section, as follows:

(1)   An executive summary and status reports that describe the progress of the services and summarize the work performed during the period covered by the invoice.

(2)   A statement of hours spent where billing is based upon hourly rates. Time sheets shall be maintained by Consultant and shall be available for examination by City, at City's request.

(3)   The amounts shown on the invoices shall comply with and clearly reference the relevant services, the hourly rate and multiplier where applicable, and allowable reimbursable expenses.

(4)   Consultant shall submit itemized business expense logs or copies of receipts for all allowable reimbursable expenses, where billing is based upon such items.

(5)   The signature of an officer of Consultant, along with such officer's certification they have examined the invoice and found it to be correct, shall be included on all invoices.

(6) Invoices shall be sent separately to the appropriate City agency.

City reserves the right to reject and not pay any invoice or part thereof where the CEO determines the amount invoiced exceeds the amount owed based upon the work performed. City, however, shall pay any undisputed items contained in an invoice. Disputes concerning payments under this provision shall be resolved by administrative hearing pursuant to the procedures of D.R.M.C. § 5-17.

G.   **Carry Over and Carry Back**. If Consultant's total fees for any of the services described above are less than the amount budgeted for, the amount by which the budget exceeds the fee may be used, with the written approval of the CEO or their designee, to pay fees for additional and related services rendered by Consultant in any other services if in the CEO or her designee's judgment, such fees are reasonable and appropriate.

H.   **Software Licenses.** Upon delivery by the Consultant, or otherwise making available to the City the Software to be provided by the Consultant hereunder, and payment by the City, the Consultant grants to the City a non-exclusive, non-transferable, revocable license to use the Software as set forth in the attached Exhibit A, "B2Gnow Software Service Agreement," which exhibit is incorporated herein by reference. In the implementation of this License, the Consultant shall furnish the city with associated user instructions and reference documentation,

all of which material may be marked with a trade secret notation such as: "The information herein are trade secrets and proprietary properties of the Consultant." The License granted under and subject to the terms and conditions of this Agreement authorizes the City to use the Software as an end user.

ARTICLE V INSURANCE, INDEMNIFICATION, AND DISPUTE RESOLUTION

A.   Insurance.

1.   Consultant shall obtain and keep in force during the entire term of this Agreement, all of the insurance policies described in City's form of insurance certificate which is attached to this Agreement as **Exhibit C** and incorporated herein. Such insurance coverage includes workers' compensation and employer liability, commercial general liability, business automobile liability, and professional liability. Upon execution of this Agreement, Consultant shall submit to City a fully completed and executed original of the attached insurance certificate form, which specifies the issuing company or companies, policy numbers and policy periods for each required coverage. In addition to the completed and executed certificate, Consultant shall submit a copy of a letter from each company issuing a policy identified on the certificate, confirming the authority of the broker or agent to bind the issuing company, and a valid receipt of payment of premium.

2.   City's acceptance of any submitted insurance certificate is subject to the approval of City's Risk Management Administrator. All coverage requirements specified in the certificate shall be enforced unless waived or otherwise modified in writing by City's Risk Management Administrator.

3.   Consultant shall comply with all conditions and requirements set forth in the insurance certificate for each required coverage during all periods in which coverage is in effect.

4.   Unless specifically excepted in writing by City's Risk Management Administrator, Consultant shall include all subcontracts performing services hereunder as insureds under each required policy or shall furnish a separate certificate (on the form certificate provided), with authorization letter(s) for each subcontractor, or each subcontractor shall provide its own insurance coverage as required by and in accordance with the requirements of this section of the Agreement. All coverages for subcontractors shall be subject to all of the requirements set forth in the form certificate and Consultant shall insure that each subcontractor complies with all of the coverage requirements.

5.   City in no way warrants and/or represents the minimum limits contained herein are sufficient to protect Consultant from liabilities arising out of the performance of the terms and conditions of this Agreement by Consultant, its agents, representatives, or employees. Consultant shall assess its own risks and as it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Consultant is not relieved of any liability or other obligations assumed or pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. In no event shall City be liable for any: (i) business interruption or other consequential damages sustained by Consultant; (ii) damage, theft, or destruction of Consultant's inventory, Improvements, or property of any kind; or (iii) damage, theft, or destruction of an automobile, whether or not insured.

6.   The Parties hereto understand and agree that City and County of Denver, its officers, officials and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to City and County of Denver, its officers, officials and employees.

B.   Defense and Indemnification.

1.   Consultant agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Consultant or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

2.   Consultant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

3.   Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy. In addition to the duty to indemnify and hold harmless, Consultant will have the duty to defend City, its agents, employees, and officers from all liabilities, claims, expenses, losses, costs, fines, and damages (including but not limited to attorney's fees and court costs) and causes of action of every kind and character. The duty to defend under this paragraph is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of Consultant, City, and any indemnified party. The duty to defend arises immediately upon written presentation of a claim to Consultant.

4.   Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

5.   This defense and indemnification obligation shall survive the expiration or termination of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

C.   DISPUTE RESOLUTION. Disputes arising under or related to this Agreement or the work which is the subject of this Agreement shall be resolved by administrative hearing which

shall be conducted in accordance with the procedures set forth in D.R.M.C. §5-17. The parties agree that the determination resulting from said administrative hearing shall be final, subject only to Consultant's right to appeal the determination under Colorado Rule of Civil Procedure, Rule 106.

ARTICLE VI GENERAL TERMS AND CONDITIONS

A. **Status of Consultant.** It is agreed and understood by and between the parties hereto that the status of Consultant shall be an independent contractor retained on a contractual basis to perform professional or technical services for limited periods of time as described in §9.1.1(E)(x) of the Charter of City and County of Denver, and it is not intended, nor shall it be construed, Consultant or its personnel are employees or officers of City under D.R.M.C. Chapter 18 for any purpose whatsoever.

B. **Assignment.** Consultant shall not assign, pledge or transfer its duties, obligations, and rights under this Agreement, in whole or in part, without first obtaining the written consent of the Project Manager. Any attempt by Consultant to assign or transfer its rights hereunder without such prior written consent shall, at the option of the Project Manager, automatically terminate this Agreement and all rights of Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the Project Manager.

C. **Compliance with all Laws and Regulations.** All of the work performed under this Agreement by Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado and with the charter, ordinances and rules and regulations of City and County of Denver.

D. **Compliance with Patent, Trademark and Copyright Laws.**

1. Consultant agrees that all work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. Consultant will not utilize any protected patent, trademark or copyright in performance of its work unless it has obtained proper permission and all releases and other necessary documents. If Consultant prepares any documents which specify any material, equipment, process or procedure which is protected, Consultant shall disclose such patents, trademarks and copyrights in the construction drawings or specifications.

2. Consultant further agrees to release, indemnify and save harmless City, its officers, agents and employees, pursuant to Article V, Section I, "Defense and Indemnification," from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this Agreement which infringes upon any patent, trademark or copyright protected by law.

E. **Notices.** Notwithstanding the above, notices concerning termination of this Agreement, notices of alleged or actual violations of the terms of this Agreement, and other notices of similar importance shall be made as follows:

by Consultant to:

Director of Small Business Opportunity
202 West Colfax Avenue
Denver, CO 80202

Denver Auditor
202 West Colfax Avenue
Denver, CO 80202

Division of Small Business Opportunity at DIA
Attn: Tanya Davis
Airport Office Building, Ste 7810
8500 Pena Blvd
Denver, CO 80249

And by City to:

B2Gnow/AskReply, Inc.
Attn: Frank Begalke
3225 N. Central Avenue #120
Phoenix, AZ 85012

Said notices shall be delivered personally during normal business hours to the appropriate office above or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service. Either party may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification thereof.

F. **Rights and Remedies Not Waived.** In no event shall any payment by City hereunder constitute or be construed to be a waiver by City of any breach of covenant or default which may then exist on the part of Consultant, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any other breach.

G. **No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to City and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on this Agreement. It is the express intention of City and Consultant that any person other than City or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

H. **Governing Law; Bond Ordinances; Venue.**

1. This Agreement is made under and shall be governed by the laws of the State of Colorado. Each and every term, provision or condition herein is subject to the

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provisions of Colorado law, the Charter of City and County of Denver, and the ordinances and regulations enacted pursuant thereto.

2.	This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Denver Municipal Airport System and to any other bond ordinances which amend, supplement, or replace such bond ordinances.

3.	Venue for any action arising hereunder shall be in City and County of Denver, Colorado.

ARTICLE VII STANDARD CITY PROVISIONS

**A.	Diversity and Inclusiveness.**

1.	The City encourages the use of qualified small business concerns doing business within the metropolitan area that are owned and controlled by, economically or socially disadvantaged individuals.

2.	The Consultant is encouraged, with respect to the goods or services to be provided under this Contract, to use a process that includes small business concerns, when considering and selecting any subcontractors or suppliers.

**B.	Small Business Enterprises.** Consultant is subject to City's ordinance, DRMC Chapter 28, Article III (MBE/WBE Ordinance) which prohibits discrimination in the awarding of contracts and subcontracts and directs the DSBO Director to establish goals for MBE and WBE participation in the preconstruction and construction of City-owned facilities. The goal for this Agreement is N/A%. Project goals must be met with certified MBE and WBE participants or by demonstrating good faith efforts under the MBE/WBE Ordinance. The Consultant must comply with the terms and conditions of the MBE/WBE Ordinance in soliciting and contracting with its sub-contractors and sub-contractors in administering the performance of the work hereunder. It shall be an ongoing, affirmative obligation of the Consultant to maintain, at a minimum, compliance with the originally achieved level of MBE/WBE participation upon which this Agreement was awarded N/A%, for the duration of this Agreement, unless City initiates a material alteration to the Scope of Work.

**C.	City's Non-Discrimination Policy.** In connection with the performance of Services under this Agreement, Consultant agrees not to refuse to hire, discharge, promote, demote, or to discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, and/or physical and mental disability. Consultant further agrees to insert the foregoing provision in all subcontracts hereunder

**D.	Prevailing Wage.** Consultant shall comply with City's Prevailing Wage Ordinance, D.R.M.C. § 20-76 et seq., as such Ordinance may apply to Consultant's activities under this Agreement. The Consultant is prohibited from hiring any subcontractor that is currently debarred by City in accordance with D.R.M.C § 20-77.

**E.	Advertising and Public Disclosures.** Consultant shall not include any reference to this Agreement or to work performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the Project Manager. Any oral presentation or written materials related to DEN shall include only presentation materials, work product, and

technical data which have been accepted by City, and designs and renderings, if any, which have been accepted by City. The CEO shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude Consultant's use of this contract and its component parts in GSA form 254 or 255 presentations, or the transmittal of any information to officials of City, including without limitation, the Mayor, the CEO, any member or members of City Council, and the Auditor.

      F.   **Colorado Open Records Act.** Consultant acknowledges that City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes § 24-72-201 et seq., and Consultant agrees that it will fully cooperate with City in the event of a request or legal process arising under such act for the disclosure of any materials or information which Consultant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits, attachments and other documents incorporated into this Agreement by reference, all materials, records and information provided by Consultant to City shall be considered confidential by City only to the extent provided in the Open Records Act, and Consultant agrees that any disclosure of information by City consistent with the provisions of the Open Records Act shall result in no liability of City.

In the event of a request to City for disclosure of such information, time, and circumstances permitting, City will make a good faith effort to advise Consultant of such request in order to give Consultant the opportunity to object to the disclosure of any material Consultant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Consultant objects to disclosure, City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is filed prior to City's application, City will tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Consultant agrees it will either waive any claim of privilege or confidentiality or intervene in such legal process to protect materials Consultant does not wish disclosed. Consultant agrees to defend, indemnify, and hold harmless City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Consultant's objection to disclosure, including prompt reimbursement to City of all reasonable attorney fees, costs, and damages City may incur directly or may be ordered to pay by such court.

      G.   **Examination of Records.**

      1.   In connection with any services performed hereunder on items of work toward which federal funds may be received the City, the Federal Aviation Administration ("FAA"), the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of Consultant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions. Consultant further agrees that such records will contain information concerning the hours and specific services performed along with the applicable federal project number.

      2.   Consultant agrees until the expiration of three (3) years after the final payment under this Agreement, any duly authorized representative of City, including the CEO, City's Auditor or their representatives, shall have the right to examine any pertinent books, documents, papers and records of Consultant involving transactions related to this

Agreement, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

H. **Use, Possession or Sale of Alcohol or Drugs.** Consultant shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in City's barring Consultant from City facilities or participating in City operations.

I. **City Smoking Policy**. Consultant and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99 and the Colorado Indoor Clean Air Act, prohibiting smoking in all City buildings and facilities.

J. **Conflict Of Interest.** Consultant agrees that it and its subsidiaries, affiliates, subcontractors, principals, or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities, or conduct that would affect the judgment, actions or work of Consultant by placing Consultant's own interests, or the interest of any party with whom Consultant has a contractual arrangement, in conflict with those of City. City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this agreement if such a conflict exists, after it has given Consultant written notice which describes such conflict.

Consultant shall have thirty (30) days after the notice is received in which to eliminate or cure the conflict of interest in a manner which is acceptable to City.

K. **Prohibition Against Employment Of Illegal Aliens To Perform Work Under this Agreement.**

1. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes and Den. Rev. Municipal Code 20-90 and the Consultant is liable for any violations as provided in said statute and ordinance.

2. The Consultant certifies that:

   (a) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

   (b) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

3. The Consultant also agrees and represents that:

   (a) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

   (b) It shall not enter into a contract with a subcontractor or subconsultant that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(c)   It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(d)   It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement and it has complied with all federal requirements regarding the use of the E-Verify program, including, by way of example, requirements related to employee notification and preservation of employee rights.

(e)   If it obtains actual knowledge that a subcontractor or subconsultant performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and City within three days.   The Consultant will also then terminate such subcontractor or subconsultant if within three days after such notice the subcontractor or subconsultant does not stop employing or contracting with the illegal alien, unless during such three day period the subcontractor or subcontractor provides information to establish that the subcontractor or subconsultant has not knowingly employed or contracted with an illegal alien.

(f)   It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of §8-17.5-102(5), C.R.S. or City Auditor under authority of D.R.M.C. §20-90.3.

ARTICLE VIII STANDARD FEDERAL PROVISIONS

A.   Sensitive Security Information. Consultant acknowledges that, in the course of performing its work under this Agreement, Consultant may be given access to Sensitive Security Information ("SSI"), as material is described in federal regulations, 49 C.F.R. part 1520. Consultant specifically agrees to comply with all requirements of the applicable federal regulations specifically, 49 C.F.R. Parts 15 and 1520. Consultant understands any questions it may have regarding its obligations with respect to SSI must be referred to the DEN's Security Office.

B.   DEN Security. Consultant, its officers, authorized officials, employees, agents, subcontractors, and those under its control, will comply with safety, operational, or security measures required of Consultant or City by the FAA or TSA. If Consultant, its officers, authorized officials, employees, agents, subcontractors or those under its control, fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against City, then, in addition to any other remedies available to City, Consultant covenants to fully reimburse City any fines or penalties levied against City, and any attorney fees or related costs paid by City as a result of any such violation. This amount must be paid by Consultant within fifteen (15) days from the date of the invoice or written notice.

C.   Federal Rights. This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between City and the United States, the execution of which has been or may be required as a condition precedent

to the transfer of federal rights or property to City for DEN purposes and the expenditure of federal funds for the extension, expansion or development of the Denver Municipal Airport System.

ARTICLE IX CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

This agreement consists of Articles I through X which precede the signature page, and the following attachments which are incorporated herein and made a part hereof by reference:

Appendix A:	Standard Federal Assurances
Exhibit A	B2Gnow Software Service Agreement
Exhibit B:	Scope of Work
Exhibit C:	Insurance

In the event of an irreconcilable conflict between a provision of Articles I through X and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

Appendix A
Articles I through X hereof
Exhibit A
Exhibit B
Exhibit C

ARTICLE X CITY EXECUTION OF AGREEMENT

A.   City Execution. This Agreement is expressly subject to, and shall not become effective or binding on City, until it is fully executed by all signatories of City and County of Denver. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same, and it may be signed electronically by either party in the manner specified by City.

B.   Electronic Signatures and Electronic Records. Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the city. The parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PLANE-201631814-00

Contractor Name: B2GNow/AskReply, Inc.

By: _Frank Begalke_

Name: _Frank Begalke_
(please print)

Title: _Chief Operating Officer_
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

B2GNOW

Software Service Agreement

The parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

_____

B2Gnow/AskReply, Inc.

Signature: Signature: *Frank Begalke*

Date: Date: 3/27/17

Print Name: Print Name: Frank Begalke

Title: Title: Chief Operating Officer

Address: Address: B2Gnow/AskReply, Inc.

                                                                3225 North Central Avenue, #120

                                                                Phoenix, Arizona 85012

Telephone: Telephone: 602-325-9277

Fax: Fax: 866-892-2913

Contract Control Number:

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:

                                        By_____

By_____

                                        By_____

B2GNOW Software Service Agreement

B2GNOW SOFTWARE SERVICE AGREEMENT

THIS SOFTWARE SERVICE AGREEMENT ("Agreement") is entered into as of the date the Agreement is executed by all the parties (the "Effective Date"), between AskReply, Inc. d/b/a B2Gnow, an Arizona corporation of Phoenix, Arizona ("B2Gnow" or "Contractor"), and the_____ ("Customer"). In consideration of the mutual covenants and promises contained in this Agreement, the parties agree as follows:

1 DEFINITIONS

"Agreement" means this Software Service Agreement and the attached Investment Proposal and/or Statement of Work.

"B2Gnow Technology" means all of B2Gnow's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by B2Gnow in providing the Service.

"Confidential Information" means any and all trade secrets, proprietary or confidential information, in whatever form, that are owned by a party and/or reasonably considered by it to be confidential, that a party has disclosed to the other party prior to the Effective Date, or that a party may disclose to the other party on or after the Effective Date. Confidential Information includes, without limitation, the object and source code to the System, as defined below. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Agreement: (a) information which was already in the receiving party's possession as a matter of record prior to the Effective Date and not disclosed to the receiving party by the other party to this Agreement; (b) information that is independently developed by the receiving party before disclosure by the disclosing party as a matter of record; (c) information that is obtained from a third party who, insofar as is known to the receiving party, is not prohibited from transmitting the information to the receiving party by a contractual, legal or fiduciary obligation, whether explicit or customary, to the disclosing party; and (d) information which is or which becomes generally available to the public other than as a result of disclosure by the receiving party.

"Content" means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service.

"Deliverable(s)" means any software code or other work product developed by B2Gnow in connection with the Professional Services and provided to Customer pursuant to the requirements of the Agreement

"Derivative Work" has the meaning as defined in the Copyright Act, 17 U.S.C. § 101 (2000).

"Documentation" means the standard user manual or other documentation or explanatory material related to the System, as described in the Investment Proposal or Statement of Work attached as an exhibit to this Agreement, and any subsequent versions thereof which Customer may receive from B2Gnow.

"Intellectual Property Rights" means all intellectual property rights protected by law throughout the world, including all copyrights, copyright registrations and applications, trademark rights (including trade dress), trademark registrations and applications, patent rights (including the right to apply therefore), patent applications (including the right to claim priority under applicable international conventions) and all patents issuing thereon, industrial property rights, inventions (whether or not patentable), together with all utility and design, know-how, specifications, trade names, mask-work rights, trade secrets, moral rights, author's rights, algorithms, rights in packaging, goodwill, and other intellectual and industrial property rights, as may exist now and hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction.

 "Statement of Work" means the document identified and attached as Exhibit A to this Agreement and that (a) specifically refers to this Agreement; and (b) defines additional rights and obligations of the parties with respect to the System, Documentation, or Professional Services. In the event of a conflict between the provisions of this Agreement and the provisions of the Statement of Work, the provisions of this Agreement will control.

"Professional Services" means any services performed as part of the implementation and activation of the System for the Customer.

"Service" means the specific modules of B2Gnow's online hosted diversity management system and related services identified on the Investment Proposal, developed, operated, and maintained by B2Gnow, accessible via http://www.mwdbe.com or another designated web site or IP address, or ancillary online or offline products and services provided to you by B2Gnow, to which you are being granted access under this Agreement, including the B2Gnow Technology and Content.

"System" means the computer software programs to be delivered to the Customer via the Internet pursuant to the Agreement.

2 LICENSE GRANTS AND RESTRICTIONS.

2.1 Subject to the terms of this Agreement, B2Gnow hereby grants to Customer a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by B2Gnow.

2.2 Except as expressly set forth in this Agreement, or any Investment Proposal or Statement of Work, Customer may not:

(i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover, in any way, any source code, programming, algorithms, design structure, interoperability interfaces, concepts, construction methods underlying

ideas, or file formats of the Service, for any purpose, (ii) remove any identification markings, including but not limited to logos, copyright notices, and trademarks, from the Service, or (iii) make any modification, enhancement, or Derivative Work of the Service, or incorporate the Service, or any portion thereof, into or with any other software;

(ii) copy, sell, lease, sublease, give, loan, assign, distribute or transfer in any manner or form, in whole or in part, the Service; or

(iii) use the Service to develop or distribute any software product that competes in the marketplace with the System; or

(iv) sell, lease, sublease, give, loan, assign, distribute or transfer in any manner or form, in whole or in part, any Documentation or accompanying materials, electronic or written, to any third party.

Notwithstanding the foregoing, Customer may make copies of the Documentation, containing all legends, trademarks, trade names, copyright notices and other identifications associated with the original, to the extent reasonably necessary to permit access to and use of the Documentation by Customer's employees.

2.3 Except as specifically set forth in this Agreement, Customer acknowledges that this Agreement does not grant Customer any use or rights to the Service, including, but not limited to, any rights to the source code for the Service.

2.4 Customer acknowledges that B2Gnow has, and will from time to time create, license, evaluate, or implement other computer software programs that may be based upon or related to the System or Deliverables and that those other programs are not licensed to Customer under this Agreement except as specifically set forth in the Agreement or the Statement of Work.

2.5 Except as specifically set forth in the Agreement or the Investment Proposal or Statement of Work, Customer acknowledges that B2Gnow has no responsibility for providing Customer with any services, support, product upgrades or other enhancements for or in connection with, and that B2Gnow is under no obligation to create any product upgrades or enhancements to, the Service.

3 FEES AND PAYMENTS

3.1 In consideration of the rights granted and services provided to Customer under this Agreement, Customer will pay B2Gnow the annual service fee and other fees (the "Fees") in the manner and amounts set forth in the Investment Proposal and attached to this Agreement as Exhibit A, which payments will be nonrefundable and irrevocable except as otherwise provided in Sections 4 or 7.2. Unless otherwise set forth in the Investment Proposal or Statement of Work, the Fees are due and payable in full, thirty (30) days of Customer's receipt of B2Gnow's invoice.

3.2 The amounts due to B2Gnow under this Agreement do not include taxes, duties, or similar fees. If B2Gnow is required to pay (a) sales, use, property, value-added, withholding or other taxes, (b) any customs or other duties, or (c) any import, warehouse or other fees, directly associated with the importation or delivery based on the licenses granted or services performed under this Agreement or on Customer's use of the Service or the Professional Services, then such duties or fees will be billed to and paid by Customer. If necessary to exercise Customer's tax exemption, Customer will provide B2Gnow its tax ID number and a copy of its tax exemption. Customer shall have no obligation for taxes B2Gnow may incur in its normal course of business, not directly related to work under this Agreement, including but not limited to payroll taxes, property taxes, and income taxes.

3.3 All past due invoices will accrue interest at the lesser of (a) one and one-half percent (1 1/2%) per month, or (b) the maximum rate permitted by applicable law, in each case, from the date due until fully paid, plus all expenses of collection.

3.4 Any purchase order issued by Customer is for Customer's convenience only and, notwithstanding B2Gnow's acceptance of the purchase order, will not change or add to the terms and conditions of this Agreement.

3.5 Customer will permit B2Gnow, once per year, to audit Customer's use of the Service, at reasonable times and with reasonable notice, for the purpose of verifying Customer's adherence to the terms and conditions of this Agreement. Any audit requested by B2Gnow will be conducted during Customer's regular business hours, will comply with Customer's normal security procedures, and will not unreasonably interfere with Customer's business operations. All out-of-pocket costs associated with an audit will be paid by B2Gnow, unless the audit reveals that Customer has violated the terms and restrictions of the licenses granted in this Agreement, in which case all costs of audit will be paid by Customer, in addition to, without limitation, any other courses of remedy arising from such violations.

4 WARRANTIES AND DISCLAIMERS

4.1 B2Gnow warrants to Customer that during the term of this Agreement, the System will perform as outlined in B2Gnow's product specification documents (user manuals and documentation available online) and this Agreement and Statement of Work. In case of conflict between these documents, this Agreement shall govern. The warranty does not cover any programs that have been altered in any way by any party other than B2Gnow or its authorized subcontractors. B2Gnow is not responsible for problems caused by the operating characteristics, whether themselves out-of-specification or not, of Customer's computer hardware, software, operating systems, or computer systems, the quality of the Customer's Internet connection to the System, nor for problems in the interaction of the System with non-B2Gnow software. If notified in writing by Customer during the warranty period, B2Gnow will, at its sole option, either (i) correct significant program errors in the System within a reasonable time, not to exceed seven (7) calendar days; or (ii) accept return of the System and Documentation and refund any unused Fees paid by Customer to B2Gnow under the Agreement.

4.2 B2Gnow warrants to Customer that the Professional Services set forth in the Agreement, including the Investment Proposal or Statement of Work, will be performed in a professional manner, consistent with generally accepted industry standards. The sole and exclusive remedy for a breach of the limited warranty set forth in this Section 4.2 shall be to require B2Gnow to use commercially

reasonable efforts to perform the Professional Services as soon as is reasonably practicable, but in no event, later than thirty (30) days from the date Customer notifies B2Gnow of such breach. In the event B2Gnow is unable, after receiving a warranty breach notice under this Section 4.2, to perform the Professional Services to the Customer's reasonable satisfaction within the thirty (30) day period, Customer may terminate the Agreement and withhold payment to or receive a refund or credit from B2Gnow for the value of such services, in no case to exceed the aggregate amounts paid out to B2Gnow by Customer in the twelve months immediately preceding notification of such claim delivered to B2Gnow by Customer.

4.3   B2Gnow does NOT warrant that the operation of the System and its associated data and/or information will meet the Customer's requirements or that the operation of the System and its associated data and/or information will be uninterrupted or error-free. The Customer is responsible for the accuracy and usability of all data that Customer entered into the system, including but not limited to Customer specific reports.   CUSTOMER ASSUMES ENTIRE RISK AS IT APPLIES TO THE QUALITY AND PERFORMANCE OF THE DATA AND/OR INFORMATION WHICH IS SUPPLIED AND/OR INPUT INTO THE SYSTEM BY THE CUSTOMER. SHOULD THE SYSTEM AND ITS ASSOCIATED DATA AND/OR INFORMATION PROVE DEFECTIVE DUE TO DATA INPUT BY THE CUSTOMER, THE CUSTOMER (AND NOT B2GNOW) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING REPAIR OR CORRECTION.

4.4 THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, OR SATISFACTORY QUALITY REGARDLESS OF WHETHER IMPOSED BY CONTRACT, STATUTE, COURSE OF DEALING, CUSTOM OR USAGE OR OTHERWISE.

5 LIMITATION OF LIABILITY

5.1 Notwithstanding any provision in this agreement to the contrary, B2Gnow will not be responsible for and will bear no liability for any damages arising from any use of the Service, or any stoppages, slowdowns, performance problems or other problems that are the result of the Internet, the Customer's telecommunications or internet access providers or Customer's computer equipment failures. EXCEPT FOR INTENTIONAL MISCONDUCT OR A VIOLATION OF SECTIONS 6, 7 OR 8 OF THIS AGREEMENT, FOR WHICH THERE ARE NO LIMITS, IN NO EVENT WILL EITHER PARTY BE LIABLE OR OBLIGATED UNDER THIS AGREEMENT FOR NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY (A) FOR ANY AMOUNTS IN EXCESS OF THREE TIMES (3X) THE MAXIMUM CONTRACT LIABILITY, OR (B) FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE SERVICE OR PROFESSIONAL SERVICES, EVEN IF OTHER PARTY HAS BEEN ADVISED, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST BUSINESS REVENUES, FAILURE TO REALIZE EXPECTED SAVINGS, OR OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND. THIS SECTION DOES NOT LIMIT LIABILITY FOR BODILY INJURY.

6 INDEMNIFICATION

6.1 B2Gnow will defend Customer in any third party suit or cause of action for (i) bodily injury or death arising out of or relating to the performance by B2Gnow of the Services hereunder and resulting from the negligence or willful misconduct of B2GNow, and (ii) damages to real or tangible personal property caused by the negligence or willful misconduct of B2GNow except that the foregoing part (i) and (ii) shall apply only to the extent that the same arises out of the direct physical actions of B2Gnow. B2GNow will pay damages assessed, including reasonable attorneys' fees and settlement amounts, against Customer in any such suit or cause of action, provided that, (i) B2GNow is promptly notified in writing of such suit or cause of action, (ii) to the extent permitted by law, Customer gives B2GNow control over any negotiations or defense and Customer assists B2GNow as reasonably required by B2GNow; provided, however, B2GNow obtains Customer's written consent prior to settling a claim that requires payment by Customer or other affirmative act; and (iii) Customer takes all reasonable steps to mitigate any potential damages that may result.

7 PATENT INDEMNIFICATION AND COPYRIGHT

7.1 B2Gnow agrees to indemnify and hold Customer harmless from any final award of costs (including, but not limited to, court costs and reasonable attorneys' fees) and damages against Customer in any action alleging that the Customer's use of the System infringes upon any U.S. patent issued as of the Effective Date or any copyright, provided that (a) Customer promptly notifies B2Gnow in writing no later than seven (7) days after Customer's notice of any potential claim, (b) Customer permits B2Gnow to defend, compromise or settle the claim; provided, however, that B2GNow obtains Customer's written consent prior to settling a claim that requires the payment by Customer or other affirmative act; and (c) Customer gives B2Gnow all available information, reasonable assistance, and authority to enable B2Gnow to do so.

7.2 If the System or any portion of the System becomes, or in B2Gnow's opinion is likely to become subject to any claim of infringement, B2Gnow will either, at its sole option, (a) procure for Customer the right to continue exercising its rights under this Agreement with respect to the System; or (b) replace or modify the System to make it non-infringing, or if, neither (a) nor (b) are, in B2Gnow's sole discretion, commercially feasible, terminate the licenses to the System granted under the Agreement and refund any unused Fees paid by Customer to B2Gnow under the Agreement.

7.3 Notwithstanding the foregoing, B2Gnow will have no liability for any claim of infringement based upon any infringement claim for Customer's (a) use of a superseded or altered release of the Service if the infringement would have been avoided by the use of a current unaltered release of the Service that B2Gnow provided to Customer; or (b) use of the Service which has been modified pursuant to Customer's specific request; (c) use of the Service (i) other than in accordance with the terms and conditions set forth in

this Agreement; (ii) other than under normal use as set forth in the Documentation; or (iii) in combination with other software or equipment not provided by B2Gnow if such infringement would not have occurred without such use or combination; or (d) continuing the allegedly infringing activity after notice.

8   SECTION INTENTIONALLY REMOVED

9   TRADE SECRETS AND CONFIDENTIAL INFORMATION

9.1 B2Gnow represents and warrants that B2Gnow and its subcontractors are the owner(s) of all Intellectual Property Rights associated with the Service and except as set forth in this Agreement, B2Gnow does not grant any rights to or ownership of the Service to Customer. Customer acknowledges that B2Gnow and its subcontractors retain all right, title and interest in the Service and in all improvements, enhancements, modifications and Derivative Works of the Service including all rights to patent, copyright, trade secret and trademark, regardless of the identity of the creating party.

9.2 Customer agrees that all trademark and intellectual property notices for the Service shall be preserved unmodified. Customer further agrees to take reasonable steps to ensure that unauthorized persons will not have access to any of the Service and that all authorized persons having access will refrain from any disclosure, duplication or reproduction of the Service except to the extent permitted under this Agreement or to the extent required by law or court order.

9.3 Customer agrees not to challenge, directly or indirectly, any right or interest of B2Gnow and its subcontractors in the Service nor the validity or enforceability of B2Gnow's rights under applicable law. Customer agrees not to directly or indirectly register, apply for registration or attempt to acquire any legal protection for, or any proprietary rights in, Service or to take any other action which may adversely affect B2Gnow's rights or interest in the Service in any jurisdiction.

9.4 Customer agrees to notify B2Gnow immediately and in writing of all circumstances, of which Customer is aware, surrounding the unauthorized possession or use of the Service by any person or entity. Customer agrees to cooperate as reasonably necessary with B2Gnow, at B2Gnow's expense, in any litigation relating to or arising from such unauthorized possession or use.

9.5   All Confidential Information disclosed under this Agreement will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose the Confidential Information of the disclosing party and will use at least the same degree of care, discretion and diligence in protecting the Confidential Information of the disclosing party as it uses with respect to its own confidential information. The receiving party will limit access to Confidential Information to its employees with a need to know the Confidential Information and will instruct those employees to keep the information confidential. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (a) to the extent necessary to comply with any law, rule, regulation or ruling applicable to the receiving party or the Confidential Information, (b) as appropriate to respond to any summons or subpoena or in connection with any litigation and (c) to the extent necessary to enforce its rights under this Agreement. Upon the request of the disclosing party, the receiving party will return or destroy all Confidential Information of the disclosing party that is in its possession. The provisions of this Section 9.5 will survive the termination of this Agreement. The Parties agree that in the event a party breaches its obligations under this Section 9.5, the non-breaching party may (a) immediately terminate this Agreement without further liability; (b) bring an appropriate legal action to enjoin any such breach of this Agreement without the need to obtain a bond or other security; and (c) recover from the breaching party reasonable attorneys' fees and costs in addition to other appropriate relief.

10   TRADEMARKS

10.1 Customer acknowledges B2Gnow's ownership of the trademark "B2Gnow," certain System names, and all related trademarks and service marks, as well as B2Gnow's subcontractors' ownership of their respective trademarks, service marks, and System names, including but not limited to B2Gnow's ownership of the trademarks "B2Gnow" and "B2Gnow Diversity Management System." Except as set forth in the Agreement, Customer further acknowledges that it will acquire no interest in such trademarks and service marks by virtue of this Agreement or the performance by Customer of its duties and obligations under this Agreement. Customer agrees not to use the name "B2Gnow" or any of the System names or marks (or any confusingly similar name or symbol), in whole or in part, as part of Customer's business or trade name.

10.2 B2GNow acknowledges Customer's ownership of their trademarks/service marks currently in use. Except as set forth in the Agreement, B2GNow further acknowledges that it will acquire no interest in the Customer's Marks by virtue of this Agreement or the performance by B2GNow of its duties and obligations under this Agreement. B2Gnow agrees not to use the Customer's Marks (or any confusingly similar name or symbol), for any purpose without the prior written consent of Customer.

10.3 Each party agrees to reasonably cooperate with the other party in permitting the use of its trademarks for marketing and promotional purposes that benefit both parties. Each party must secure written approval to use the other party's trademarks, which approval will not be unreasonably withheld or delayed.

11   EXPORT

11.1 Customer agrees not to, directly or indirectly, export or re-export, or knowingly permit the export or re-export of, the Service, or any technical information about the System, Documentation or any Deliverable, to any country for which the United States Export Administration Act, any regulation thereunder, or any similar United States law or regulation, requires an export license or other United States government approval, unless the appropriate export license or approval has been obtained.

12   TERM AND TERMINATION

12.1 The term of assigned license and authorization to use the System shall commence on January 1, 2017 and shall terminate December 31, 2021, unless sooner terminated in accordance with the terms stated herein.

12.2 Notwithstanding any provision in this Agreement to the contrary, B2Gnow may, at its sole option, terminate this Agreement at any time after the occurrence of any of the following events:

    a. Customer is declared or acknowledges that it is bankrupt or insolvent or otherwise unable to pay its debts as they become due;

    b. Customer assigns or transfers this Agreement or any of its rights or obligations under this Agreement or any Statement of Work, without B2Gnow's prior written approval.

12.3 Customer may terminate this Agreement or any Statement of Work for any reason at any time by providing B2GNow with thirty (30) days prior written notice.

12.4 Either party may, at its option, terminate this Agreement for a material breach of the provisions set forth in Sections 1 through 15 by the other party after giving the other party written notice, specifically identifying the breach on which termination is based, and (30) days to cure such breach (except for a breach based upon non-payment of any sums due, for which the breaching party will have ten (10) days to cure such breach). If the breach is not cured within the appropriate time period, this Agreement will terminate without further action by either party.

12.5 Either party may, at its option, terminate a Investment Proposal or Statement of Work for a material breach of the terms and conditions set forth in that Investment Proposal or Statement of Work by the other party after giving the other party written notice, specifically identifying the breach on which termination is based, and (30) days to cure such breach (except for a breach based upon non-payment of any sums due for which the breaching party will have ten (10) days to cure such breach). If the breach is not cured within the appropriate time period, the Investment Proposal or Statement of Work under which the breach arose will terminate without further action by either party. The termination of one Investment Proposal or Statement of Work under this Section 12.4 will not affect the terms and conditions of any other Investment Proposal or Statement of Work.

12.6 Upon termination of this Agreement or an Investment Proposal or Statement of Work, Customer will (a) have ten (10) days to pay B2Gnow all undisputed outstanding fees, charges, payment and expenses then due under this Agreement or Statement of Work, (b) discontinue all use of the applicable System and Documentation, (c) immediately delete the applicable System and Documentation and all copies in any form, including, but not limited to, any back-up or archival copies, from its system files and storage media, and (d) will return to B2Gnow within ten (10) days or destroy all copies of the System and Documentation; and any support or maintenance obligation relating to the applicable System will immediately terminate. At B2Gnow's request, Customer will verify in writing to B2Gnow that the actions set forth in (b), (c), and (d) above have been taken.

12.7 Termination of this Agreement will not relieve Customer from any obligation to pay B2Gnow any amount that has accrued or become payable prior to the termination date.

12.8 The provisions of Sections 5, 6, 7, 9.4 and 9.5 will survive the termination of this Agreement, as will the continuing obligations of the parties under this Section 12.

13 CUSTOMER RESPONSIBILITIES

13.1 Customer is responsible for all activity occurring under Customer accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify B2Gnow immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to B2Gnow immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by Customer; and (iii) not impersonate another B2Gnow user or provide false identity information to gain access to or use the Service.

14 ACCOUNT INFORMATION AND DATA

14.1 B2Gnow does not own any data, information or material that Customer submits to the Service in the course of using the Service ("Customer Data"). Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. In the event this Agreement is terminated (other than by reason of Customer's breach), B2Gnow will make available to Customer a file of the Customer Data within 30 days of termination if Customer so requests at the time of termination.

15 GENERAL PROVISIONS

15.1 This Agreement does not create any relationship of association, employment, partnership, joint venture or agency between the parties. Neither party will have any right or authority to assume, create or incur any liability or obligation of any kind against or in the name of the other party.

15.2 This Agreement and all documents incorporated into this agreement by reference constitute the entire agreement and understanding between the parties with respect to the subject matter in this Agreement. The Agreement merges all previous discussions and negotiations between the parties and the Agreement supersedes and replaces any and every other agreement, which may have existed between B2Gnow and Customer with respect to the contents of this Agreement.

15.3 Except to the extent and in the manner specified in the Agreement, any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representative of each party and, if required, the approval of the Customer's Board Members.

15.4 The failure of either party to exercise any right granted under this Agreement, or to require the performance by the other party of any provision of this Agreement, or the waiver by either party of any breach of this Agreement, will not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of the same or any other provision of this Agreement.

15.5 Neither Party may sell, assign nor transfer any of its rights, duties or obligations under this Agreement without the prior written consent of the other Party, which shall not be withheld unreasonably. 14.6 The parties agree that no person or entity who is not a party to the Agreement will be deemed to be a third-party beneficiary or entitled to any rights under this Agreement.

15.7   All notices provided for or which may be given in connection with the Agreement shall be in writing and shall be delivered in person, by a nationally recognized overnight courier service, by facsimile (with electronic confirmation to sender) or by registered or certified mail with postage prepaid and return receipt requested.

	If to B2GNow:	AskReply, Inc
		3225 N. Central Ave., #120
		Phoenix, AZ 85012
		Attn: Frank Begalke
	If to Customer:	

or to such other address as either party, by like notice, shall designate. Such notices, if sent by United States mail, shall be deemed to have been given upon three (3) business days after being deposited in the United States mail. Such notices, if sent by facsimile (with electronic confirmation to sender) or nationally recognized overnight courier service, shall be deemed to have been given one (1) day after being sent. Such notices, if delivered in person, shall be deemed to have been given upon receipt by the other party.

15.8 If any provision of the Agreement is determined by a court of competent jurisdiction to be in violation of any applicable law or otherwise invalid or unenforceable, such provision will to such extent as it is determined to be illegal, invalid or unenforceable under such law be deemed null and void, but the Agreement will otherwise remain in full force and effect. Furthermore, it is the intention of the parties that in lieu of such illegal, invalid, or unenforceable provision, there automatically be added as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to be legal, valid, and enforceable.

15.9 In the event a dispute arises under this Agreement, the prevailing party will be entitled to all reasonable costs and expenses incurred by it in connection with such dispute (including, without limitation, all reasonable attorney's fees and costs incurred before and at any trial, arbitration or other proceeding), as well as all other relief granted in any suit or other proceeding.

15.10   Customer may not publicize or disclose to any third party any of the terms or provisions of this Agreement, or the discussions relating to any of the contents of this Agreement, without the prior written consent of a duly authorized officer of B2Gnow, except as required by law.

15.11   Any disputes or proceedings related or arising out of this Agreement will be governed by and construed in accordance with the substantive laws of the State of Colorado. The United Nations Convention on the International Sale of Goods is expressly disclaimed. The sole and official language of this Agreement is English.

15.12 This Agreement may be executed in two (2) or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by fax will be sufficient to bind the parties to the terms and conditions of this Agreement.

B2GNOW

The parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

_____

B2Gnow/AskReply, Inc.

Signature: Signature:

Date: Date:

Print Name: Print Name: Frank Begalke

Title: Title: Chief Operating Officer

Address: Address: B2Gnow/AskReply, Inc.

                                                                                    3225 North Central Avenue, #120

                                                                                    Phoenix, Arizona 85012

Telephone: Telephone: 602-325-9277

Fax: Fax: 866-892-2913

Exhibit A

B2Gnow Proposal.pdf

Overview

This is a proposal to renew services and add additional services for the Cty and County of Denver with B2Gnow. New services are identified by the red asterik (*) under section number 1, System Service Fee.   Corresponding One-Time Set Up Fees for New Services are listed under section 2, Setup Fees.

1. System Service Fee (annual fee)

• Vendor Management / Baseline System	$19,800	Up to 10,000 vendors
• Contract Compliance	$34,650	Up to 1,750 active, open contracts
• Concession Management	$9,900	Up to 200 Concession Locations
• Certification Management	$39,600	Up to 2000 certified firms
• Online Application	$9,900	Up to 250 applications
• Outreach Management	$4,950	Up to 100 Outreach Campaigns
• Goal Setting	$4,950	Up to 250 Goals
• Prime Payment Import for Contract Compliance	$1,000	Per Year
• Section 3 Online Application	$9,900	Up to 500 Section 3 Certified Firms
• Utilization Plan	$4,950	Up to 250 Plans *
• Online Application Payment Interface	$2,000	Per Year
• Textura Interface Maintenance	$2,000	Per Year
	$143,600	Annual Fees - B2Gnow
	-$30,000	*Long Term Customer Discount - B2Gnow*
Total Annual Fees - B2Gnow	**$113,600**	
• Prevailing Wage - LCPtracker	$68,000	**Up to 2 Billion in Monitored Project Value**
	-$17,000	*Long Term Customer Discount - LCPtracker*
Total Annual Fees - LCPtracker	**$51,000**	
Total B2Gnow and LCPtracker Annual Fees	**$164,600**	

Annual Support & Service

- B2Gnow hosted & managed technology infrastructure
- 24/7 unlimited access to the B2Gnow system
- Unlimited staff accounts in system
- Access to all system upgrades and enhancements
- Phone and email support for staff
- First level email support for vendors
- Quick guides, training manuals, online help, & video training
- Unlimited online staff training (as available)

City and County of Denver
5-Year Renewal Proposal

February 3, 2017

Overview

This is a proposal to renew services and add additional services for the Cty and County of Denver with B2Gnow. New services are identified by the red asterik (*) under section number 1, System Service Fee.   Corresponding One-Time Set Up Fees for New Services are listed under section 2, Setup Fees.

2. Setup Fees (One Time)

System Modules

• 20 hours of report development	$3,000
• Utilization Plan	$4,950

Total Set Up Fees - B2Gnow	**$7,950**

Setup Includes

• Project kick-off & planning session	• Accounts set up for all staff users
• Comprehensive project management	• Customized notification templates
• Baseline system configuration	• Configuration of login portal
• Activation and configuration of included modules	• Staff training

3. Optional Services & Modules

• Custom report development	$150/hr.
• Travel	At cost

Please reference standard price sheet for additional options.

4. Terms

- Pricing is effective for 30 days from proposal date
- Annual fee is invoiced upon contract start date and annually thereafter
- Custom report development is billed Net 30 upon completion
- Travel and other out-of-pocket expenses are invoiced Net 30 at actual cost
- Contract term is 5 years, all services co-terminus

5. Contact

Kathleen Arbuthnot
Director, Client Services
kma@b2gnow.com
(602) 325-9277

B2GNOW

City and County of Denver
Statement of Work

Modules

The City and County of Denver (Denver) currently utilizes the following modules and capabilities.

Vendor Management & Baseline System

Staff management: Staff have password-protected access to their own accounts. They are able to manage their own accounts, including contact information and settings, and are able to add new staff accounts as necessary. Primary types of users include Diversity Users and Buyers/Project Managers. Diversity Users have access to all diversity functions and can edit contracts and audit data (with authorization). Buyers/Project Managers have access to contract management functions and can edit contracts, but cannot edit audit data. All users can run reports, though certain reports are available to each user type.

Roles are set up to accommodate certain types of users (Administrator, Standard, Limited, Contract Administrator, Clerk, etc.). Initially, user access will be wide-ranging, and the Denver can further restrict access over time as it gains familiarity with user functions and requirements.

- Vendor management: Staff are able to manage vendor accounts, including adding and editing information related to vendors (subcontractors and suppliers).
- Vendor accounts: Vendors have password-protected access to their own accounts. They are also be able to set up multiple users.

Vendor registration: Staff are able to add vendors.

Search: Staff has full search capabilities (i.e. searching for vendors by owner name, contract name, certification, DBEs, MBEs, WBEs, SBEs, ethnicity, gender, keyword, etc.).

Reporting: Staff are able to run reports at any time.

Messaging: Users are able to create and send messages to each other. A copy of the message is emailed and/or faxed to recipients based upon their account settings. The presence of file attachments is indicated in the email/fax notification, but attachments are not sent out to the email/fax recipient.

Help & support: Users have access to online help and the Forums/Knowledge Base.

File attachments: Enable any set of approved file types to be attached to transactions and documents. The system will track downloading and viewing of files by any user.

Spell checking: One-pass spell checking of all online data entry with customizable dictionary.

Commodity codes: Supports multiple commodity code types simultaneously (NIGP, NAICS, etc.). Search, browse and edit commodity codes, then assign them to transactions and records.

System Portal

Denver's portal is configured to reflect the organization's programs and policies

Configurable models offering public features including module specific capibilites such as Certified Directory Search, Contracts Search and access to Technical Support for vendors and staff

Conforms to organization's current web site

Contract Compliance Module

Contract management: Staff are able to add, manage and close out contracts. Staff are able to manage each contract and add new contracts as needed. A contract may include multiple second tier certified and non-certified subcontractors. A variety of tools are available, including subcontractor lists, extensions, suspensions, cancellations, change orders, closeout and deletion.

- Subcontractor list: Staff are able to add multiple subcontractors to a contract. Up to 10 tiers of subcontractors are supported.
- Contract types: The Denver can designate the types of contracts to track, including construction, professional services, supply services, etc.
- Change orders/amendments: When change orders or contract amendments impact goals, the system will automatically re-calculate the new goals based upon original and new data.
- Notifications: Contract officers can generate hard copy/email notices for contract award, not meeting goal, contract close, and other related contract events.
- Contract closeout: At the end of a contract, staff are able to rate a prime contractor relative to their diversity goal, verify any subcontractor retainage, and set the contract as closed.
- Contract compliance: The system will automatically audit active contracts monthly or quarterly.
- All active prime contractors will be notified by email and/or fax to log in to their accounts and provide/confirm payment information for subcontractors. Each contract shall have configurable settings regarding the circumstances and timing of audits.
- If a payment is rejected, a discrepancy is created and prime and subcontractor are immediately notified of the need to resolve the issue.
- Staff will have access to all audits, are able to enter data on behalf of the vendors, and can edit any existing data at any time.
- Vendors are able to enter and edit data for a set period of time, after which they will contact their contract compliance officer for an extension.
- The system will track the payment histories, including submitting user, date/time and comments. As an audit record is modified, previous submissions will be archived for future reference. This historical information is available upon the Denver's request.

- Connectivity/interfacing: An optional ability to import specified data in predefined file formats from existing and future systems is supported. Data types include:
    - Contract Header Records
    - Prime Payment Records

Concessions Management Module

This module allows airports to track retail, food/beverage, parking, and rental car concession agreements.

- A concession agreement may include multiple-locations and multiple owners/partners.
- A variety of tools are available, including location and supplier lists, joint venture owners, extensions, suspensions, cancellations, change orders, close out, and deletion.
- Provides compliance with U.S. DOT 49 CFR Part 23 and all data can easily be pulled into the federal ACDBE annual report.
- Staff can add, manage, and close out concessions.
- Staff can generate hard copy/email notices for concession award, not meeting goal, concession close, and other related concession events.
- Concession revenues may be self-reported and verified electronically.
- Certified supplier expenditures can be self-reported and verified electronically
- System Connectivity: When used in conjunction with one or more certified directories, active certification status is displayed for each firm in real-time.

Certification Management Module

This module supports an organization's review of certification applications, including workflow and review checklists that are configured to support your process. The module helps programs increase standardization and improve quality of certification application review. It also provides immediate visibility into the status of all pending applications and enables the tracking of processing times down to granular "review-step" levels. Certified information such as status, approved work codes, etc. is available in real-time throughout the system in every other module.

- Allows for detailed owner information tracking as well as detailed tracking of information about the firm (e.g. industry, commodity codes, location, etc.) which can be used for internal reporting and analysis or also made available via the public directory.
- Configurable for your agency's application review process, steps, and workflow.
- Complete detailed audit trail of all actions completed by staff during the review process.
- Supports various certification types (D/M/W/S/EBE) and certification processes (new, renewal, no change affidavit, reciprocal, expedited, etc.)
- Module includes a public directory search that includes business description keyword search and optional Excel download of search results.

System Connectivity: closely integrated with the Online Application module to permit seamless navigation between all related parts of the application and review checklists.

Data may be transferred from specified data fields on an application to the certification record where applicable. Certification status data is presented to all other system modules and reports.

Online Application Module

This module allows vendors to submit certification applications electronically online. The forms eliminate paper submission and give organizations an option to eliminate hardcopy documentation. This efficiency reduces staff review time and ensures only complete applications are received. The module also reduces the time, effort, and expense required by firms to apply for certification.

- Vendors can access different application forms, start and save them for later, attach documents electronically, restrict or grant access to the application, and electronically sign and submit.

- Each electronic application is configured specifically to organization requirements, including instructional and informational content, questions, and supporting document checklists.

- Applicants can be provided with options to submit supporting documents by online upload, by fax upload, or by hardcopy through the mail.

- Gives staff users insight into the "pipeline" of applications prior to submission and allows for tracking abandoned applications.

- System Connectivity: closely integrated with the Certification Management module to permit seamless navigation between all related parts of the application and review checklists.

Outreach & Event Management

This module allows users to create "campaigns" to email blast crafted messages to a customized list of any type of vendors (certified, primes, sub, local, etc.). The module also facilitates event management for online attendee registration, RSVP and attendance tracking.

- Campaigns can include program notices, bid notification to suppliers, requests for information, seminar/training session with optional online RSVP capabilities, or any other message that you wish to send.
- All content can be customized by the user. Content can include text, graphics, web links, and/or attachments.
- Outreach messages include automated, pre-set reminders and the ability for recipients to respond with an attachment.
- All views of emails and on the public bulletin board are tracked so you know how many people are seeing your messages.
- Events provide public access to online or in-person events, online registration, automated reminders, and attendance tracking.

- System Connectivity: Connects with vendor database, certified directories, and contract primes/subs, to import contacts for notifications.

Goal Setting Module

Based on the U.S. DOT standard defined in 49 CFR Part 26 for DBE goal setting, the module provides an industry-standard methodology for setting contract/project-specific goals.

- Set legally-defensible goals based on statistical (disparity study, census, bid list) data and past achievement.
- Allows for a step 2 goal adjustment which can be based on any additional information.
- Maintains a consistent goal setting process with complete documentation of all data and factors used in the goal determination.
- *System Connectivity: When used in conjunction with the contracts module the goals can factor in past performance on previous, similar projects.*

Prime Payment Import Option for Contract Compliance

1. **Data Upload** The extract files are placed on the secure FTP server and the B2Gnow project manager notified.
2. **Create Import Preprocessor** The B2Gnow technical team develops, tests, and deploys an Import Preprocessor. This component reads, filters, fills in, and standardizes the data from the extract file

3. **First Import** The extract files are filtered through the Import Preprocessor, then loaded, validated, and imported into the B2Gnow database.

4. **Post-Import Validation** Upon successful loading of the data file, designated staff will log in to validate the data. The level of validation is at your discretion. Questions or issues with the data validation process are reported to B2Gnow. B2Gnow will review the errors and determine the source of the error. Errors due to customer source data may be corrected manually by customer staff.

5. **Schedule and Load Production Data** The schedule of the periodic loading will be finalized. Once the process is tested and deployed for production, all file parameters must remain fixed. Changes to any parameters will require an update of the data interface, which may be out of scope for the project. Do not make any changes to the final file parameters without B2Gnow approval.

Section 3 Online Application

- HUD's ultimate intention with the Section 3 program is to make HUD-financed employment and economic opportunities available to low-income residents. Under federal regulation 24 CFR 135, multiple requirements are listed, including **hiring, contracting, and the ability to provide other**

economic opportunities to low-income residents and businesses. Section 3 does *not* apply to Supply & Delivery contracts.

- Under 24 CFR 135, 30% of all new hires must be Section 3 employees. For construction contracts, HUD requires 10% of the total contract value to be subcontracted to Section 3 Business Concerns and 3% for non-construction contracts.

Section 3 Business Certifications and Registries:
- To monitor Section 3 Business Concerns, you will first need to provide a way to verify their status to your Contractor community. B2Gnow can provide certification and registry options. HUD currently allows self-certification for Section 3 Business Concerns. This function is easy to set up and provides a searchable database to the community.

Tracking and Reporting the Utilization of Section 3 Business Concerns:
- B2Gnow includes the capabilities to set Section 3 Contracting Goals and identify the Section 3 Business Concerns on each contract. Contract Status Reports are also available, outlining all diversity goals and achievements, including Section 3 goals and achievements.

Online Application Payment Interface

This process integrates the Online Application with Denver's cashiering system. The applicant must pay for their certification application prior to submitting the application for processing in Certification Management. Confirmation of payment information is relayed back to B2Gnow which then allows the submission of the Online Certification application.

Textura Data Import for Contract Compliance

1. **Data Upload** The extract files are placed on the secure FTP server and the B2Gnow project manager notified.

2. **Create Import Preprocessor** The B2Gnow technical team develops, tests, and deploys an Import Preprocessor. This component reads, filters, fills in, and standardizes the data from the extract file

3. **First Import** The extract files are filtered through the Import Preprocessor, then loaded, validated, and imported into the B2Gnow database.

4. **Post-Import Validation** Upon successful loading of the data file, designated staff will log in to validate the data. The level of validation is at your discretion. Questions or issues with the data validation process are reported to B2Gnow. B2Gnow will review the errors and determine the source of the error. Errors due to customer source data may be corrected manually by customer staff.

5. **Schedule and Load Production Data** The schedule of the periodic loading will be finalized. Once the process is tested and deployed for production, all file parameters must remain fixed.

Changes to any parameters will require an update of the data interface, which may be out-of scope for the project. Do not make any changes to the final file parameters without B2Gnow approval.

Prevailing Wage Module via LCPtracker

This module allows contractors to electronically submit payroll data for validation against applicable prevailing wage rates and other labor validations for the contract.

- Contractors submit and certify online prevailing wage reports.
- Contractors can upload certified payroll data from their accounting system, utilize a standard spreadsheet template, or enter directly into a webform.
- Track workforce utilization and generate internal and public reports.
- Comply with federal Davis-Bacon, state, and local wage rates and rules.
- Reporting and tracking of EEO, residency, and apprentice requirements.
- *System Connectivity: when used in conjunction with the contract compliance module, the user can choose to transfer contract and subcontract data to the prevailing wage module.*

Security

The system provides maximum security, including detailed user and transaction audit trails, password-protected account for every user, 256-bit SSL encryption, 100% web-based and no cookies.

Template Management

Staff are able to use and manage standard module specific communication templates.

Communications Log

Track all email, letter and phone communications via templates, document attachments, and email messaging capabilities associated with specific record types.The City and County of Denver (Denver) is adding the following capability under this Statement of Work.

Utilization Plan Module

The B2Gnow Utilization Plan module allows prime contractors to complete and submit utilization plans online and directly in the system. A staff user first creates the Utilization Plan record and assigns it to a vendor. Once the plan is released to the vendor, they can add certified and/or non-certified subcontractors, provide waiver details and attachments (if required), as well as other information as requested, before signing and submitting the plan. Submitted plans are reviewed by staff and approved or denied. Staff can also return the plan for update or conditionally approve the plan which also allows for the vendor to submit an updated plan by a designated due date.

- Module specific Notification Template set up
- Configurable options support management of submission timeframes and subcontractor confirmation before or after the apparent winning bidder submits the Utilization Plan.
- System Connectivity: Subcontractor data may be transferred to a contract record in Contract Compliance saving staff time and reducing the possibility of error between the approved Utilization Plan and the Contract record.

Implementation Methodology

B2Gnow is a proven, turn-key SaaS system that allows for quick implementation and start-up. Being a hosted solution, there is no hardware to be purchased or software to be installed by the client. The system is highly configurable to meet specific program needs without the need for customization.

Over the course of more than 180 successful implementations, B2Gnow has developed and refined a standard implementation methodology. The client will be assigned an experienced project manager who will guide you through the implementation process. Highlights of our implementation process include:

- **Kick-off Meeting**: Review scope; establish project plan, timeline and resource list
- **Regular Project Calls**: To review status and manage the schedule
- **Portal Creation**: The client will participate in a portal configuration exercise that results in a custom system portal that matches the desired look and feel
- **Module Configuration**: Each module has a detailed document that outlines all configuration options and decisions needed. Established configuration guides facilitate faster, more accurate implementations
- **Notification Templates**: The client will review and edit a detailed notification template for B2Gnow to customize system-generated email and letter formats
- **Data Migration**: When applicable to the module being implemented, use of standard data migration formats that highlight required and optional fields; standard formats allow easy and accurate data migration
- **Integration**: Follow B2Gnow's established integration guide and data layouts to expedite the process; our technical team will manage the integration process
- **Training**: B2Gnow has standard training courses for each module; training will be customized for the client-specific processes and requirements
- **Go-Live**: Detailed checklists utilized to prepare both client and its contractors for a successful "go-live"
- **Project Oversight**: B2Gnow's executive management team provides regular project oversight to guarantee client satisfaction, and is continually accessible throughout the entire contract term

While B2Gnow has developed a standard implementation process with detailed templates and guides, we realize that every customer is unique. The tools we have developed provide a proven methodology, while allowing the project manager to tailor the implementation tools to meet specific needs. This approach allows for a best-of-both-worlds implementation approach.

Implementation & Annual Fees

Included with the purchase and implementation of B2Gnow, we provide a host of services that will best serve our clients:

Annual Services include:
- Software Licenses
- System Management and Maintenance
- Managed Software
- Database Management
- Unlimited Staff Users
- All Standard Reports
- 1st Tier Technical Support for Vendor Users
- Technical Support for Staff Users
- Unlimited Staff Training via Webinar
- Training Manuals and Quick Guides
- Online Help Tools
- Access to System Updates and Enhancements

Implementation Services include:
- Dedicated Project Manager
- Module Set Up and Configuration
- Configuaration of Notification Templates
- Configuration of Portal Components
- Staff Training
- Standard Reports
- Creation of Initial Staff Accounts

B2Gnow provides a 100% warranty of the services that are provided. Within our 17 year history we have maintained a 100% client retention rate. We work extremely close with our clients to ensure client satisfaction and provide a partnership that goes beyond your average "software provider" relationship. Also included within our annual service, the City and County of Denver will receive unlimited training via webinar for staff and vendors that utilize the system.

Certificate Holder Information:

CITY AND COUNTY OF DENVER
Attn: Risk Management, Suite 8810
Manager of Aviation
Denver International Airport
8500 Peña Boulevard
Denver CO 80249

CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201631814 – B2GNow/ASK Reply, Inc

I.   MANDATORY COVERAGE

Colorado Workers' Compensation and Employer Liability

Minimum Limits of Liability (In Thousands) $100, $500, $100

1. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement. Any such rejections previously effected, must have been revoked as of the date Contractor executes this Agreement.

2. If the contractor/consultant is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

Commercial General Liability

Minimum Limits of Liability (In Thousands):

Each Occurrence:	$1,000
General Aggregate Limit:	$2,000
Products-Completed Operations Aggregate Limit:	$2,000
Personal & Advertising Injury:	$1,000

The policy must provide the following:
1. That this Agreement is an Insured Contract under the policy.
2. Defense costs are outside the limits of liability.
3. A severability of interests or separation of insureds provision (no insured vs. insured exclusion).
4. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
5. The full limits of coverage must be dedicated to apply to each project/location.
6. If liquor is to be sold or distributed, then Liquor Liability, ($1,000,000 per claim and $1,000,000 policy aggregate limit) with the City as an additional insured is required.

Business Automobile Liability

Minimum Limits of Liability (In Thousands):

Combined Single Limit $1,000

The policy must provide the following:
1. Coverage applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
2. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy.

II. ADDITIONAL COVERAGE

Excess/Umbrella Liability

Minimum Limits of Liability (In Thousands):

Umbrella Liability Non-Controlled Area	Each Occurrence and aggregate	$1,000

The policy must provide the following:
1. Coverage must be written on a "follow form" or broader basis.
2. Any combination of primary and excess coverage may be used to achieve required limits.
3. If operations include unescorted airside access at DIA, then a $9 million Umbrella Limit is required.

Technology Errors & Omissions

Minimum Limits of Liability (In Thousands)

Per Occurrence	$1,000
Aggregate	$1,000

The policy must provide the following:

1. Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.

2. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.

3. Policies written on a claims made basis must remain in full force and effect in accordance with CRS 13-80-104. The Insured warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under the Contract is completed.

4. Coverage for advertising injury, personal injury (including invasion of privacy) and intellectual property offenses related to internet.

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
2. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
3. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
4. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
5. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better.
6. For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
7. No changes, modifications or interlineations on this document shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give

notice to the Department of Aviation in accordance with policy provisions.

APPENDIX A

COMPLIANCE WITH NONDISCIRIMINATION REQUIREMENTS

NOTE: As used below the term "Contractor" shall mean and include Concessionaire, and the term "sponsor" shall mean the "City."

During the term of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1.   **Compliance with Regulations**. The Contractor will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

2.   **Nondiscrimination**. The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, creed, color, national origin, or sex in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3.   **Solicitations for Subcontractors, Including Procurements of Materials and Equipment**. In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4.   **Information and Reports**. The Contractor will provide all information and reports required by the Acts, Regulations or directives issued pursuant thereto and will permit access to its books, records, accounts other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the sponsor or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5.   **Sanctions for Noncompliance**. In the event of a Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the sponsor will impose such Contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the Contractor under this Agreement until the Contractor complies, and/or;

   b. Cancelling, terminating, or suspending this Agreement, in whole or in part.

6. **Incorporation of Provisions**. The Contractor will include the provisions of paragraphs one (1) through six (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations or directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

STANDARD FEDERAL ASSURANCES AND NONDISCRIMINATION IN CONSTRUCTION, MAINTENANCE, OPERATION OF FACILITIES

As used below, the term "sponsor" will mean City.

Concessionaire, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as part of consideration hereof, does hereby covenant and agree, as a covenant running with the land that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Concessionaire will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities, as may be amended from time to time, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2. With respect to this Agreement, in the event of breach of any of the above Nondiscrimination covenants, sponsor will have the right to terminate this Agreement, and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Agreement had never been made or issued.

APPENDIX D

STANDARD FEDERAL ASSURANCES AND NONDISCRIMINATION IN CONSTRUCTION, USE, OR ACCESS TO FACILITES

As used below, the term "sponsor" will mean City.

A. Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Pertinent Nondiscrimination Authorities.

B. With respect this Agreement, in the event of breach of any of the above nondiscrimination covenants, sponsor will have the right to terminate this Agreement and to enter, re-enter, and repossess said land and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

APPENDIX E

TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES

As used below, the term "Contractor" will mean and include Concessionaire and the term "sponsor" will mean City.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.,* 78 stat. 252), (prohibits' discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S. C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 1 00-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are Federally funded or not);

- Titles II and Ill of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high

and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S. C. 1681 et seq).

APPENDIX 1

DISADVANTAGED BUSINESS ENTERPRISES- REQUIRED STATEMENTS

As used below, the term "Contractor" will mean and include "Contractor" and the term "sponsor" will mean City.

Contract Assurance (§ 26.13) – The Contractor or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted Contracts.
Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) – The prime Contractor agrees to pay each subcontractor under this prime Contract for satisfactory performance of its Contract no later than thirty (30) days from the receipt of each payment the prime Contractor receives from Contractor. The prime Contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the sponsor. This clause applies to both DBE and non-DBE subcontractors.

APPENDIX 2

ACDBE NONDISCRIMINATION AND ASSURANCE REQUIREMENTS

(1) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations 49 CFR part 23. Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management Contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23.

(2) The Contractor agrees to include the above statements in any subsequent concession agreement or Contract covered by 49 CFR part 23, that it enters and cause those business to similarly include the statements in further agreements.

APPENDIX 3

ACDBE/DBE POLICY AND OBJECTIVE STATEMENTS:

This part 23.seeks to achieve several objectives:

(a) To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;

(b) To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;

(c) To ensure that the Department's ACDBE program is narrowly tailored in accordance with applicable law;

(d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs;

(e) To help remove barriers to the participation of ACDBEs in opportunities for concessions at airports receiving DOT financial assistance; and

(f) To provide appropriate flexibility to airports receiving DOT financial assistance in establishing and providing opportunities for ACDBEs.

Policy Statement

Section 26.1, 26.23 Objectives/Policy Statement

City has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, City has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of City to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT -assisted Contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT- assisted Contracts;

2. To create a level playing filed on which DBEs can compete fairly for DOT-assisted Contracts;

3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;

4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;

5. To help remove barriers to the participation of DBEs in DOT assisted Contracts;

6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

DSBO has been delegated as the DBE Liaison Officer. In that capacity. DSBO is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the sponsor in its financial assistance agreements with the Department of Transportation.

Sponsor has disseminated this policy statement to the City and County of Denver and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted Contracts.

CHIEF EXECUTIVE OFFICER

DBE Obligation. City and its Contractors agree to

ensure that disadvantaged business enterprises as defined

in 49 CFR Part 26 have the maximum opportunity to participate in the performance of Contracts financed in whole or in part with federal funds provided under this Agreement. In this regard, all recipients or Contractors will take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform Contracts. City and its Contractors will not discriminate on the basis of race, color, sex, creed or national origin in the award and performance of DOT-assisted Contracts.

49 CFR 26.5 defines a DOT-assisted Contract as any Contract between a recipient and a Contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees. "Contractor" means one who participates through a Contract or subcontract (at any tier) in a DOT-assisted highway, transit, or airport program.