

**INTEGRATION AGREEMENT FOR  
THE CITY OF SAN ANTONIO  
FOR ALAMODOME PARKING POINT OF SALE (POS) SYSTEM**

**REQUEST FOR COMPETITIVE SEALED PROPOSAL  
NO.: 6100008913**

**BETWEEN THE CITY OF SAN ANTONIO, TEXAS  
AND  
PANDA PARKING CORP.**

STATE OF TEXAS

COUNTY OF BEXAR           §§§

This Agreement is entered into by and between the City of San Antonio, Texas, a home-rule municipal corporation (City), and PANDA PARKING CORP., (“PANDA”) both of which may be referred to herein collectively as the “Parties”

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**10   CONTRACT DOCUMENTS**

The terms and conditions for performance and payment of compensation for this Agreement are set forth in the following contract documents, true and correct copies of which are attached hereto and fully incorporated herein for all purposes, and shall be interpreted in the order of priority as appears below:

- a       This Integration Agreement;
- b       City’s Request for Competitive Sealed Proposal (RFCSP) 6100008913, including all attachments, addendums, best and final offers, and clarification statements thereto (Exhibit A);
- c       Panda Revised Price Schedule (Exhibit B);
- d       Revised Traceability Matrix and Technical Standards (Exhibit C);
- e       PANDA Statement of Work (Exhibit D); and
- f       PANDA Response to RFCSP 6100008913 (Exhibit E).

20 TERM

The term of the Agreement will be for a 3 year period. The City shall have the option to renew for 2 additional 1 year periods without additional City Council approval.

3.0 INSURANCE

Prior to the commencement of any work under this Agreement, PANDA shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City’s Finance Department, Purchasing Division, which shall be clearly labeled “ALAMODOME PARKING POINT OF SALE (POS) SYSTEM” in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent’s signature and phone number. The certificate should be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City’s Finance Department, Purchasing Division. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City’s Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

PANDA’s financial integrity is of interest to the City; therefore, subject to PANDA’s right to maintain reasonable deductibles in such amounts as are approved by the City, PANDA shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at PANDA’s sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

PANDA agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of PANDA herein, and provide a certificate of insurance and endorsement that names the PANDA and the CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of PANDA. PANDA shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City’s Risk

Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. PANDA shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. PANDA shall pay any costs incurred resulting from provision of said documents.

City of San Antonio  
Attn: Convention & Sports Facilities  
P.O. Box 839966  
San Antonio, Texas 78283-3966

PANDA agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.

Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, PANDA shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend PANDA's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies the City may have upon PANDA's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order PANDA to stop work hereunder, and/or withhold any payment(s) which become due to PANDA hereunder until PANDA demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which PANDA may be held responsible for payments of damages to persons or property resulting from PANDA's or its subcontractors' performance of the work covered under this Agreement.

It is agreed that PANDA's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under

this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

PANDA and any Subcontractors are responsible for all damage to their own equipment and/or property.

#### 4.0 INDEMNIFICATION

PANDA covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to PANDA'S activities under this Agreement, including any acts or omissions of PANDA, any agent, officer, director, representative, employee, consultant or subcontractor of PANDA, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT PANDA AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. PANDA shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or PANDA known to PANDA related to or arising out of PANDA's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at PANDA's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving PANDA of any of its obligations under this paragraph.

Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of PANDA, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for PANDA or any subcontractor under worker's compensation or other employee benefit acts.

## 5.0 LAW APPLICABLE

- 5.1 **THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**
- 5.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Contract shall be heard and determined in the City of San Antonio, Bexar County, Texas.

## 5.0 TERMINATION

- 6.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated, or earlier termination pursuant to any of the provisions hereof.
- 6.2 Termination Without Cause. This Agreement may be terminated by City upon 30 calendar days written notice. In the event of such termination by City, City shall pay PANDA for all work executed and materials delivered to City in accordance with this Agreement, and costs incurred by reason of such termination.
- 6.3 Termination For Cause. Upon written notice, either party may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:
- 6.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, which shall not be reasonably be withheld, provided that no such prior approval shall be required in the event of a party's assignment of this Agreement to an affiliate.
- 6.3.2 City's failure for a period of thirty (30) days to pay PANDA for service and/or materials under of this Agreement.
- 6.4 Defaults With Opportunity for Cure. Should PANDA materially default in its performance under this Agreement, City shall deliver written notice of said default to PANDA specifying such matter(s) in default. PANDA shall have thirty (30) calendar days after receipt of the written notice to cure such default. If PANDA fails to cure the default within such thirty-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and, in the event of a partial termination the terms and conditions of this Agreement shall be adjusted accordingly. City shall also have the right to seek replacement services with a subsequent vendor and PANDA shall be responsible for any costs incurred by City in procuring such replacement services in excess of the costs it would have incurred under this Agreement had it not been terminated, subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 65 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- 66 Regardless of how this Agreement is terminated, PANDA shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by PANDA, or provided to PANDA, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by PANDA. Payment of compensation due or to become due to PANDA is conditioned upon delivery of all such documents, if requested. The parties will work in good faith to determine what transfers are necessary.
- 67 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue PANDA for any default hereunder or other action.
- 68 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation. In the event of such termination by City, PANDA shall be entitled to payment in full for all work which PANDA has performed in accordance with this Agreement and all equipment which PANDA has delivered to the City pursuant to this Agreement.

**7.0 ENTIRE AGREEMENT**


This Agreement, together with its exhibits, if any, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless the same are in writing, dated subsequent to the date hereto, and duly executed by the parties.

**EXECUTED** and **AGREED** to as of the dates indicated below. This Agreement may be executed in multiple copies, each of which shall constitute an original.

**CITY OF SAN ANTONIO**

**PANDA PARKING CORP.**

\_\_\_\_\_  
 Michael Sawaya  
 Director, Convention and Sports Facilities

  
 \_\_\_\_\_  
 Adam Zilberbaum  
 CEO, Panda Parking Corp.

Date: \_\_\_\_\_

Date: 12/6/2017

Approved as to Form:

\_\_\_\_\_  
 Assistant City Attorney