

**AGREEMENT FOR
THIN CLIENT HARDWARE**

This Agreement for Thin Client Hardware ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Gray Matter Systems, LLC, a United States limited liability company, authorized to do business in the State of Arizona, ("Contractor"), as of the ____ day of _____, 2024.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto; and
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Key Personnel; Sub-contractors.

- 1.1 Services. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.
- 1.2 Project Team.
 - a. Project Manager.
 - (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
 - (2) The City must approve the designated Project Manager; and
 - (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
 - c. Discharge, Reassign, Replacement.
 - (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.
 - (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City

without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.

- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Contractor's Work.**

3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Contractor warrants that:

- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
 - (3) In such case, City shall also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$75,000, as specifically detailed in **Exhibit B** (the "Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.
 - a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. **Billings and Payment.**

5.1 Applications.

- a. Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.

- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Contractor and its Sub-contractors; and
 - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. **Termination.**

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the Effective Termination date, which may not be less than 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Goods or Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.**

8.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.

- b. General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$0 per occurrence and \$0 annual aggregate for each property damage and contractual property damage.
 - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$0 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$0 per accident for Contractor and \$0 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. Certificates of Insurance.
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.
- g. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

8.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8.4 Insurance Provision Not Used. Department is purchasing bulk computing devices only, no services on site.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Contractor warrants their compliance and that of its subcontractors with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Contractor or subcontractor's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Contractor and subcontractor warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties

shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

10. **No Boycott of Israel.** To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
11. **Uyghur Forced Labor Prevention Act (UFLPA).** Contractor certifies that it does not currently, and during the term of this Agreement, will not use:
 - a. the forced labor of ethnic Uyghurs in the People's Republic of China;
 - b. any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
 - c. any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
12. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
13. **Notices.**
 - 13.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.
 - 13.2 Representatives.
 - a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Gray Matter Systems, LLC
c/o Kristina Milashus
100 Global View Dr., Suite 200
Warrendale, PA 15086
 - b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Julie Ossege
7070 W. Northern Ave.
Glendale, Arizona 85303
(623) 930-4118

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

14. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

15. **Entire Agreement; Survival; Counterparts; Signatures.**

15.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

15.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

- 15.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- 15.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.
- 15.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 15.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.
- 15.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

16. Term.

- 16.1 Extensions. The term of this Agreement commences upon the effective date and continues for a one (1)-year initial period. There are no extensions or renewals of this Agreement.
- 16.2 Extension for Procurement Process. Upon the expiration of the Term of this Agreement, including the initial term and any renewals, at the City's sole discretion, this Agreement may be extended on a month-to-month basis for a maximum of six (6) months to allow for the City to complete its procurement process to select a vendor to provide the services/materials similar to those provided under this Agreement. The City will notify the Contractor in writing of its intent to extend the Agreement at least thirty (30) calendar days prior to the expiration of the Term. Any extension provided under this subsection will continue under the same terms and conditions as in effect immediately prior to the expiration of the then-current term.

17. Dispute Resolution. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

18. Cooperative Use of Contract. This agreement may be extended for use by other governmental agencies and political subdivisions of the State. Any such usage by other entities must be in accord with the ordinances, charter, rules and regulations of the respective entity and the approval of the Contractor and City. For a list of SAVE members, click on the following link: <http://www.mesaaz.gov/business/purchasing/save>

19. Exhibits. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

- Exhibit A Project
- Exhibit B Compensation

(Signatures appear on the following page.)

EXHIBIT A
GRAY MATTER SYSTEMS, LLC
PROJECT

Purchase of (90) ninety thin manager ready computers to replace existing equipment purchased back in 2016 and are no longer supported by the manufacturer. These computers are specifically designed to work in conjunction with the City's software (ThinManager) for the Supervisory Control & Acquisition Data (SCADA) system. Gray Matter Systems, LLC is the only authorized representative for Arista ThinManager ready computers. See attached sole source letter.

The parties enter into this Agreement as of the Effective Date shown above.

City of Glendale,
an Arizona municipal corporation

By: Kevin R. Phelps
Its: City Manager

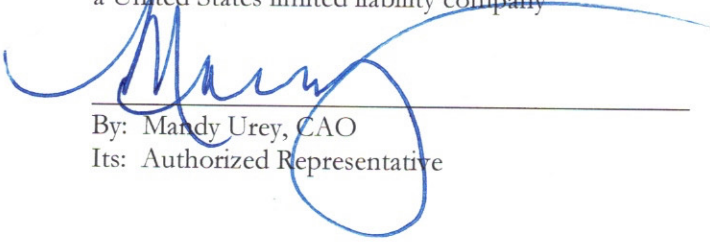
ATTEST:

Julie K. Bower
City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

Gray Matter Systems, LLC,
a United States limited liability company



By: Mandy Urey, CAO
Its: Authorized Representative

August 16, 2023

City of Glendale, Arizona
Project: Arista AP-3500-E01-003 Thin Client

This letter is to confirm GrayMatter Systems is the sole authorized distributor for Arista Corporation in the state of Arizona for the referenced project.

GrayMatter Systems is authorized to promote, sell, store, pack, handle and distribute AP-3500-E01-003 with the direct support and technical assistance of Arista Corporation.

Please feel free to contact us if you have any questions.

Best Regards,

Stewart Austin

Arista Corporation
48460 Lakeview Blvd.
Fremont, CA 94538
Office 510-226-1800 x170
Direct 858-488-3663



Industrial Computers: www.aristaipc.com
Professional Audio Video: www.aristaproav.com

EXHIBIT B
GRAY MATTER STYSTEMS, LLC
COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Gray Matter Systems, LLC will be compensated for the shipment of ninety computers per Attachment A and any applicable sales tax.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$75,000.

DETAILED PROJECT COMPENSATION

Gray Matter Systems, LLC will be compensated for ninety computers after equipment has been received by the City and an invoice is submitted for payment.



GRAY MATTER

Please make purchase order out to and remit payment to:

Gray Matter Systems LLC

100 Global View Drive

Suite 200

Warrendale, PA 15086

*Please reference quote number on your purchase order

Send purchase orders to:

orders@graymattersystems.com

Fax: 412-202-5053

Gray Matter Systems LLC

100 Global View Drive

Suite 200

Warrendale, PA 15086

Quote Number	00010781	Prepared By	Kristina Milashus
Expiration Date	11/30/2023	Email	kmilashus@graymattersystems.com
Account Name	CITY OF GLENDALE		
Created Date	9/6/2023		
Bill To	ATTN: ACCOUNTS PAYABLE GLENDALE, AZ 85301 US		
Contact Name	Joe Greth		
Opportunity Owner	Shaun Judd		

Line Item Description	Quantity	Sales Price	Total Price
AP-3500-E01-003: Intel J1900/E3845 CPU, 4GB DDR3, ThinManager Ready, Power Adaptor	90.00	USD 728.00	USD 65,520.00
Estimated shipping cost of (90) AP-3500-E01-003 via UPS Ground	1.00	USD 1,185.00	USD 1,185.00

Total Price	USD 66,705.00
Grand Total	USD 66,705.00

A purchase order must be received in full for the total amount of the quote. In the event of a multi-year commitment, if Customer fails to pay the total amount due during any year of the Term on the date(s) specified above, Gray Matter Systems, LLC will invoice Customer for the remainder of the Aggregate Fees, and Customer acknowledges such amount must be paid to Gray Matter Systems, LLC within thirty (30) days of the date of invoice. This is a non cancelable commitment.

Any software or support subscriptions (including multi year subscriptions) and / or custom orders for hardware or software are non cancelable, refundable or returnable. Customer agrees to these terms and these terms will supersede any terms and conditions on customer's purchase order or contract vehicle.

Purchase Order must be received by 11/30 to get discounted pricing.

TERMS AND CONDITIONS:

GMS Quotes do NOT include TAXES or FREIGHT charges. These applicable costs must be added to the customer Purchase Order before the order will be processed.

Payment Terms: Net 30

F.O.B.: Destination

TERMS AND CONDITIONS

(Acceptance)

Acceptance of Purchaser's order is expressly subject to Seller's terms and conditions of sale, contained herein, which shall take precedence over any other terms and conditions. No contrary, additional or revised provisions or conditions shall be binding on the Seller unless accepted by an Officer of Seller in writing. Should the terms and conditions contained herein differ in any way from the terms and conditions of the Purchaser's order, this acknowledgement shall be construed as a counteroffer and shall not be effective as an acceptance of such order unless Purchaser assents to the terms and conditions contained herein. The failure of Purchaser to object thereto in writing within ten (10) days from the date of receipt hereof shall constitute assent thereto. The terms and conditions contained herein shall constitute the complete and only agreement between Seller and Purchaser; it being intended by both parties that this document sets forth the entire agreement between the parties hereto as to the purchase of goods and/or services. All orders shall only become legally binding upon acceptance by Seller's main office, located in Warrendale, PA.

(Pricing)

The prices contained in this Proposal and Statement of Work shall be valid for thirty (30) days from the date of receipt, or upon Seller's prior notification of a price change to Purchaser, whichever occurs first. The prices contained herein do not include any federal, state, county local or other taxes levied on proposed goods and/or services, their use or sale, or on this agreement by any jurisdiction either within or outside the United States. Such taxes, where seller is required by law to collect them, whether designated as sales tax, gross receipts tax, occupation tax, etc., will be billed to the Purchaser based on the governing law in effect at the time of delivery unless Purchaser furnishes Seller with a proper Tax Exemption Certificate. Purchaser shall reimburse Seller for any state, county, or local taxes imposed, assessed, billed or becoming due and payable with regard to any goods and/or services furnished on or after the date said goods and/or services are located on Purchaser's premises. The prices contained herein do not include freight charges. Seller shall prepay transportation charges and Purchaser agrees to reimburse Seller for such charges within thirty (30) days of Purchaser's receipt of Seller's invoice. All freight, transportation and shipping charges shall be stated separately from other charges.

All deliveries shall be F.O.B. Seller's facility. Seller will select a carrier to ship Purchaser's order to Purchaser's specified destination, unless Purchaser indicates a

(Delivery)

specific carrier. Any goods, which Purchaser obtains from Seller to replace goods damaged or lost in transit, will be sold to Purchaser at Seller's standard prices in effect at the time of such replacement. All shipping dates quoted by Seller are ARO (After Receipt of Order) by Seller and reflect shipping dates, not delivery dates to Purchaser's facility. Shipping dates are approximate and are based upon prompt receipt by Seller of all necessary shipping information. Delays due to missing information such as product specification sheets, or credit examination will be in addition to Seller's quoted shipping times and may impact the originally scheduled shipping date. Partial shipments may be made unless specifically prohibited on Purchaser's purchase order. If this contract calls for the shipment of goods in separate lots, or if partial shipments are made as herein authorized, this contract shall be deemed an installation contract within the meaning of the applicable law. Seller does not return Purchaser's acknowledgements. Any shipment date is an estimate. Under no circumstances shall seller have any liability whatsoever for loss of use, or for any direct, incidental, or consequential damages resulting from delay, regardless of the cause(s).

TERMS AND CONDITIONS

(Ownership of Creative Work)

Seller maintains and holds the exclusive copyright to any and all applications developed, transmitted and/or delivered as part of this agreement. Seller grants to Purchaser, a limited, non-exclusive license to use the application and related documentation in Purchaser's facilities only. Purchaser shall obtain no title, ownership nor any other rights in and to the application or related documentation, nor in or to any algorithms, concepts, designs or ideas requested by or incorporated in the application or related documentation. Purchaser agrees that it shall not, with exception for one (1) back up copy, reproduce, copy or distribute the application or related documentation for any purpose without Seller's written consent.

(Payment Terms)

Unless otherwise agreed to by Seller in writing, all payments are due thirty (30) days from receipt of invoice and due at Seller's main office in Sewickley, PA. Purchaser agrees that Seller specifically retains a security interest under the Uniform Commercial Code in all goods and proceeds thereof to secure payment of all amounts due from Purchaser to Seller. Any payment not received when due are subject to a one and one half percent (1.5%) finance charge per month on the unpaid balance. If the unpaid balance is collected by or through an attorney at law or other licensed entity, Purchaser agrees to pay Seller for all reasonable attorney's fees and/or collection costs.

All purchases shall be subject to the terms and conditions contained herein. If at any time Purchaser fails to submit timely payments, or Seller determines the financial condition of the Purchaser does not justify the terms of payment established, Seller may, at Seller's sole option, require full or partial payment in advance or shall have the right to cancel any purchase order and shall be fully reimbursed for Seller's reasonable and proper cancellation charges. If an outstanding agreement for goods and/or services is terminated for any reason, all outstanding invoices will become due immediately

(Warranties, Limitations of Damages and Remedies)

Purchaser must look solely to all manufacturer warranties for specific information regarding warranties. Seller warrants all applications delivered to be free from defects in material and workmanship at the time of shipment and/or delivery to Purchaser's facility, and for a period of sixty (60) days from time of shipment and/or delivery to Purchaser's facility.

This warranty does not cover any goods and/or services which have been subject to misuse, accident, abuse, neglect, improper installation (installed by other than Seller), storage, and improper maintenance. Any alterations or repairs performed without express written consent of Seller will void the warranty. Seller shall not be liable for any loss of use, or for any direct, incidental, or consequential damages due to goods and/or services provided. All implied warranties and specifically the implied warranties of merchantability and fitness for a particular purpose are expressly excluded and disclaimed.

The terms of this warranty shall constitute Purchaser's sole and exclusive remedy and Seller's sole and exclusive liability with respect to this agreement. Seller shall have no further obligation or liability upon the expiration of the warranty periods set forth above.

Seller's liability to Purchaser (or that of Seller's Agent/Representative) arising from the supplying of goods and/or services, shall not in any case exceed the cost of the original purchase order.

Indemnification Purchaser shall indemnify and hold Seller, its parent corporations, subsidiaries, affiliates, suppliers, manufacturers, subcontractors, officers, directors, employees, representatives and agents harmless from any liability or damage whatsoever, including any court costs and attorney's fees arising from the use of any goods and/or services supplied by the Seller.

Unless otherwise noted, there is no right to return, exchange or cancel

Disputes

At the sole discretion of Seller, Seller may require any controversy, dispute or claim, of whatever kind, arising out of or relating to this agreement be resolved by and in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as from time to time amended and in effect. Any litigation or arbitration arising out of this agreement shall be brought, maintained and administered in Allegheny County, PA.

Should Seller be successful, in part or in whole, in prosecuting or defending any lawsuit or arbitration, then Seller shall be entitled to fully recover its litigation or arbitration expenses, including attorney's fees.

TERMS AND CONDITIONS Applicable Law

This agreement is made in and shall be governed by the laws of the Commonwealth of Pennsylvania, without giving effect to the conflict of law provisions of the laws of the Commonwealth of Pennsylvania.

Failure to Fully Compensate

Should Purchaser fail to fully compensate Seller for any goods and/or services provided, Seller shall be fully released from any obligations herein or otherwise.

Waiver

The waiver by Seller of any term, condition, or provision hereunder must be in writing and shall not be construed to be a waiver of any other term, condition or provision hereof, nor shall such waiver be deemed a waiver of a subsequent breach of the same term, condition or provision on this order or future orders.

Authority of Sellers Agents

No agent, employee, or representative of Seller has any authority to bind Seller or form a part of the basis of this agreement unless the agent, employee, or representative of Seller is specifically included within this agreement and accepted in writing by an officer of Seller.

Non-Solicit and Non-Hire

Purchaser agrees, for a period of one (1) year after conclusion of purchase, that purchaser shall not, without the prior written consent, directly or indirectly solicit, hire, entice, or encourage any person currently employed or who within six (6) months prior to the termination shall have been an employee or consultant of GrayMatter, to leave his or her employment or consulting position with the GrayMatter, or engage, or attempt or agree to engage, in any capacity, the services of any such person, or aid or assist anyone else to do so.

Force Majeure

Notwithstanding any provision of this Agreement to the contrary, neither party shall have any liability to the other for a temporary cessation of performance or delay in performance resulting from an event or occurrence beyond its reasonable control, including acts of God, actions by governmental authority (whether valid or invalid), pandemics, epidemics, flood, fire or other extreme weather conditions, national emergency, strikes or other labor difficulties, explosions, war, civil unrest, sabotage, power failure, equipment failure or any cause of like nature beyond its reasonable control; provided that nothing in this Section is intended nor shall it be construed to relieve either party hereto of any obligation to pay money hereunder or extend any time for payment hereunder.

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