

## **TECHNOLOGY SERVICE AGREEMENT BUILDINGEYE PLATFORM**

This Technology Service Agreement (hereinafter "Agreement") is made and entered into by and between the City of Lexington, an urban-county government pursuant to KRS Chapter 67A n (hereinafter "City"), and Buildingeye Inc., a Delaware Corporation (hereinafter "Consultant"). City and Consultant may be collectively referred to herein as the "parties."

### **RECITALS**

- A.** City requested a proposal from Consultant to provide a data visualization application to present Accela Back Office ERP data using their methods and interfaces.
- B.** In response to the City's request, Consultant submitted a proposal, and, after negotiations, Consultant agreed to perform the services more particularly described on Exhibit "A," in return for the compensation described in this Agreement and Exhibit "B."

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:**

#### **1. DEFINITIONS.**

**"Documentation"** means user guides, and workbooks, as updated and amended from time to time, provided by Consultant to assist Customer with the use of Software

**"Initial Constructive Use"** Initial constructive use the earliest point in time where all Software delivered under the terms of this agreement is available for the enjoyment to the City and is sufficiently free of errors for the City to use it to conduct the ordinary business for which it is intended.

**"Hosted Service"** means that Consultant owns, provides and oversees infrastructure, software and administrative tasks and makes its buildingeye platform available to City over the Internet using a standard web browser. The Hosted Service includes the software and network capacity as well as the equipment used to support operations including storage, hardware, servers and networking components. The infrastructure in the hosted environment is properly secured through multiple physical, procedural, and technical safeguards to segregate and protect City's data.

**"Metadata"** means complementary data, provided by the City to enhance the buildingeye product to include GIS information (districts, neighborhoods, zip code areas) that assists a user to find information in intuitive ways.

**"Private Release"** means the buildingeye Module is in the main configured for use by the City, before going Live and is deemed delivered in "Private Release" form. Each module is delivered once complete. The proposed project schedule when agreed between Consultant and City is completed accordingly. A "Private Live Release" means City data for a given period is available with all its functions operational on

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the buildingeye platform on the basis of an agreed configuration file.

**“Software”** means all or any portion of the global version of the binary computer software programs and updates and enhancements thereto, (including corresponding source code, unless specifically excluded herein) and Documentation delivered by Consultant to City. Software includes the third-party software delivered by Consultant as specified in the Schedule, and modifications made to the Software. Software does not include source code to third party software. Unless specifically stated otherwise, all Software is delivered to Customer only if and when generally commercially available.

2. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit “A,” attached hereto and incorporated herein by reference, in accordance with the terms and conditions contained in this Agreement.

3. **TIME FOR PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to City in writing no later than five (5) working days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.

4. **HOSTED SERVICE.**

**4(A). Right to Use the Hosted Service, Software and Documentation.** In consideration of all obligations of City hereunder, including, without limitation, the payment by City of any applicable fees, Consultant hereby grants to City, during the term of this Agreement, a non-exclusive, non-transferable (except as otherwise provided for herein), right and license to access and use the Software and Hosted Service, and to make a reasonable number of copies of and use the Documentation in connection with such use of the Hosted Service.

**4(B). Use Restrictions.** City shall not: (i) access and/or use the Software or Hosted Service in order to design, create or build a service or product that is competitive with the Software or Hosted Service, or which uses ideas, features or functions that are similar to the Software or Hosted Service; (ii) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Software or Hosted Service, except as expressly permitted herein; and (iii) modify or make derivative works based upon the Software or Hosted Service or any part thereof, or directly or indirectly disassemble, decompile, or otherwise reverse engineer the Software or Hosted Service or any portion thereof.

**4(C). Proprietary Rights.** The Software and Hosted Service, including all intellectual property rights therein and thereto, and any modification thereof, are and shall

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remain the exclusive property of Consultant and its licensors. City shall not take any action that jeopardizes the proprietary rights of Consultant or its licensors or acquire any right in the Software or Hosted Service except the limited rights expressly granted in this Agreement.

**4(D). Internet and Telecommunication Connections.** City shall be responsible for obtaining any and all Internet and/or telecommunication connections used by City to access the Hosted Service. Consultant shall have no responsibility or liability for any interruption or delay in accessing or using the Hosted Service arising out of such Internet or telecommunications connections.

**4(E). Security of Hosted Service.**

- (i) Consultant shall provide the Hosted Service on redundant servers on a dedicated server infrastructure in an electronically restricted facility, including protecting the infrastructure from the external environment via firewall systems, at two secure locations in separate counties.
- (ii) Consultant shall take commercially reasonable precautions to ensure that the Hosting Service is secure. Consultant protects sensitive data such as passwords by using a minimum of 256-bit SSL encryption. As the Consultant hosting environment evolves with new technologies, Consultant will use reasonable commercial efforts to maintain an equivalent or better level of security of City Content.
- (iii) Consultant will notify City of any known breach of its security related to areas, locations, or computer systems that contain City Content in a timely manner following such breach and take any necessary remedial actions at its sole cost and expense.

**4(F). City Content.**

- (i) City shall provide City Content for inclusion in the Software. City is responsible for the quality of City Content provided. Consultant is responsible for the quality of the display or use of City Content provided for inclusion in the City database.
- (ii) Consultant acknowledges that all data provided by City will remain the sole property of the City. City grants Consultant a non-exclusive, transferable, perpetual, worldwide, royalty free license to copy, modify, and make derivative works of data or information submitted by City to Consultant for the development of new software for the exclusive use of City, or the provision of software services provided exclusively to City.
- (iii) Consultant acknowledges that City is entitled to copy, export, or otherwise duplicate any available City Content at any time.
- (iv) In the event this Agreement expires or is terminated, Consultant shall provide City with all City Content within thirty (30) calendar days of such termination or expiration. The dedicated data files will be comprised of City Content contained in Consultant's Hosted Service.

**5. PAYMENT.**

**5(A). Billing.** In order to request payment, Consultant shall submit invoices to City, identifying the services performed in the billing period, milestones achieved, contract

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deliverables performed, and the charges therefor, as set forth in Exhibit "B," attached hereto and incorporated herein by reference.

**5(B). Payment.** City shall pay all Fees within thirty (30) days from the date of each Consultant invoice. Unpaid invoices may be subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum allowed by law, whichever is lower, plus all expenses of collection.

**5(C). "Not-to-Exceed" Compensation.** The compensation payable to Consultant for the services identified in Exhibit "A" shall not exceed \$40,000 in the first year. Consultant shall not perform any services beyond the services identified in Exhibit "A" without prior written authorization from City's Authorized Representative.

**5(D). Consultant's Failure to Perform.** In the event that Consultant performs services which do not comply with the requirements of this Agreement, Consultant shall, upon receipt of written notice from City, re-perform the services (without additional compensation to the Consultant). If Consultant's failure to perform in accordance with this Agreement causes damages to City, Consultant shall reimburse City for the damages incurred (which may be charged as an offset to Consultant's payment).

**6. AUTHORIZED REPRESENTATIVES.**

**6(A). Consultant's Authorized Representative.** Consultant understands that, in entering into this Agreement, City has relied upon Consultant's ability to perform in accordance with its representations regarding the qualifications of the Consultant (including the qualifications of its Authorized Representative, its personnel, and its subconsultants, if any) identified in Exhibit "C," attached hereto and incorporated herein by reference. Therefore, Consultant shall not replace its Authorized Representative, or any of the personnel or subconsultants identified in Exhibit "C," without the prior written consent of City. All services under this Agreement shall be performed by, or under the direct supervision of, Consultant's Authorized Representative, as identified in Exhibit "C."

**6(B). City's Authorized Representative.** For the performance of services under this Agreement, Consultant shall take direction from City's Authorized Representative, [*Kevin Wentz or appointed Project Manager*], unless otherwise designated in writing by City's Authorized Representative or City Manager.

**7. INFORMATION AND DOCUMENTATION.**

**7(A). Information from City.** City has made an effort to provide Consultant with all information necessary for Consultant's performance of services under this Agreement. If Consultant believes additional information is required, Consultant shall promptly notify City, and City will provide to Consultant all relevant non-privileged information in City's possession.

**7(B). Consultant's Accounting Records.** Consultant shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four years.

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Consultant's accounting records shall include, at a minimum, all documents which support Consultant's costs and expenses related to this Agreement, including personnel, subconsultant invoices and payments, and reimbursable expenses. Consultant's accounting records shall be made available to City within a reasonable time after City's request, during normal business hours.

8. **RELATIONSHIP BETWEEN THE PARTIES.** Consultant is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's agent, and shall have no authority to act on behalf of City, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Consultant. Consultant is not an officer or employee of City, and Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement.
9. **CONFLICTS OF INTEREST PROHIBITED.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. Any such conflict of interest shall be disclosed to the City's Authorized Representative, in writing, upon discovery.
10. **NONDISCRIMINATION.** Consultant shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Consultant shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, or gender.
11. **COMPLIANCE WITH LAW AND STANDARD OF CARE.** Consultant shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement. Consultant shall perform services under this Agreement using a standard of care equal to, or greater than, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Consultant, performing under circumstances similar to those required by this Agreement.
12. **INSURANCE.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant (including its agents, representatives, subconsultants, and employees) in connection with the performance of services under this Agreement of the types and in the coverage amounts set forth in Exhibit "D" entitled "Insurance Requirements." This Agreement identifies the minimum insurance levels with which Consultant shall comply; however, the minimum insurance levels shall not relieve Consultant of any other performance responsibilities under this Agreement (including the indemnity requirements), and Consultant may carry, at its own expense, any additional insurance it deems necessary or prudent. Concurrently with the execution of this Agreement by the Consultant, and prior to the commencement of any services, the Consultant shall furnish written proof of insurance (certificates and endorsements), in a form

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acceptable to City. Consultant shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.

**13. CONFIDENTIAL INFORMATION.**

**13(A).** The term “Confidential Information” shall mean any and all information which is disclosed by either party (“Owner”) to the other (“Recipient”) verbally, electronically, visually, or in a written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary. Confidential Information includes, but is not limited to, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information, financial information, confidential information concerning Owner’s business, as Owner has conducted it or as it may conduct itself in the future, confidential information concerning any of Owner’s past, current, or possible future products or manufacturing or operational methods, including information about Owner’s research, development, engineering, purchasing, manufacturing, accounting, marketing, selling or leasing, and any software (including third party software) provided by Owner. Owner’s Confidential Information shall be treated as strictly confidential by Recipient and shall not be disclosed by Recipient except to those third parties with a need to know and that are operating under a confidentiality agreement with non-disclosure provisions no less restrictive than those set forth herein. This Agreement imposes no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence: (a) was in the possession of, or was rightfully known by the Recipient without an obligation to maintain its confidentiality prior to receipt from Owner; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation on confidentiality; (d) is independently developed by Recipient without the participation of individuals who have had access to the Confidential Information; or (e) is required to be disclosed by court order or applicable law, provided prior notice is given to the Owner. The Recipient shall not obtain, by virtue of this Agreement, any rights title or interest in any Confidential Information of the Owner. Within fifteen (15) days after termination of this Agreement, each party shall certify in writing to Owner that all copies of Owner’s Confidential Information in any form, including partial copies, have been destroyed or returned to Owner.

Consultant acknowledges that City is a governmental agency and may be required to release certain information under requests made according to provisions of the Kentucky Open Records Act.

**13(B).** Recipient shall protect the deliverables resulting from Services with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which Recipient utilizes for Recipient’s Confidential Information.

**13(C).** The terms of this Section 14 shall survive termination of this Agreement.

**14. REPORTING DAMAGES.** If any damage (including death, personal injury or

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property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at **1-800-372-5402 (M/W/F) & (859) 425-2481 (T/Th)**, and Consultant shall promptly submit to City's Risk Manager and City's Authorized Representative, a written report (in a form acceptable to City) with the following information: (a) name and address of the injured or deceased person(s); (b) name and address of witnesses; (c) name and address of Consultant's insurance company; and (d) a detailed description of the damage and whether any City property was involved.

**15. INDEMNIFICATION.**

**15(A).** Consultant agrees to indemnify, hold harmless, and defend City, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Consultant's (or Consultant's subcontractors if any) performance or breach of the contract provided that such claim, damage, loss, or expense is (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or from negligent acts, errors or omissions and (2) not caused by the negligent act or omission or willful misconduct of City or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

**15(B). Copyright and Patent Indemnification.** Notwithstanding Section 15(A) of this Agreement, claims which trigger Consultant's responsibility under Section 14 shall include any claims that the software resulting from the provision of Services pursuant to the attached Exhibit "A," Scope of Services, infringe any patent, copyright, or accidental or intentional violation of a trade secret or other intellectual property of a third party not included in this Agreement. Consultant shall, in its reasonable judgment and at its option and expense: (i) obtain for the City the right to continue using the Software; or (ii) replace or modify the Software so that it becomes non-infringing while giving equivalent performance. Consultant shall not have any liability for a claim alleging that any Software infringes a patent or copyright if the alleged infringement was developed based on information furnished by the City or if the alleged infringement is the result of a modification made by the City.

**16. LIMITED WARRANTY.**

**16(A).** Consultant warrants that it has title to the Software and/or the authority to grant licenses to use the Software.

**16(B).** Consultant warrants that the Software will perform substantially in accordance with the Documentation for a period of one year from the date of initial installation and that the Software media is free from material defects. Consultant does not warrant that the Software is error-free.

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**16(C).** Consultant's sole obligation with respect to its limited warranty is limited to repair or replacement of the defective Software, provided Licensee notifies Consultant of the deficiency within the one-year period and provided Licensee has installed all Software updates provided pursuant to Consultant's Support Services.

**16(D).** Consultant warrants that to the best of its knowledge, information, and belief, the Software does not contain any known viruses, back-doors or time bombs, (or similar malicious code), or undocumented security codes that could prevent Licensee's perpetual use of the Software.

**16(E).** Consultant will commence and complete the obligations described in this Agreement in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of Consultant's industry, to ensure that the operation and availability of the Hosted Applications does not materially differ from documented specifications. Consultant may make repeated efforts within a reasonable time period to resolve operational issues. When an operational issue cannot be resolved, City's exclusive remedy will be damages in an amount equal to the total of hosting fees paid to Consultant for the defective or non-conforming software products amongst the Hosted Applications during the six (6) calendar months immediately preceding the occurrence of the unresolved operational issue.

**16(F).** CONSULTANT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- 17. TERM OF THE AGREEMENT.** The term of this Agreement shall commence on the date last signed by the parties, below, and shall continue until completion of all services in accordance with the timing requirements set forth in Exhibit "A" and paragraph 3 of this Agreement. If the City exercises its right to terminate this Agreement in accordance with this paragraph, the City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, through and including the date of termination.
- 18. RENEWAL.** Subject to compliance with all terms and conditions, the initial term of this Agreement shall be from the Effective Date and shall continue for an initial term of twelve (12) months. At the end of the initial term, this Agreement shall automatically renew for a maximum of two successive periods of twelve (12) months, unless either party gives the other party written notice of non-renewal at least thirty (30) days prior to the renewal date (such renewal periods and the initial period, collectively the "Term"). The customer will be billed on an annual basis.
- 19. DEFAULT.** If either party ("demanding party") has a good faith belief that the other party ("defaulting party") is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten days of the notice; or (b) if more than ten days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance



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within ten days of the notice; then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.

- 20. NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative; or (b) actual receipt at the address designated below; or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

**To: City**

Kevin Wenthe, Administrative Office Sr.  
Planning, Preservation & Development  
200 E. Main Street  
Lexington, KY 40507

**To: Consultant**

Ronan Barrett, President  
Buildingeye Inc.  
100 Pine Street, #1250  
San Francisco, CA 94111

- 21. HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
- 22. SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
- 23. GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in Lexington-Fayette County.
- 24. ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- 25. ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
- 26. MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

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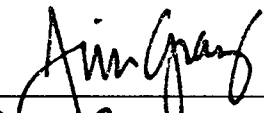
- 27. WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 28. CONFLICTS.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.
- 29. ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

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**30. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.


**IN WITNESS WHEREOF,** the City and Consultant do hereby agree to the full performance of the terms set forth herein.

**CITY OF LEXINGTON**

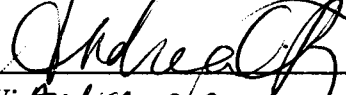
By:   
Title: Jim Gray, Mayor  
Date: SEP 13 2018

**CONSULTANT**

Buildingeye, Inc., a Delaware Corporation

By:   
Title: President  
Date: 7/25/18  
Tax ID: 42-1776632

**APPROVED AS TO FORM:**

By:   
Title: Attorney

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**Exhibit “A”**  
**SCOPE OF SERVICES**

**A. OBJECTIVE**

A buildingeye platform is provided in modules aligned with building and planning records. The scope of services provides for historical data for five (5) years and professional services for integration. The objective of the application is to visualize data for cases going through the city’s Accela ERP system, the city’s review process and to communicate this information to citizens and staff through a mapping interface. In addition, email notification alerts can be provided based on a neighborhood or a given radius around a chosen area of interest. Users with access to City buildingeye URL can setup a User Profile and create alerts. The map can be filtered to search for different building permit or planning application types.

**B. PROJECT TIMELINE**

Consultant will implement the visualization of the City’s data within a timeframe of six (6) weeks from the contract execution date. The project timeline is a 6 week program that requires less than four (4) hours of allocated time for conference call with the relevant Planning Department staff from the City during the build stage.

**C. PROJECT APPROACH**

Consultant works with the City on an agreed schedule of work to include, but not limited to, the setup of communications between the project liaisons, prerequisite requirements, provision of access to the Accela system via API (Application Program Interface), engagement on technical, product delivery and other matters as they arise. The steps are as follows:

1. Consultant is granted access to the Accela back office systems via the Accela Construct API v3 or later.
2. Consultant presents a Configuration (on the basis of a test data extraction) to gather detailed information based on field in the Accela back office systems and/or the csv/xls file – this is circulated with the City Project Team for comment/direction.
3. Consultant prepares a fully functioning Module following the integration and testing of the data extracted from the Accela system for the City Project Team to review.
4. The Module is continually monitored by the Consultant Project team and is further updated based on feedback from the City Project Team – this is an iterative process and set out in the project schedule.
5. Each buildingeye Module undergoes testing, goes Live and is deemed delivered in Private Release form. Each module is delivered once complete. The proposed project schedule when agreed between Consultant and City is completed accordingly.

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6. Meetings are scheduled for a one-hour time period with the project coordinator on a weekly basis to ensure continuity of communication and visibility of buildingeye progress to the City.

**D. FUNCTIONAL REQUIREMENTS**

1. **Web Service Compatibility.** The buildingeye application is compatible across all standard based web browsers on desktop, tablet and mobile devices.
2. **Data Visualization.** The buildingeye application functions in a logical workflow and visualization for the general public, agency staff and officials. Each marker on buildingeye is interactive, when clicked an information panel appears with details and links to back office record details. The interface is pre-populated with markers for the relevant module, noting where records exist. The City logo will be included consistently throughout buildingeye located on the top bar. Data is visualized on a web application (compatible for mobile and tablet) with the ability to filter applications by keyword, type, timeframe and status. A user may need to be registered to see certain features and attributes. The map icons are dynamic and produce an information window with metadata on the application/project and a link to further information in Accela Citizen Access. The workflow should be clear for users to understand where in the process the project is.
3. **Search Functions.** All information can be searched / filtered as per the list presented on the basis of the information being provided to buildingeye by City. All search, retrieve and presentation of records is freely available to Users.
4. **Alerts.** The buildingeye application enables users to create an account using an email address and select their preference for an alert for a selected geographic location. A user can amend preferences, unsubscribe and/or delete their account without restrictions. Alert frequencies will be adjustable.

**E. FRONT END DESIGN**

The style of the buildingeye platform is a clean and effective UI/UX design. The transition between modules is as smooth as possible so the user understands what they are visualizing and filtering.

**F. MAPPING LAYER**

Buildingeye currently uses MapQuest for its tile layer. This is acceptable to the City and there is no license costs associated with this. However, if the City prefers an alternative tile layer, Consultant can investigate this. Any license fee resulting from this change would be incurred directly by City. There could also be development costs associated with working with different mapping layers, depending on what is selected. Consultant and City will use City APN references to geocode addresses. City will provide a jurisdiction boundary and shapefiles specific to the City to supplement the MapQuest tile layer.

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**G. FILTER TOOLS**

A user will be able to filter their search by the following:

1. Address
2. Area: Zip code, Neighborhood, Districts
3. Status, as reflected in the Accela software system and agreed with the Department
4. Keyword
5. Date range
6. Types – Building (Permits) and Planning (Applications)

**H. EMAIL ACCOUNT / ALERTS**

A user who wishes to create and receive alerts must do the following:

1. Create a personal account and verify their email address to validate its authenticity
2. Create an alert by choosing a geographic location to alert on or a Neighborhood
3. Set the notification frequencies

Once the above is completed the user can manage their alerts through a user dashboard where they can delete or change the frequency of the alert.

**I. DATA SUPPLY**

City is responsible for the creation and supply of all data through the existing Accela ERP software API. Consultant will work with City to clarify the data being visualized. The format and method of data delivery will be standardized and agreed upon by both parties. City will provide data on all necessary metadata, geographic information and hyperlinks. This is to facilitate the email alerts and search filtering. Consultant requires access to the Accela ERP API via a defined user account.

**J. EXTENT OF DATA VISUALIZED**

The Data supplied will be from 07/01/2016 as per City instructions; however, buildingeye has the ability to show more data than this.

**K. HOSTING AND TECHNICAL ASSISTANCE**

Buildingeye provides an always-on service; support and escalation procedures are documented, tested and available. The data input, visualization and email functionality is managed, hosted and powered by Consultant. Formal instruction sheets for support and escalation are provided prior to the launch of the buildingeye platform. Upon product launch, City, through the authorized project manager/point of contact can phone, email or create a ticket in Consultant ticketing system to interact with Consultant executive management or operations team. Feedback form is also built into the buildingeye product for anyone to submit a query. Feedback is diverted to Consultant's ticketing system,

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then followed up with the user or forwarded to City depending upon the issue. Consultant operational support includes a personable level of support for all customers. Consultant, at any time, can be reached by phone and/or email (raising a support ticket is preferable so requests can be processed in a timely manner). Most issues are dealt with within 8 hours, if Consultant is at fault. All other issues, including data or system changes by the City are programmed and completed within agreed and acceptable timeframe.

### **L. MAINTENANCE AND SYSTEM OUTAGES**

Consultant provides notification when it is determined that the service is not available during normal working hours. Currently all maintenance of the service are silent, meaning that users are not aware a maintenance is taking place. For system outages (due to third parties, such as AWS), Consultant notifies City of the issue, and provides guidance on the possible length of time it will affect service.

### **K. DATA STORAGE**

Databases are replicated and are backed up daily outside peak times of demand. All data is held at datacenters in the US and is secured, maintained and managed using industry standard best practices.

### **DELIVERABLES**

The set of buildingeye deliverables are as follows:

- 1. Mapping Interface.** Visualize data from the City Accela ERP system onto the buildingeye application with the ability to filter applications by keyword, application type, timeframe and status. The map icons are dynamically available and produce an information window with metadata on the application/project and a link to further information to City's Accela Citizen Access page. The workflow should be clear for users to understand where in the process the application is. Consultant proposes a mapping interface which allows users to tabulate between multiple modules.
- 2. Key Features.**
  - i.** The data is visible on the map and color coded in accordance with the agreed status
  - ii.** Icons are clickable and produce an information window to the right hand side representing the key metadata about the record
  - iii.** A link for further information is available which directs the user to the specific page in the Accela Citizen Access portal for that specific record
  - iv.** Users can search by address against mutually agreed upon, City provided geocoder, Districts, Zip Code and Neighborhood
  - v.** Filter functionality is provided to allow users to filter by keyword, reference number, date range and type
  - vi.** Users can see current (instantly) and historical records (when logged in)

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**3. Filter Tools.** Users can filter their search by the following:

- i. Address
- ii. Area: Zip code, Neighborhood, District, Custom (GIS shapes for specific areas to be provided by City)
- iii. Status (open; process complete) as reflected in Accela back office system
- iv. Keyword
- v. Data range
- vi. Application/Permit/Record type (dropdown of different types)

**4. User Accounts.** Users can create and receive e-mail alerts and can also register and maintain an account on the buildingeye platform. The process is simple and only takes a few minutes following the step by step wizard. Once details have been entered, an email is sent to the provided email address to validate its authenticity.

**5. Alerts.** Users can manage their alerts where they can delete or change the frequency of alerts. Users who wish to receive alerts must have a valid account (as outlined above) and can do the following:

- i. Create and alert by choosing a geographic location to alert on within a fixed block or neighborhood
- ii. Set the notification frequencies

**6. Data Extraction & Update.** Consultant requires read-only access to the City Accela ERP system API to initiate the project.

Data for each module is downloaded for the agreed period and analyzed to understand workflow, application types, address normalization, etc.

Consultant prepares a staging environment with records visualized and a list of questions presented to the City project team. This is an iterative process and Consultant works continuously to deliver on the defined scope with the project team until the application is ready for testing.

Based on successful outcome, City data for a given period (up to 5 years) is uploaded to the buildingeye platform and is deemed to be a “Private Live Release” (protected by a password).

On a daily basis thereafter, buildingeye extracts and updates data from the Accela back office system to the buildingeye product modules.

When City wishes to promote the service to the Public, Consultant removes the password protection so that buildingeye can be accessed by anyone who visits the City allocated URL.

**K. Construct API Access.** Buildingeye requires access to the Accela Back Office system to provide service to City. To enable this, Consultant sets out the details



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on how to setup the Accela Construct API access for buildingeye. These steps are typically performed by the City's Accela Administrator.

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**Exhibit “B”**  
**COMPENSATION**

For all hosted services and professional services identified in Exhibit “A”, City agrees to pay and Consultant agrees to accept as total compensation the following:

- A. COSTS** Consultant shall invoice the Agency at the anniversary of each calendar year for all annual fees covering the subsequent year. Agency shall pay the amounts due under each invoice without deducting any taxes that may be applicable to such payments. City is responsible for paying any and all withholding, sales, valued added or other taxes, duties or charges applicable, other than taxes based on Consultant’s income and taxable property. On the anniversary of the term, unless otherwise agreed an increase of 5% is applied to each renewal (included in Year Two and Year Three annual subscription fees below).

**1. One-Time Fees (Setup Integration Fee)**

buildingeye Planning Module	\$3,000.00
buildingeye Planning Module	\$3,000.00

**2. Annual Subscription Fees**

<b>Description</b>	<b>Year One</b>	<b>Year Two</b>	<b>Year Three</b>
buildingeye Building Module	\$16,000.00	\$16,800.00	\$17,640.00
buildingeye Planning Module	\$16,000.00	\$16,800.00	\$17,640.00

- B. EXTRA WORK** Extra work as directed and approved in advance by City will be billed at Consultant’s standard rates for service, which is listed as follows:

<b>Description</b>	<b>Hourly Rate</b>
Project Management, Development, Service and Oversight – Blended Cost	\$249.00

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- C. ADDITIONAL SERVICES** Messaging capacity is limited to 50,000 messages per month. After the 50,000 limit is reached, the frequency will be limited or an additional pre-approved charge for the additional capacity is as follows:

<b>Description</b>	<b>Monthly Cost</b>
Each additional 50,000 per month	\$60.00

- D. TERMS** In general, payment terms are NETT 30 Days from date of signing/order/invoice, whichever is earlier.

Initial Integration Fees will be billed when works commence following signing of this agreement. Fees for each Module will be issued following Private Release to the City.

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**Exhibit “C”  
QUALIFICATIONS**

Consultant works with Government Agencies providing solutions which include modules for planning applications, building permit functions along with other specialist modules for business licenses, engineering, transportation, fire departments and capital projects.

Consultant offers enterprise and public geospatial products designed exclusively for government agencies, based on the electronic records held in most back office system, including xls/csv formatted files. The buildingeye solutions bring life to the information held in public records, presenting it in an easy to use format available on any device, every day.

Proven, trusted and promoted by many local government agencies, building, planning and enforcement professionals and industry associations. Processing millions of records, buildingeye is working with agencies large and small who have transformed their internal practices and generated efficiencies.

Agencies can now provide a courtesy alerting system to citizens who have an interest in a particular area through the buildingeye solution. Implementing buildingeye ensures Agency resources are better engaged. Dealing with repetitive enquiries by phone and at the public counter will be a thing of the past as officials and citizens easily access the information in just 2 clicks, anytime, anywhere, saving the Agency time and money.

During 2015, Consultant was acknowledged by its peers for instigating the development of the BLDS standard to address the interoperability of common data systems within Government. The Consultant as a provider of services to government is ranked in the US GovTech 100 in 2016, 2017 & 2018.

**Experience**

Consultant has extensive experience in handling millions of records from a variety of back office systems and csv format files, we extract on a daily basis processing millions of records each month across multiple municipalities and agencies.

The first implementation was integrated over three years ago and since then Consultant has had a very successful working relationship implementing the solution in other agencies through the Country.

Consultant has transformed cities such as San Francisco, Pittsburgh, Palo Alto, Adams County, among others providing intuitive interfaces to records held in their back office system and have proven effectiveness and efficiencies for the benefit of Agency Officials and the communities they serve.

All work is completed in house by permanent staff. Consultant does not use subcontractors in the provision of buildingeye solutions.

- Consultant is an Accela partner

Consultant has implemented the successful release of similar solutions as the one proposed herein for the following agencies:

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- City of Corvallis, OR
- City of Alameda, CA
- City of Missoula, MT
- City of Albany, OR
- Adams County, CO
- City of Pittsburgh, PA
- City & County of San Francisco
- City of Palo Alto, CA

Consultant has internal knowledge of all aspects of the building and planning visualization functionality that the Agency is looking to have implemented.

### **Key Team Members**

*Ronan Barrett - COO*

Responsibility: Project Management

Ronan has developed buildingeye over the past 2 years to address a real need to his frustration in accessing government information which is labor intensive and difficult to find. He set out to simplify the process for citizens and city staff to get easier access to records sitting in back office systems.

This innovation was recognized by the City of San Francisco where the founder of buildingeye was successfully selected by Mayor Lee for the city's inaugural Entrepreneurship-in-Residence program which focused on innovation and efficiencies in Government.

He and his team have since successfully added clients like San Francisco, Palo Alto, Pittsburgh and many others to buildingeye's growing customer base.

*Gary Smith - Project Lead – Internal Client Services*

Responsibility: Liaise with project team to understand and meet the city's brief from initial engagement through to project delivery.

Gary has led the successful integration of the many buildingeye releases in the following cities: San Francisco, Corvallis, Alameda, Pittsburgh and Missoula on time and within budget. He has been with the company for over 3 years.

He has led the team working in co-operation with Accela and has deep knowledge and hands on experience in working with all technical and product matters involving Accela and other ERP systems.

He has over 7 years' experience in the software industry from database management to software integration for government agencies.

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**Exhibit “D”  
INSURANCE REQUIREMENTS  
Professional**

Consultant’s performance of the services under this agreement shall not commence until Consultant shall have obtained all insurance required under this Exhibit and such insurance shall have been reviewed and approved by the Risk Manager. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Consultant shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for alleged injuries to persons or damages to property which may arise from or in connection with the performance of the services by the Consultant, the Consultant’s agents, representatives, employees and subcontractors. Required professional liability insurance shall be maintained at the level specified herein for the duration of this agreement and any extension thereof and for twelve additional months following the agreement termination or expiration.

**INSURANCE COVERAGE AND LIMITS RESTRICTIONS**

1. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Lexington before the City of Lexington’s own insurance or self-insurance shall be called upon to protect it as a named insured.

**A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage:
  - a. Blanket contractual liability
  - b. Broad form property coverage
  - c. Personal injury
2. Insurance Services Office form covering Automobile Liability, code 1 (any auto).
3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability insurance.
4. Professional Liability insurance
5. Such other insurance coverages and limits as may be required by the City of Lexington.

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**B. MINIMUM LIMITS OF INSURANCE**

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage and a \$2,000,000 aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability:
  - a. Bodily Injury by Accident: \$1,000,000 each accident.
  - b. Bodily Injury by Disease: \$1,000,000 policy limit.
  - c. Bodily Injury by Disease: \$1,000,000 each employee.
4. Professional Liability insurance: \$2,000,000.

Such other insurance coverages and limits as may be required by the City of Lexington may be chargeable, if a premium increase is determined.

**C. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

1. Any deductibles or self-insured retentions must be declared to and approved by the City of Lexington. At the option of the City of Lexington, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of Lexington, its officers, officials, employees, and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.
2. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City of Lexington.
3. The City of Lexington reserves the right to obtain a full certified copy of any insurance policy and endorsement. Failure to exercise this right shall not constitute a waiver of right to exercise later.

**D. ADDITIONAL INSURED REQUIREMENTS:**

1. The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:
  - a. The City of Lexington, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects alleged: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Lexington, its officers, officials, employees, agents or volunteers.
  - b. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to

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the City of Lexington, its officers, officials, employees, agents or volunteers.

- c. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.
- d. Consultant shall furnish properly executed Certificates of Insurance from insurance companies acceptable to the City of Lexington and signed copies of the specified endorsements for each policy prior to commencement of work under this agreement. Such documentation shall clearly evidence all coverages required above including specific evidence of separate endorsements naming the City of Lexington and shall provide that such insurance shall not be materially changed, terminated or allowed to expire except after 30 days prior written notice by certified mail, return receipt requested, has been filed with the City Clerk.

Such insurance shall be maintained from the time work first commences until completion of the work under this agreement. Consultant shall replace such certificates for policies expiring prior to completion of work under this agreement.

**E. ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

**F. CROSS-LIABILITY**

The Liability policy shall include a cross-liability or severability of interest endorsement.

**G. FAILURE TO MAINTAIN INSURANCE COVERAGE**

If Consultant, for any reason, fails to maintain insurance coverage, which is required pursuant to this agreement, the same shall be deemed a material breach of contract. The City of Lexington, at its sole option, may terminate this agreement and obtain damages from the Consultant resulting from said breach. Alternatively, the City of Lexington may purchase such required insurance coverage, and with notice to Consultant, the City of Lexington may deduct from sums due to Consultant any premium costs advanced by the City of Lexington for such insurance.

**H. PRIMARY AND NON-CONTRIBUTORY**

For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Lexington, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Lexington, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**I. SUBCONTRACTORS**

Consultant shall require all subconsultants to maintain the same levels of insurance and provide the same indemnity that the Consultant is required to



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provide under this Agreement. A subconsultant is anyone who is under contract with the Consultant or any of its subconsultants to perform work contemplated by this Agreement. The Consultant shall require all subconsultants to provide evidence of valid insurance and the required endorsements prior to the commencement of any work.

**J. SUBROGATION WAIVER**

Consultant agrees to waive subrogation rights against City of Lexington regardless of the applicability of any insurance proceeds, and to require all Consultants, subcontractors or others involved in any way with the services to do likewise.

**K. VERIFICATION OF COVERAGE**

Consultant shall furnish the City of Lexington with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City of Lexington before the services commence.