

SHARED MICRO-MOBILITY DEVICE OPERATING AGREEMENT AND PERMIT

This MMD Operating Agreement and Permit (“Agreement”) is made this 1st day of October, 2020 (“Effective Date”) by and between the City of Tallahassee, a Florida municipal corporation, whose address is 300 South Adams Street, Tallahassee, Florida 32301 (“City”) and Skinny Labs Inc., a Delaware corporation doing business as Spin, whose address is 450 Mission Street, Suite 400, San Francisco, California 94105 (“Vendor”). The City and Vendor are each individually referred to as “Party,” and collectively as the “Parties.”

WHEREAS, the City desires to provide safe and affordable multimodal transportation options to all residents and visitors, reduce traffic congestion and maximize carbon-free mobility; and

WHEREAS, the City previously engaged in a motorized scooter pilot program; and

WHEREAS, on May 15, 2019, the City Commission authorized the implementation of a permanent shared micro-mobility device program (“Program”) that will authorize the use of micro-mobility devices (“MMD”); and

WHEREAS, the City released a Request for Qualifications, #(insert number), to solicit vendors to participate in the Program; and

WHEREAS, on April 8, 2020, the City Commission adopted Ordinance No. 20-O-09AA that enacted Chapter 17, Article IV, Division 6, of the Code of General Ordinances of the City of Tallahassee, to govern the Program; and

WHEREAS, on September 9, 2020, the City Commission authorized the Vendor to participate in the Program subject to the terms and conditions set forth in the Code of General Ordinances of the City of Tallahassee and this Operating Agreement and Permit; and

WHEREAS, this Agreement will authorize the Vendor to participate in the Program subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants of the Parties hereto, the City and Vendor hereby enter into this Agreement subject to the following terms and conditions:

1. Term. Unless earlier lawfully terminated, this Agreement shall commence on October 15, 2020 and shall expire on October 14, 2023. Upon expiration of the Program, Vendor shall cease operations and within two (2) business days of the expiration of the Program remove all MMDs from the City. Failure to remove all MMDs within the two (2) business day timeframe, may result in the City removing the MMDs and Vendor will have to pay applicable fees to recover MMDs from the City.
2. Permit. (a) The Vendor is hereby granted a temporary, non-exclusive license to operate a shared micro-mobility device system in accordance with the Code of General Ordinances of the City of Tallahassee Chapter 17, Article IV and subject to the terms and conditions of this Agreement. The

Vendor is authorized to deploy no more than 750 MMDs and 750 electric bikes or electric tricycles during the Program. Under this permit, the vendor must have at least 200 Motorized Scooters, as defined in City Code, deployed at all times, unless otherwise directed by the City. For purposes of this Agreement, the term MMD(s) shall include motorized scooters, bicycles, electric bikes, and electric tricycles. Nothing in this Agreement shall be construed to grant Vendor any other rights or interest in the Public Rights-of-Way. This Agreement shall not be deemed or construed to create an easement, lease, fee, or any other interest, in the ROW, shall be personal to Vendor, and shall not run with the land. This Agreement shall not be recorded or any memorandum of it, without each Parties' express written consent. The City may terminate this Agreement, as provided under its terms, without the need for court action or court order and shall not be deemed to breach the peace as a result of such termination or other exercise of self-help under this Agreement.

3. Definitions and Applicable City Codes. The definitions and all regulations contained in the Code of General Ordinances of the City of Tallahassee, Chapter 17, Article IV, Division 6, are hereby incorporated by reference and shall apply to this Agreement.

4. Permit Fees. Prior to deploying MMDs in the City's ROW, the Vendor shall pay to the City: (i) \$2,500 non-refundable Permit Fee to participate in the Program; and (ii) \$.20 nonrefundable per ride fee; (iii) \$.60 non-refundable fee per MMD deployed in the Program per day, or \$.50 per MMD deployed with an Electric Bike in the program per day. There is no fee for Electric Bikes, but they must be deployed with a Motorized Scooter and the amount of deployed Electric Bikes must equal, or be less than, the amount of deployed Motorized Scooters. The Vendor, upon City's request, shall provide the City with any documents or data appropriate for the City to calculate its entitlement under this Section. Fees will be invoiced every six (6) months by the City to the vendor. The City reserves the right, but not the obligation, to re-evaluate the fees charges every six (6) months.

5. Operation. Vendor shall use reasonable efforts to ensure that its MMDs are operated in accordance with all applicable local, state and federal laws, including without limitation, Code of General Ordinance of the City of Tallahassee, Chapter 17, Article IV, and the Florida Uniform Traffic laws, as amended. The Vendor represents and warrants that it knows, and will comply with, the foregoing laws. Vendor acknowledges that MMDs shall not be able to exceed 15 mph.

6. Parking. Vendor shall provide parking instructions to Users, indicating that the MMDs should be parked next to a bicycle rack or designated parking area, if possible, or in other parking areas designated by the City. If there is no bicycle rack or designated parking area nearby, instructions should indicate that MMDs should be prohibited from blocking the sidewalk and should ensure that there is ADA accessibility at all times. MMDs shall be parked upright at all times, and parking is prohibited on private property without the private property owner's permission. Parking must also maintain a minimum four-foot pedestrian path on sidewalks and are prohibited from blocking:

- Sidewalks
- Fire hydrants
- Curb ramps
- Parking spaces
- Handicap accessible areas (ramps, parking spots, etc.)
- Street furniture such as benches, parklets, trash and recycling receptacles, and parking meters
- Business or residential entryways

7. Deployment Locations; Geofencing Capabilities; Rebalancing.

(a) Deployment locations for MMDs shall be set by the City. Vendor shall deploy MMDs in identified locations as depicted on Exhibit “A”, attached hereto and incorporated by reference. Deployment locations may be amended by written notice to the Vendors. It is anticipated the campuses, and immediate surrounding areas, of Florida Agriculture and Mechanical University, Florida State University and Tallahassee Community College will not be available for MMD use.

(b) Vendor shall have the capability to restrict MMD usage in areas not authorized by the City for deployment. Vendor represents it will utilize proper technology (i.e., geofencing) or other appropriate measures to ensure MMDs are only deployed and utilized within the designated deployment locations as set forth in Exhibit “A” or approved in writing by the City.

(c) Vendor shall have the capability of controlling the speeds of the MMDs in certain area as designated by the City and create a “slow-zone” in those areas.

(d) Vendor shall rebalance the MMDs by 8 a.m. EST daily based on the use within each service area to prevent excessive buildup on MMDs in certain locations.

8. Abandonment or Improperly Parking MMD. Vendor shall promptly recover and take custody of all abandoned or improperly parked MMDs. Vendor shall respond to a City-initiated request to relocate MMD within one (1) hour. Failure of Vendor to timely respond may result in the MMD being relocated or removed by the City subject to applicable fines and fees.

9. Markings. Vendor shall ensure that each MMD is conspicuously marked with Vendor’s unique branding, a unique serial number and Vendor’s contact information, including a 24-hour toll-free phone number and e-mail address to respond to User and City issues with the MMDs. Vendor shall not apply any other markings or advertising to any MMD.

The User support contact information is:

Phone: (888) 262-5189

Email: Support@spin.pm

Website: spin.app

Social Media (FaceBook/Twitter): Spin (@ridespin) on Twitter

10. Maintenance. Vendor shall maintain MMDs in a good and safe working manner and in accordance with all applicable laws and shall promptly remove from the rights-of-way any MMD that is not in good and safe working manner or fails to comply with this Agreement or applicable laws.

11. Data Sharing; Customer Survey. (a) During the term of this Agreement, on a monthly basis, or as reasonably requested by the City, the Vendor shall provide City the following data, if collected, by the Vendor, in a format acceptable to the City:

- Number of motorized scooters in circulation;
- Number of daily, weekly, and monthly riders;
- Number of daily, weekly, and monthly rides;
- Total number of miles traveled by users (daily, monthly, quarterly, annually);
- Number of rides per motorized scooter per day;
- Average duration of ride per day of the week;
- Start point of ride;
- End point of ride;
- Trip patterns;
- Location of scooter pick up and drop offs;
- Monthly summary of motorized scooter distribution and GPS-based natural movement in heat map format;
- Details of complaints and issues, including accidents or injuries;
- Summary of customer comments/complaints, resolution to, and time it took to resolve each complaint;
- Average trip in miles per day of the week

Vendors shall provide the following performance indicators to be included in a dashboard or report, including, but not limited to, the following:

- Utilization rates
- Total downloads, active users, and repeat user information
- Total trips by day of week and time of day
- Origins and destinations
- Trips per vehicle by day of week, time of day
- Average trip distance
- Vehicle maintenance reports (including but not limited to Vehicle identification number and maintenance performed)

- Incidents of theft and vandalism
- Number of complaints
- Crash information
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- Rebalancing to designated service areas
- Outreach activities completed
- Total number of free or discounted helmets distributed
- Number of Users taking advantage of low-income discount
- Number of discounted rides taken
- Operators must provide reports on a quarterly basis.

Vendors shall provide anonymized real-time data available via a public API or dashboard in the data standard developed by the North American Bikeshare Association, known as the “General Bikeshare Feed Specification (GBFS)”. Vendors shall make anonymized real-time data in Mobility Data Standard (MDS) format available to the City and/or a designated, third party transportation data analysis platform, for purposes of aggregating this data, evaluating or enforcing the requirements in this permit. Precise origin and destination points will be obscured to a one-block (or equivalent) radius to protect user privacy.

Any MDS compatible API must expose data where:

- The trip starts in the City of Tallahassee, or
- The trip ends in the City of Tallahassee,
- Must also provide a link to your open GBFS

Additionally, accidents and injuries should be reported to the City immediately. Upon request from the City, Vendor shall provide information relating to dispute resolutions and settlements with Users.

(b) Within ninety (90) days of the Effective Date, Vendor shall distribute a customer satisfaction survey developed and hosted by the City, the summary and raw results of which shall be provided to the City. Vendor agrees to distribute a customer satisfaction survey, from time to time, as requested by the City during the duration of this Agreement.

12. Insurance, Performance Bond and Indemnity.

(a) Insurance. Prior to deploying MMDs, Vendor shall procure and maintain, at their own expense, for the duration of this Agreement the following insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work or services hereunder by Vendor, their agents, representatives, employees or subcontractors.

Vendor shall maintain limits no less than:

a) Commercial General/Umbrella Liability Insurance - \$1,000,000 per occurrence limit for property damage and bodily injury. The insurance shall include coverage for the following:

- Premise/Operations
- Explosion, Collapse, and Underground Property Damage Hazard
- Products/Completed Operations
- Contractual
- Independent Vendors
- Broad form Property Damage
- Personal Injury

b) Business Automobile/Umbrella Liability Insurance - \$1,000,000 per accident for property damage and personal injury when using any of the following:

- Owned/Leased Autos
- Non-owned Autos
- Hired Autos

b) Workers' Compensation and Employers'/Umbrella Liability Insurance-Workers' Compensation coverage with benefits and monetary limits as set forth in Chapter 440, Florida Statutes. This policy shall include Employers'/Umbrella Liability coverage for \$1,000,000 per accident. Workers' Compensation coverage is required as a condition of performing Work or services for the City whether or not the Vendor is otherwise required by law to provide such coverage.

Other Insurance Provisions:

Commercial General Liability and Automobile Liability Coverage:

The City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Vendor; products and completed operations of the Vendor; premises owned, leased or used by the Vendor or premises on which Vendor is performing services on behalf of the City. The coverage shall contain no special limitations on the scope of protection afforded to the City, members of the City Commission, boards, commissions and committees, officers, agents, employees and volunteers.

The Vendor's insurance coverage shall be primary insurance as respects the City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers shall be in excess of Vendor's insurance and shall not contribute with it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers.

Coverage shall state that the Vendor's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.

Workers' Compensation and Employers' Liability and Property Coverage:

The insurer shall agree to waive all rights of subrogation against the City, member of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers for losses arising from activities and operations of Vendor in the performance of services under the Contract.

All Coverage:

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) calendar days prior Written Notice has been provided to the City.

If the Vendor, for any reason, fails to maintain insurance coverage that is required pursuant to the Contract, the same shall be deemed a material breach of the Contract. City, at its sole option, may terminate the Contract and obtain damages from the Vendor resulting from said breach. Alternatively, City may purchase such required insurance coverage (but has no special obligation to do so), and without further notice to Vendor, the City may deduct from sums due to Vendor any premium costs advanced by City for such insurance.

All insurance certificates must read as follows: CANCELLATION "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail 30 calendar days Written Notice to the certificate holder named to the left."

All insurance coverages shall be placed with companies who are either licensed by the state of Florida or admitted as a surplus lines carrier by the state. All companies shall have at least a B+10 rating by A.M. Best or other recognized rating agency.

City named as "additional insured" as its interest may appear.

Certificate of insurance(s) filed with the City Treasurer-Clerk before commencement of Program or deployment of MMD.

Deductibles and Self-Insured Retention:

Any deductibles or self-insured retention's must be declared to the City.

Verification of Coverage:

Vendors are reminded that regardless of what the State of Florida requirements for insurance are (Including the exemption for Workers Compensation Insurance), the insurance specified herein is the minimum requirement for Vendors entering this Agreement. The Vendor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this section. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the City before MMDs are deployed.

Subvendors/Subcontractors:

The Vendor shall include each of its subvendors/subcontractors as insureds under the policies of insurance required herein.

(c) Performance Bond. Prior to the issuance of this Agreement, Vendor shall, at their own expense, obtain and file with the City a performance bond in the amount of no less than \$10,000.00, in a form acceptable to the City. The performance bond shall serve to guarantee proper performance under the requirements of this Agreement and City Ordinance; restore damage to the City's rights-of-way; and secure and enable City to recover all costs or fines permitted under the City Code if the Vendor fails to comply with such costs or fines. The performance bond must comply with the requirements of the City Code. Prior to the City filing a claim on Vendor's performance bond, City shall provide Vendor notice of its intent to use performance bond funds describing the Vendor's violation of this Agreement or the City Ordinance and such notice shall be supported by evidence showing proof of the violation. Within ten (10) business dates from the date of the notice, Vendor may respond to City with evidence showing proof of cure of the violation or to support Vendor's basis that such violation is not warranted. Notwithstanding the above language, the City may still file a claim on Vendor's performance bond if the Vendor does not respond within the ten (10) business day timeframe or, after reviewing the Vendor's documentation, the City still finds the Vendor is in violation and proceeds with filing a claim on the performance bond.

(d) Indemnification. Vendor agreement to indemnify, hold harmless and defend the City, its representatives, employees, elected and appointed officials, from and against all ADA accessibility claims and liability and any and all other liability, claims, damages, suits, losses and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the permit, the use of the rights-of-way or City-owned property for Program operations or arising from any negligent act, omission or error of the Vendor, owner or managing agents, its agents or employees or from failure of the Vendor, its agents or employees, to comply with each and every requirements of the City Code, this Agreement, or with any applicable federal, state or local law, including traffic laws, or any combination of same. It is specifically understood and agreed that this indemnification clause exempts the Vendor from the above obligations to the extent caused by the City's own negligent acts or omissions, breaches of this Agreement, or obligations arising from statute or operation of law, including

the duty to maintain the public right of way free from dangerous conditions. These terms shall not be construed to waive or alter any statutory or constitutional sovereign immunity rights, limitations or extend the liability provided to the City. In no event will Vendors be liable for special, indirect, incidental or consequential damages (including any damages arising from loss of use, loss of data, lost profits, business interruption, or costs of procuring substitute software or services) arising out of or relating to the Agreement.

Vendor's contracts or end user agreements with User of MMDs, to the fullest extent permitted by law, shall obligate Users to release the City and its officers, affiliated entities, employees, agents and contractors from the same claims, damages, losses, expenses, including attorney fees, and suits for which Vendor is obligated to indemnify, defend and hold the City harmless.

13. Emergency Preparedness Plan; Tropical Storm or Hurricane Warnings. Before deploying MMDs in the City, Vendor must provide to City an emergency preparedness plan, approved by the City, that details where the MMDs will be located and the amount of time it will take to secure all MMDs once a tropical storm or hurricane warning has been issued by the National Weather Service. The Vendor must promptly secure, all MMDs within 12 hours of an active tropical storm or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the City will notify the Vendor when, and where, it is safe to redistribute the MMDs within the City.

14. Vendor Local Representative. Vendor shall designate one or more representatives who, as needed, can address any issues related to this Agreement in the City, in person, at any time and has authority to act on behalf of Vendor.

The City's direct contact for Vendor is David Kade; phone number: (817) 600-8914; email David.Kade@spin.pm.

15. Damage to City Property. To the fullest extent permitted by law, Vendor shall be liable to, and shall promptly reimburse the City for any damage Vendor causes to City property, including without limitation the ROW, except to the extent the damage is due to the negligence or willful misconduct of the City or its agents or employees.

16. Education. Vendor shall, to the City's satisfaction, develop materials to instruct Users of all applicable laws, and provisions of this Agreement, that relate to operation, and parking, of the MMDs. Vendor shall not allow any use of its MMDs by third-parties/Users unless they have first reviewed these materials.

17. Compliance with Laws. Vendor shall comply with all applicable laws, this Agreement and City ordinances and policies, and guarantees its employees, agents and contractors, including independent contractors, do the same.

18. MMDs Removed or Relocated by the City.

(a) Any shared MMD that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with City Code, applicable law, or are left unattended on public property, including Sidewalks, Sidewalk Areas, Rights-of-way and parks, may be removed or relocated by the City. A shared MMD is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such devices.

(b) The City may, but is not obligated to, Remove or Relocate a MMD that is in violation of this Division. A Vendor shall pay a \$75.00 fee per device that is Removed or Relocated by the City.

(c) MMD removed by the City shall count towards the vendor's permitted maximum number of MMDs.

19. Termination; Revocation.

(a) Vendor may terminate this Agreement by providing a ten (10) day written notice to City and removing all MMDs from the City.

(b) The City reserves the right to revoke any Agreement, if there is a violation of the City Code, this Agreement, public health, safety or general welfare, or for other good and sufficient cause as determined by the City in its sole discretion.

(c) A Vendor is subject, at the discretion of the City Manager, to a fleet size reduction or total Agreement revocation should the following occur:

(i) If the violations of the regulations set forth in this Division are not addressed in a timely manner or;

(ii) Vendor, or their agent or subcontractors, submit inaccurate or fraudulent data.

(d) The City's rights of termination or revocation are in addition to all other rights and remedies which it may have at law or in equity.

20. Violations; Fines. Violations of the City Code or this Agreement shall be enforced as noncriminal infractions of City ordinances and shall be fined at \$100 per device per day for an initial offense, and \$200 per device per day for any repeat offenses within thirty (30) days of the last same offense by the same Vendor. Each day of non-compliance shall be a separate offense.

21. Appeals. Vendors who have been subject to imposition of violation fines or Agreement revocation, may appeal the imposition of violation fines or the revocation in accordance with the applicable City Code.

22. Notices. All notices or other correspondence or communications required by or related to this Agreement shall be in writing sent by email or, in the event of a notice of termination, revocation or violation fines, sent by regular U.S. mail, postage prepaid or delivered by courier to the following:

City: Planning Department
ATTN: Julie Christesen
435 North Macomb Street
Tallahassee, FL 32301
Julie.christesen@talgov.com

With a copy to: City Attorney's Office
ATTN: Kristen Coons McRae
300 South Adams Street
Tallahassee, Florida 32301
Kristen.mcrae@talgov.com

Vendor: Skinny Labs Inc. dba Spin
450 Mission Street, Suite 400
San Francisco, California 94105

With a copy to: legal@spin.pm

The Parties may change notice information with ten (10) days written notice to all Parties.

23. Condition of ROW. The City makes the ROW available to Vendor in an "as is" condition. The City makes no representations or warranties concerning the condition of the ROW or its suitability for use by Vendor and the City assumes no duty to warn either Vendor concerning conditions that exist now or may arise in the future. Vendor's Terms of Use shall require Users to assume all risk, and to release all claims, known or unknown, against the City to the fullest extent of the law.

24. Damages to Vendor Property. The City assumes no liability for loss or damage to Vendor's MMDs or other property. Vendor agrees that the City is not responsible for providing security at any location where Vendor's MMDs, or other property, is stored or located. Vendor hereby waives any claim against the City in the event Vendor's MMDs, or other property, is lost or damaged.

25. Damages to City ROW. Vendor expressly agrees to repair, replace or otherwise restore any part or item of real or personal property that is damaged, lost or destroyed as a result of Vendor's use of the ROW. Should the Vendor fail to repair, replace or otherwise restore such real or personal property, Vendor expressly agrees to pay the City's cost in making such repairs, replacements or restorations. In addition, the City shall have the right to make a claim on Vendor's performance bond to recover said costs. Vendor will cooperate with the City to help identify any persons who use Vendor's MMDs to damage City property.

26. Modification. This Agreement shall not be amended, modified or canceled without the written consent of the Parties.

27. Headings; Construction of Agreement. The headings of each section of this Agreement are for reference only.

28. Severability of Provisions. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that is cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provisions(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

29. Assignment. Vendor shall not assign, delegate or transfer any right or obligation under this Agreement without City's prior written approval. Any assignment, delegation or transfer made or attempted without such approval shall be void.

30. Binding Effect. This Agreement shall be binding upon the Parties and upon any successor-in-interest.

31. Controlling Law. This Agreement shall be construed and governed in accordance with the laws of the State of Florida. Any lawsuit arising out of or related to this Agreement, the license it grants, the Permit or the MMDs shall be filed in either the courts of Leon County, Florida or in the United States District Court for the Northern District of Florida, to the general personal jurisdiction of which Vendor submits.

32. Waiver. No consent or waiver, express or implied, by any Party to this Agreement or any breach or default by any other Party in the performance of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance of the same or any other obligations hereunder. Failure on the part of any Party to complain of any act or failure to act or to declare any of the other Parties in defaults, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights under this Agreement. The parties reserve the right to waive any term, covenant, or condition of this Agreement; provided, however, such waiver shall be in writing and shall be deemed to constitute a waiver only as to the matter waived and the Parties reserve the right to exercise any and all of the rights and remedies under this Agreement irrespective of any waiver granted.

33. Representations. The Parties certify that they have the power and authority to execute and deliver this Agreement and to perform this Agreement in accordance with its terms. Vendor represents and warrants that it is the sole owner of the MMDs.

34. Conflicts of Interest. Vendor represents and warrants that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Agreement, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Company or its contractors under this Agreement.

35. No Partnership. The Parties are not joint ventures or partners and do not have an employer-employee or master-servant relationship. City shall not be vicariously liable for Vendor or any of the Users.

36. Licensing and Taxes. Prior to deploying MMDs in the City: (a) Vendor shall obtain any applicable licenses or permits required by applicable local, state or federal law to transact business in the City and to provide City with a copy of the same and (b) Vendor shall be a Florida corporation or properly registered with the Florida Secretary of State to conduct business in Florida and provide evidence of the same to the City.

37. Confidentiality; Public Records. The Parties acknowledge that the City is a governmental entity subject to the Florida Public Records Law (Chapter 119, Florida Statutes). The Parties further acknowledge that, notwithstanding other provisions of this Agreement or any other agreements between the Parties to the contrary, some or all of the information, materials, or documents provided to the City by the Vendor may be "public records" and, as such, may be subject to disclosure to, and copying by, the public unless otherwise specifically exempt by statute. Should the Vendor provide the City with any materials which it believes, in good faith, contain information which would be exempt from disclosure or copying under Florida law, the Vendor shall indicate that belief by placing a distinctive cover sheet on such document with the phrase "CONTAINS INFORMATION EXEMPT FROM DISCLOSURE" set forth in large, bold type, and by typing or printing, in bold letters, the phrase "Exempt from Disclosure" on the face of each affected page of such material. The Vendor shall submit to the City both a complete and a redacted copy of the document and each affected page. Should any person request to examine or copy any material so designated, the City will produce for that person only the redacted copy of the affected page. If the person requests to examine or copy the complete copy of the affected page, the City shall notify the Vendor of that request, and the Vendor, within thirty-six (36) hours of receiving such notification, shall either permit or refuse to permit such disclosure or copying. If the Vendor refuses to permit disclosure or copying, the Vendor shall hold harmless and indemnify the City for all expenses, costs, damages, and penalties of any kind whatsoever which may be incurred by the City or assessed or awarded against the City, and in favor of the person making such request, in regard to the City's refusal to permit disclosure or copying of such material. If litigation is filed in relation to such request and the Vendor is not initially named as a party, the Vendor shall promptly seek to intervene as a defendant in such litigation to defend its claim regarding the confidentiality of such material. This provision shall take precedence over the confidentiality provisions of this Agreement all other agreements between the Parties and shall constitute the City's sole obligation with regard to maintaining confidentiality of any Confidential Information or proprietary material, of any kind.

The Parties acknowledge that the City is a governmental entity subject to the Florida Public Records Law, as governed by Chapter 119, Florida Statutes. In accordance with Section 119.0701, Florida Statutes, the following provisions are included in this contract:

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF TALLAHASSEE, TREASURER-CLERK'S OFFICE, RECORDS DIVISION, CITY HALL, 300 SOUTH ADAMS STREET, TALLAHASSEE, FLORIDA 32301, (850) 891-8130, RECORDS@TALGOV.COM.

38. Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to its subject matter, and supersedes all prior agreements and understanding of the Parties with respect to its subject matter. Nothing in this Agreement shall be construed to limit City's regulatory authority or waive any immunity to which the City is entitled by law.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement to be effective on the Effective Date.

VENDOR

CITY OF TALLAHASSEE *cyb*

By: *zaizhuang cheng*
zaizhuang cheng (Oct 1, 2020 10:46 PDT)

By: *Reese Goad*
Reese Goad (Oct 18, 2020 09:20 EDT)

Print Name: zaizhuang cheng

Reese Goad, City Manager

Title: COO

ATTEST TO:

By: *James O. Cooke, IV*
James O. Cooke, IV, City Treasurer-Clerk

Approved as to form:

By: *Kristen mcrae*
Kristen Coons McRae, Asst. City Attorney

