



Roll Call Number

22-0719

Agenda Item Number

45 D

Date May 9, 2022

RESOLUTION APPROVING THE PURCHASE OF MICROSOFT ENTERPRISE SOFTWARE SUPPORT SERVICES FROM INSIGHT PUBLIC SECTOR, INC., AND APPROVING USE OF OMNIA PARTNERS CONTRACT #4400006644 AND AGREEMENT WITH INSIGHT PUBLIC SECTOR, INC.

WHEREAS, the Information Technology Department has requested the Finance Department’s Procurement Division to issue a purchase order for the purchase of Microsoft Enterprise software support services for a use term of three years, from May 1, 2022 to April 30, 2025, pursuant to an updated Microsoft Enterprise Enrollment agreement; and

WHEREAS, the Procurement Administrator has determined that the requested Microsoft Enterprise software support services have been competitively procured and are available from Insight Public Sectors, Inc. (Joyce Mullen, President and CEO, 910 W. Carver Rd., Tempe, AZ 85284) through a cooperative group contracting consortium for State governments, specifically through Omnia Partners using Fairfax County, Virginia Contract #4400006644; and

WHEREAS, Des Moines Municipal Code Section 2-726(m) provides for the procurement of goods or services that have been competitively established through cooperative group contracting consortiums for State government departments, institutions, agencies and political subdivisions, such as Omnia Partners through Fairfax County, Virginia, without conforming to the competitive bidding requirements of the Procurement Division; and

WHEREAS, the Microsoft Enterprise software support services will be purchased from Insight Public Sector, Inc. for a three-year period in the estimated annual amount of \$662,630.46 using Omnia Partners Contract #4400006644; and

WHEREAS, said purchase is subject to an updated Microsoft Enterprise Enrollment agreement between the City and Microsoft Corporation, and is further subject to a Short Form Agreement – City Contract No. K22-402 between the City and Insight Public Sector, Inc., supplementing said Omnia Partners Contract with terms specific to the City’s procurement, with both agreements in form on file in the office of the City Clerk and as negotiated by the City’s Finance and Information Technology Departments; and

WHEREAS, annual funding for said purchase is available from the FY2022 Adopted Operating Budget, Information Technology Department, Enterprise Application Development, G001, IT152000, page 117.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that:

1. The purchase of Microsoft Enterprise software support services, at an estimated annual cost of \$662,630.46 for a three-year term from May 1, 2022 to April 30, 2025, per the



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- general terms and pricing of Omnia Partners Contract ##4400006644 with Insight Public Sector, Inc., is hereby approved.
2. Subject to receipt of executed documents from the vendor, the Microsoft Enterprise Enrollment agreement by and between the City and Microsoft Corporation, in form on file in the office of the City Clerk, is hereby approved, and the Information Technology Director is hereby authorized and directed to execute said Agreement and to approve and sign any further implementing or license agreements thereunder on behalf of the City, subject to approval as to form by the Legal Department.
 3. Subject to receipt of executed documents from the vendor, the Short-Form Agreement – City Contract No. K22-402 between the City and Insight Public Sector, Inc., in form on file in the office of the City Clerk, supplementing Omnia Partners Contract # 4400006644 with terms specific to the City’s procurement, is hereby approved, and the Mayor is directed to execute said Agreement on behalf of the City following approval as to form by the Legal Department.

(Council Communication No. 22 -202)

Moved by Boesen to adopt.

Second. by Gatto.

APPROVED AS TO FORM:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSEN
COWNIE				✓
BOESEN	✓			
GATTO	✓			
SHEUMAKER	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED

APPROVED

Josh Fubelt
MAYOR PRO TEM

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

P. Kay Cmelik City Clerk

City of Des Moines
Finance Department – Procurement Division
City Hall 500 Robert D Ray Drive
Des Moines, IA 50309-1891
515-283-4228

SHORT FORM AGREEMENT – CONTRACT NO. K22-402

Contractor Insight Public Sector, Inc. 6820 South Harl Ave Tempe, AZ 85283	Department City of Des Moines IT Department 602 Robert Ray Dr Des Moines, IA 50309
Contract Commencement Date: May 1, 2022	Contract Termination Date: April 30, 2025
Shipping Terms: FOB Destination	Payment Terms: 30 Days

In addition to the terms and conditions stated in the purchase order and the terms and conditions of the Contract (as defined herein), the City of Des Moines (“City”) and Insight Public Sector, Inc. (“Contractor”) hereby agree to the special provisions as follows:

1. Scope of Services

This Agreement and the related Purchase Order (collectively “Agreement”) between the City and Contractor for **Microsoft Enterprise software support services** (also known as Microsoft Products, Services and Solutions) is governed by the terms and conditions of Contract Number 4400006644 (herein “Contract”) for Technology Products, Services, Solutions and Related Products and Services as established by the Acceptance Agreement, Memorandum of Negotiations and License Agreement Addendum (“Addendum”) between Contractor and Fairfax County, VA, as part of the OMNIA Partners, Public Sector cooperative group contracting consortium for State governments. The Contract and all contract documents, including but not limited to amendments, Request for Proposals (RFP) documents and Contractor responses (all collectively, “Contract Documents”), are incorporated herein by reference. In the event of conflict or inconsistency between the terms of this Agreement and the Contract and Contract Documents, the terms of this Agreement shall govern and control. All capitalized terms shall have the same meaning as in the Contract and Contract Documents unless otherwise stated herein. Except as modified herein, all other terms and conditions of the Contract and Contract Documents shall remain in full force and effect.

2. Notices, Payments and Invoices

All notices which the parties are authorized or required to give one another pursuant to this Agreement, and all reports, payments, and invoices, shall be in writing and may be e-mailed or personally delivered. Such notices, reports, payments, and invoices shall be personally delivered or e-mailed to the following persons at the addresses listed:

Invoices: FIN-AP@dmgov.org

All other notices and communications:

Contractor
 Insight Public Sector
 Attn: _____
 6820 South Harl Ave
 Tempe, AZ 85283
StateofIowa@Insight.com

City
 City of Des Moines
 Attn: Procurement Division
 400 Robert D. Ray Dr.
 Des Moines, IA 50309
KDSizenbach@dmgov.org
 515-283-4210

With Copy Via Email Only To:
 City of Des Moines IT Department
IT-BusinessOffice@dmgov.org

3. Term of Agreement

Contractor agrees to fulfill this Agreement in accordance with the pricing and terms specified in this Agreement and in the Contract and Contract Documents to and including the later of April 30, 2025 or the delivery and final acceptance by City

of any orders from the City and accepted by Contractor, regardless of the duration of the Contract and Contract Documents and any performance period stated therein.

4. Miscellaneous


- a. Definitions: For purposes of this Agreement and unless otherwise specified herein, (1) the City shall constitute a "Public Agency" and "Participating Public Agency", and this Agreement shall constitute the "Customer Facing Agreement" if applicable, under the Contract and Contract Documents; (2) within the Addendum and unless otherwise noted herein, all references to "the County" shall be replaced with "City", all references to the "Commonwealth", "Virginia", or "Commonwealth of Virginia" shall be replaced with "State of Iowa", and all references to "parties" shall mean the City and Contractor; and the following specific revisions shall apply:
 - i. Addendum Section 7: Deletion of "(Reference *Code of Virginia* § 8.01 et seq.)".
 - ii. Addendum Section 26: Replace "Fairfax County Board of Supervisors" with "Des Moines City Council".
 - iii. Addendum Section 40: Replace "Va. Code Ann. § 2.2-4342(F)" with "Iowa Code Chapter 22"; replace "Virginia Freedom of Information Act, Va. Code Ann. § 2.2-3700, et seq." with "Iowa Open Records law".
- b. Disputes: Prior to implementing the provisions of Section 11 of the Addendum, the City and Contractor shall first make reasonable, good faith efforts to resolve any disputes prior to commencing legal action, following the Fairfax County/State of Virginia dispute resolution procedures, or terminating this Agreement. The parties hereto agree to meet to have their respective senior management, who are authorized to act on their behalf, resolve any differences until such time as the meetings are not productive or have no reasonable probability of resolving the dispute, in which time other courses of action may be pursued by either or both party(ies).
- c. Choice of Law: This Agreement will be governed by and interpreted and construed in accordance with the laws of the State of Iowa, and any action relating to this Agreement shall be brought in the Iowa District Court in Polk County, Iowa or the United States District Court for the Southern District of Iowa. If any provision of this Agreement is held to be invalid or unenforceable, the remainder shall be valid and enforceable.
- d. Indemnification: In addition to indemnification by Contractor as provided in the Contract, the City shall not be liable or in any way responsible for any injury, damage, liability, claim, loss or expense incurred by Contractor arising out of or in any way connected or associated with Contractor's work, including that of its officers, agents, employees, subcontractors and others under the control of Contractor, except to the extent caused by or resulting from the negligent act of the City.
- e. This Agreement shall be effective upon execution by both parties hereto.
- f. This Agreement, including the Contract and Contract Documents as referenced herein, represents the whole agreement of the parties and any modification requires a written amendment executed by both parties.
- g. The City shall cooperate with Contractor in connection with the performance of its services hereunder, including providing Contractor with reasonable and timely access to the City's information and facilities.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives.

CITY OF DES MOINES, IOWA


T. M. Franklin Cownie Josh Mandelbaum
Mayor *Pro Tem*

INSIGHT PUBLIC SECTOR, INC.


By: Lisanne Steinheiser
Its: Global Compliance Officer

APPROVED AS TO FORM:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney