

CONTRACT

THIS CONTRACT made and entered into this _____ day of _____, 2013 by and between the County of Cuyahoga, Ohio (the "County") on behalf of the Cuyahoga County Office of Emergency Management and GovDelivery, Inc., a Corporation with principal office located at 408 St Peter St, Suite 600, St Paul, MN 55102 (the "Provider")

WITNESSETH THAT:

WHEREAS: the COUNTY and PROVIDER enter into a contract in order to carry out the proposed plan set forth in this contract during the period of June 10, 2013 through and including June 10, 2015, or as adjusted by approved formal request.

The PROVIDER will provide the COUNTY with a mass notification system which will be used to alert employees, residents, governmental agencies, and non-governmental agencies of imminent danger; emergency situations; destructive weather alerts; delayed opening, closure or early dismissal of county employees; recall of special response teams; or any other information deemed appropriate.

NOW THEREFORE, the parties hereby agree as follows:

I SCOPE OF SERVICE

The PROVIDER shall provide all services necessary to provide mass notification services as outlined in the attached Scope of Work Exhibit "A".

The PROVIDER agrees to provide unlimited Administrative and Sub-user accounts allowing unlimited emergency and daily notification alerts to be sent out to recipients throughout Cuyahoga County.

The PROVIDER agrees that upon termination OR end of this contract, all data is property of the County and will be provided to the County in an excel spreadsheet or other agreed upon medium.

The PROVIDER will "clean up" any data received from the PROVIDER or other (3rd party) sources within 7-days of receipt of the data. This includes cross checking with GIS resources.

The County will pay the PROVIDER one-half (\$44,997.50) of the total annual contract price following contract approval and initial usage availability of the system. The County will pay the PROVIDER the remaining one-half (44,997.50) of the total annual contract price after six months of system usage. Fees for the second year annual system usage will be paid at months one (1) and month six (6).

The PROVIDER will be available for training as requested by the County, and at no additional cost throughout the life of the contract.

The PROVIDER shall be available for support assistance to the County 24/7/365, and must return all calls for support within 10 minutes of the request from the County.

II COMPENSATION-METHOD OF PAYMENT

The COUNTY shall reimburse the PROVIDER for allowable expenses incurred in providing the above services. Payment shall be made by the COUNTY to the PROVIDER based upon the above-mentioned Scope of Work. Payment shall be made within thirty (30) days following the receipt of the detailed, documented invoice of services from the Provider. **Compensation shall not exceed eighty nine thousand, nine hundred ninety five dollars (\$89,995) annually.** The county may withhold reimbursement, if the PROVIDER is determined to be in non-compliance status with Federal, State and/or COUNTY requirements, regulations and conditions and written notification of this non-compliance is submitted to the PROVIDER.

III AVAILABILITY

None of the work or services covered by this contract shall be subcontracted without prior written approval of the COUNTY.

IV TERM

This Contract will enter into effect as of **June 10, 2013**, and unless sooner terminated for cause, will terminate on **June 10, 2015**, unless otherwise extended and approved in writing by the COUNTY.

V TERMINATION

This Contract shall terminate on the date stated in Section IV above. The COUNTY reserves the right to reduce or cancel this contract thirty (30) days after providing written notification if funding related to this contract is reduced.

VI MODIFICATIONS

By mutual consent of the COUNTY and the PROVIDER, this Contract may be modified whenever such modifications are deemed necessary. Any such modification to this Contract shall be reduced to writing and signing by both parties.

VII NOTICES

Any reports, notices, invoices or communications required in this Contract shall be sufficient if sent by the parties United States Mail, postage paid, to the addresses noted below:

COUNTY:

Brandy Carney, Manager
Cuyahoga County Public Safety and Justice
Office of Emergency Management
310 W. Lakeside Avenue, Suite 795
Cleveland, Ohio 44113
Telephone: (216) 443-5691

AGENCY:

Mike Pearson
GovDelivery, Inc.
408 St Peter St, Suite 600
St Paul, MN 55102
Telephone: (248) 840-6439

or at such other address as may be designated by written notice.

VIII NON-DISCRIMINATION

The PROVIDER agrees to provide the program services without discrimination on account of race, sex, color, religion, national origin, age, occupation, physical or mental disability or veteran status to the extent of the law. The parties agree that discrimination and affirmative action clauses contained in Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 of the Code of Federal Regulations, are incorporated herein to the extent binding upon the PROVIDER.

IX COUNTY OF CUYAHOGA, OHIO HELD HARMLESS

The PROVIDER agrees to indemnify and hold harmless and defend Cuyahoga County elected officials, and all other persons or organizations cooperating in the conduct of the program, and their employees, agents, and officers (each of which persons and organizations is hereinafter called "indemnity") from and against any and all claims, loss, damages, liability, costs, expense, judgment or obligation whatsoever, for or in connection with injury (including death) or damage to any person or property resulting from, or in any way connected with the performance or failure to perform obligations hereunder by PROVIDER, and applies without limitation to injury or damage to third parties and the County of Cuyahoga and its respective property.

X COMPLIANCE WITH THE LAW

The PROVIDER agrees to provide the services in compliance with all applicable Federal, State and County laws, rules, regulations and ordinances.

XI ENTIRE CONTRACT

This Contract constitutes the full and complete expression of the Contract between the parties and supersedes any prior contemporaneous oral or written Contracts. This Contract shall not be amended, except by a written instrument signed by both parties.

XII ELECTRONIC CONTRACT

By entering into this Contract I agree on behalf of the contracting or submitting business entity, its officers, employees subcontractors, sub grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring County signatures affixed by the county to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of the County of Cuyahoga.

XIII INSURANCE

The contractor shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

1. Mandatory Insurance Requirements

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless

otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;
\$1,000,000 each employee for bodily injury by disease;
\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;
\$1,000,000 personal & advertising injury;
\$2,000,000 general aggregate;
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

Note: If the services required under this Contract include the repairing, servicing, parking or storing of vehicles, then the following insurance coverage shall also be required:

Garagekeepers Legal Liability Insurance with a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident.

2. **Additional Insurance Coverage**

Each of the following eight items is optional unless otherwise required by the terms of this specification.

(a) **Umbrella/Excess Liability Insurance** with limits of liability not less than:

\$5,000,000 each occurrence
\$5,000,000 general aggregate
\$5,000,000 products/completed operations aggregate

Such insurance shall be written on an occurrence basis and shall sit in excess of the limits and terms set forth in the preceding items (a)-(c).

(b) **All Risk Equipment Insurance** covering all risk of physical damage to equipment provided for use by Contractor.

(c) **Errors & Omissions Liability Insurance** providing coverage for claims arising out of the provision of design, architectural, engineering and/or other professional services with a limit of liability not less than:

\$5,000,000 per claim;
\$5,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

(d) **Pollution Legal Liability Insurance** (including Contractors Pollution Liability Insurance, if applicable) with a limit of liability not less than:

\$1,000,000 per claim;
\$1,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis, however, if written on a claims made-basis, the claims-made retroactive date on the policy shall be prior to the commencement of any work related to this Contract.

(e) **Liquor Liability Insurance** with a limit of liability not less than:

\$1,000,000 per occurrence;
\$1,000,000 aggregate.

(f) **Aviation Liability Insurance** covering the use and maintenance of all owned and non-owned aircraft of any type with a limit of liability not less than:

\$10,000,000 per occurrence;
\$10,000,000 aggregate.

(g) **Marine Liability Insurance** covering the use and maintenance of all owned and non-owned watercraft with a limit of liability not less than:

\$5,000,000 per occurrence;
\$5,000,000 aggregate.

(h) **Builders Risk Insurance** on an All Risks Property Coverage Form covering damage to buildings or other structures while under construction or renovation including materials and fixtures whether or not yet incorporated into the buildings or other structures.

Insurance Coverage Terms and Conditions

1. The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the “County of Cuyahoga, Ohio and its employees” as an Additional Insured and shall contain the following provisions:
 - (i) Thirty (30) days prior notice of cancellation or material change;
 - (ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.
2. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best’s rating of A VII or above.
3. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.
4. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.
5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.
6. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.
7. The Contractor shall furnish a Worker’s Compensation Certificate and Certificate of Insurance evidencing the insurance coverage(s) required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

IN WITNESS WHEREOF, the COUNTY and the PROVIDER have executed and delivered this CONTRACT as of the date first written above.

COUNTY OF CUYAHOGA, OHIO

Edward FitzGerald, County Executive

BY: Ed FitzGerald/apc
2013-06-20 11:56:17
Edward FitzGerald, County Executive

GOVDELIVERY, INC.

BY: Mike Pearson

Mike Pearson, Director – State & Local Solutions