

CITY OF AURORA,
ILLINOIS
DIGITAL SIGNAGE
SOLUTIONS

CONTRACT

THIS AGREEMENT, entered on this ____ day of ____, 20__ (“Effective Date”), for the _____ *Project Name* _____ is entered into between the **CITY OF AURORA** (“City”), a municipal corporation, located at 44 E. Downer Place, Aurora, Illinois and Hypersign, LLC. (“Contractor”), located at PO Box 877, Drayton, SC 29333.

WHEREAS, the City released a Digital Signage Solution RFP on May 11th, 2023.

WHEREAS, the Contractor will provide digital signage software, training, and customer service for City of Aurora public displays. These displays can be used to display agendas, wayfinding information, videos, playlists, images, emergency alerts, or any other public information.

IN CONSIDERATION of the mutual promises and covenants herein contained, the parties hereto do mutually agree to the following:

1. Contract Agreement Documents. The Agreement shall be deemed to include this document, Contractor’s response to the City’s outreach, to the extent it is consistent with the terms of the Specifications, any other documents as agreed upon by the parties throughout the term of this Agreement, along with any exhibits, all of which are incorporated herein and made a part of this Agreement. In the event of a conflict between this Agreement and any exhibit, the provisions of this Agreement shall control.

DIGITAL SIGNAGE SOLUTION

In connection with the solicitation and this Agreement, Contractor acknowledges that it has furnished and will continue to furnish various certifications, affidavits and other information and reports, which are incorporated herein. Contractor represents that such material and information furnished in connection with the solicitation and this Agreement is truthful and correct. Contractor shall promptly update such material and information to be complete and accurate, as needed, to reflect changes or events occurring after the Effective Date of this Agreement.

2. Scope of Services. Contractor shall perform the Services listed in the Scope of Services, attached hereto as Exhibit 1.

3. Term. The term of this Agreement shall be for a period of three (3) years commencing on the date in which this Agreement has been signed by both parties of this Agreement (“Effective Date”). This Agreement includes two (2) mutual renewals of one (1) year each commencing on months 37 and 49 respectively of the 60 month (5 year) term. At the sole discretion of the City, the City may opt out of each renewal in this agreement by providing the Contractor evidenced in writing no later than 30 days prior to the respective renewal month.

4. Compensation.

a. **Maximum Price.** In accordance with the Contractor's Proposal, the maximum price for providing the Services shall be in accordance to the pricing in Exhibit 2. The maximum price may not be changed unless the City is provided with supporting documentation to warrant the change in maximum price or as otherwise provided in this Agreement.

b. **Schedule of Payment.** The City shall pay the Contractor for the Services in accordance with the amounts set forth in Exhibit 2. The Contractor shall be required to submit an itemized invoice as well as any supporting documentation as required by the City. Payment shall be made upon the basis of the approved invoices and supporting documents. Payment shall be made in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1, *et. seq.*) Each invoice shall be accompanied by a statement of the Contractor of the percentage of completion of the Services through the date of the invoice, where applicable.

5. Performance of Services.

Standard of Performance. Contractor shall perform all Services set forth in this Agreement, and any other agreed documents incorporated herein, with the degree, skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude and in conformance with the applicable professional standards. Contractor shall, at all times, use its best efforts to assure timely and satisfactory rendering and completion of the Services. Contractor shall ensure that Contractor and all of its employees or subcontractors performing Services under this Agreement shall be: (i) qualified and competent in the applicable discipline or industry; (ii) appropriately licensed as required by law; (iii) strictly comply with all City of Aurora, State of Illinois, and applicable federal laws or regulations; (iv) strictly conform to the terms of this Agreement. Contractor shall, at all times until the completion of the Services, remain solely responsible for the professional and technical accuracy of all Services and deliverables furnished, whether such services are rendered by the Contractor or others on its behalf, including, without limitation, its subcontractors. No review, approval, acceptance, nor payment for any and all of the Services by the City shall relieve the Contractor from the responsibilities set forth herein.

Notwithstanding the foregoing, Contractor shall not be responsible for the performance of construction contracts, work or products, or any deficiencies or effects resulting therefrom, of any contractor, subcontractor, manufacturer, supplier, fabricator, or consultant retained by the City or any other third-party, including any person working on their behalf. Nothing herein shall be construed as giving the Contractor the responsibility for or the authority to control, direct, or supervise construction, construction means, methods, techniques, sequences, procedures, and safety measures and programs except those which directly relate solely to Contractor's performance of Services as set forth in this Agreement.

6. Termination.

Termination for Convenience. The City has the right to terminate this Agreement, in whole or in part, for any reason or if sufficient funds have not been appropriated to cover the estimated requirement of the Services not yet performed, by providing Contractor with thirty (30) days' notice prior to the annual renewal date. On the annual renewal date, this Agreement will end. If this Agreement is terminated by the City, as provided herein, the City shall pay the Contractor only for services performed up to the date of termination. After the termination date, Contractor has no further contractual claim against the City based upon this Agreement and any payment so made to the Contractor upon termination shall be in full satisfaction for Services rendered. Contractor shall deliver to the City all finished and unfinished documents, studies and reports and shall become the property of the City.

7. Confidentiality and Non-Disclosure.

During the term of this Agreement, each Party (the "Receiving Party") may be given access to, and be entrusted with, trade secrets and other confidential or proprietary information concerning the business and affairs of the other Party (the "Disclosing Party") and its affiliates, their respective City of Aurora and prospective City of Aurora, and other third parties who entrust information to such Party with the understanding, express or implied, that it will be kept confidential, including without limitation information regarding City of Aurora's subservicing City of Aurora's borrowers defined as "Non-Public Personal Information" as defined in the Gramm-Leach-Bliley Act ("NPI") ("Confidential Information").

8. Intergovernmental Pricing / "PIGGYBACKING"

This Intergovernmental Pricing Program would be for the use of ANY TAXING BODY in The State of Illinois and the United States of America who should chose to be a part of this program wherever their location. **NOTE:** The City of Aurora will not be involved in the contracting services by any other intergovernmental unit (taxing body). The contracts, invoices or payments would be entirely between the other intergovernmental units and Contractor. The documents to handle joint purchases will be confirmed by the City of Aurora and Marketplace.city, INC (Marketplace.city), and then distributed to the other governmental units by Marketplace.city.

9. Marketplace.city Sourcing

The parties acknowledge that: (a) the services provided by Marketplace.city, were integral in facilitating the sourcing and procurement process between the parties in connection with this agreement; (b) for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), Marketplace.city has fully earned, and is entitled to, a fee in an amount equal to seven percent (7%) of the gross purchase price of all goods/services purchased from Contractor pursuant to this agreement (such fee, the "Marketplace Fee") to be paid directly by Contractor (c) the Marketplace Fee will apply only to this contract and the specific term with the City of Aurora and purchases explicitly mentioned in it, not to any existing contracts or future contracts with Contractor, (d) contemporaneously with the execution and delivery of each order of goods/services pursuant to this agreement and receipt of payment by the City of Aurora, Contractor will pay the applicable Marketplace Fee, directly to Marketplace upon such receipt.

10. Business Continuity [This section intentionally left blank]

11. Audit and Inspection

City of Aurora reserves the right at reasonable times and upon reasonable advance notice, for itself and/or on behalf of regulators and City of Aurora subservicing City of Aurora's, subject to the execution by such City of Aurora subservicing City of Aurora's of a confidentiality agreement reasonably required by Contractor, to inspect and audit at Contractor offices, at City of Aurora's expense, any and all files and records maintained by Contractor in connection with the subject matter of this Agreement.

Contractor shall deliver to City of Aurora copies of all, files and records reasonably requested by City of Aurora that pertain to the Services promptly upon request by City of Aurora. Such records shall be

maintained in accordance with generally accepted accounting principles, consistently applied.

12. Miscellaneous Provisions.

a. Illinois Freedom of Information Act. The Contractor acknowledges the requirements of the Illinois Freedom of Information Act (FOIA) and agrees to comply with all requests made by the City of Aurora for public records (as that term is defined by Section 2(c) of FOIA in the undersigned's possession and to provide the requested public records to the City of Aurora within two (2) business days of the request being made by the City of Aurora. The undersigned agrees to indemnify and hold harmless the City of Aurora from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the City of Aurora under this agreement.

b. Entire Agreement. This Agreement, along with the documents set forth in Section 1 and incorporated by reference elsewhere in this Agreement, with consent of the parties, represents the entire agreement between the parties with respect to the performance of the Services. No other contracts, representations, warranties or statements, written or verbal, are binding on the parties. This Agreement may only be amended as provided herein.

c. Consents and Approvals. The parties represent and warrant to each other that each has obtained all the requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated herein.

d. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

e. Jurisdiction and Venue. The Parties agree that in the event of litigation arising from this Agreement, the exclusive venue for the adjudication of such disputes shall be the Circuit Court of the Sixteenth Judicial Circuit, Kane County and that the Illinois law shall apply to such disputes without regard to its choice of law principles.

f. Construction of Contract Provisions. The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. Having acknowledged the foregoing, the Parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement shall have no application to the terms and conditions of this Agreement.

ATTEST:

CITY OF AURORA:

City Clerk

FOR _____

By _____

(SEAL)

(CORPORATE SEAL)

(If a Corporation) CORPORATE NAME Hypersign, LLC.

(SEAL)

By *Drew Smith*
President – Contractor

ATTEST:

Secretary

(If a Co-Partnership)

Partners doing Business

under the firm Contractor

(If an Individual)

_____(SEAL)

Contractor

Exhibit 1

Exhibit 1 should include the scope of work that has been agreed upon and any relevant implementation documents

1. SCOPE OF WORK

Contractor to provide the following:

a. Managed Services to include:

i. Content Management Services (CMS)

ii. Software

- 1. Software upgrades at no additional cost to the City on a periodic basis**
- 2. Software as a Service (SaaS) to include wayfinding, kiosks, video walls, digital signage displays**

b. System Support & Maintenance

i. Customer Support

- 1. Hypersign Customer Success**
Email: support@hypersign.com
Telephone #: (864) 572-7720
Support Tickets can also be submitted in the Hypersign Portal
- 2. Troubleshooting – remote troubleshooting available on Windows hardware provided by vendor.**
- 3. Provide trouble shooting and resolution escalation plan which defines resolution for software**

c. Training

- i. Initial virtual training with each new account added by the City**
- ii. Training Tutorial Videos within the Hypersign Portal**
- iii. Periodic training webinars for all Hypersign customers**

d. Optional hardware – the Contractor can provide hardware for the City’s digital signage, wayfinding, meeting room, or conference room needs. This hardware can include but is not limited to media players, LCD displays, interactive displays, LED displays, video walls, kiosks, mounts, etc.

e. Optional Custom Creative Design – the Contractor can provide Creative Design services for the City if needed. This Creative Design services can include background images, static images, animations, videos, interactive designs, dashboards, etc. Custom Creative Design is priced per project based on the number of hours needed to complete the design. A proposal can be provided once the scope of the project has been determined.

Exhibit 2

Exhibit 2 should lay out the agreed pricing and payment

SKU	Description	QTY	Total Cost
HS-WIN-AOPEN	• Hypersign Windows Signage Player (Optional)	1	\$738 + shipping
HS-PRO-1YR	• Hypersign Pro 1-Year Software License (Most Popular	1	\$376.92
HS-ENT-1YR	• Hypersign Enterprise 1-Year Software License (Required for Video Walls, Waystation, or HuddleUP)	1	\$584.10

Hypersign software is priced per device and includes:

- Unlimited users
- All software updates
- All remote customer support
- Virtual trainings

The vendor shall provide an invoice to the City for services rendered and the City shall approve and thereafter pay any undisputed portions thereof in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et. seq). Approved, but unpaid invoiced mounts shall accrue interest in the manner and to the extent authorized by the Act. Invoices for annual renewals will be sent at least 60 days prior to license expiration. All invoices will be due net 30. Additional discounts may be available for auto-pay enrollment for the annual renewal.

The Contractor can provide any digital signage hardware at a discount as part of the contract. The City must pay a 50% deposit on any hardware ordered through the Contractor. The additional 50% of hardware will be invoiced once it has shipped with net 30 terms.