CITY OF CHULA VISTA
CONTRACTOR/SERVICE PROVIDER SERVICES AGREEMENT
WITH LOGICALIS, INC.
TO PROVIDE NETWORK DESIGN & BUILD

This Agreement is entered into effective as of 10/1/24 ("Effective Date") by and between the City of Chula Vista, a chartered municipal corporation ("City") and Logicalis Inc., a Michigan corporation ("Contractor/Service Provider") (collectively, the "Parties" and, individually, a "Party") with reference to the following facts:

RECITALS

A.   WHEREAS, the City last completed a network hardware update in 2018.

B.   WHEREAS, the City has identified a critical need to enhance its network infrastructure and logical organization to support its operations and services effectively.

C.   WHEREAS, the City has issued Request for Proposal (RFP) P35-2024 for the purpose of soliciting proposals from qualified vendors to conduct a comprehensive assessment, design, and implementation of the City's network infrastructure.

D.   WHEREAS, in order to procure these services City solicited proposals in accordance with Chula Vista Municipal Code Section 2.56.080 for network design and build services, received three proposals, and selected Contractor/Service Provider as the most qualified amongst those submitting.

E.   WHEREAS, Contractor/Service Provider warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Contractor/Service Provider to City in accordance with the time frames and the terms and conditions of this Agreement.

[End of Recitals. Next Page Starts Obligatory Provisions.]

Service Provider Name: Logicalis, Inc   **Rev. 3/21/2024**
60297.00068\42699002.5

OBLIGATORY PROVISIONS

NOW, THEREFORE, for and in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and Contractor/Service Provider hereby agree as follows:

1.   SERVICES

1.1   Required Services. Contractor/Service Provider agrees to perform the services, and deliver to City the "Deliverables" described in the attached Exhibit B, incorporated into the Agreement by this reference, within the time frames set forth therein, time being of the essence for this Agreement. Collectively, the services and Deliverables described in Exhibit B shall be referred to herein as the "Required Services." For the avoidance of doubt, the Parties hereby acknowledge that this Agreement, together with all exhibit attachments thereto, is intended solely to address the Contractor/Service Provider services for network design and build services; in the event that the City wants to purchase products or other services besides the Required Services, the Parties agree to negotiate in good faith an amendment addressing the specific terms applicable to that service offering; provided, however, that the purchase of any Cisco infrastructure hardware, software and licensing shall remain governed by that certain Cooperative Purchasing Agreement (related to the provision of Cisco Smartnet Maintenance Services), dated effective as of February 7, 2023, by and between the Parties.

1.2   Reductions in Scope of Work. City may independently, or upon request from Contractor/Service Provider, from time to time, reduce the Required Services to be performed by the Contractor/Service Provider under this Agreement. Upon doing so, City and Contractor/Service Provider agree to meet and confer in good faith for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.

1.3   Additional Services. Subject to compliance with the City's Charter, codes, policies, procedures and ordinances governing procurement and purchasing authority, City may request Contractor/Service Provider provide additional services related to the Required Services ("Additional Services"). If so, City and Contractor/Service Provider agree to meet and confer in good faith for the purpose of negotiating an amendment to Exhibit A, to add the Additional Services. Unless otherwise agreed, compensation for the Additional Services shall be charged and paid consistent with the rates and terms already provided therein. Once added to Exhibit A, "Additional Services" shall also become "Required Services" for purposes of this Agreement.

1.4   Warranty; Standard of Care. Contractor/Service Provider expressly warrants and agrees that any and all Required Services hereunder shall be performed in accordance with the generally accepted standard of care exercised by members of the profession currently practicing under similar conditions and in similar locations. If the Required Services or any other services fail to meet this standard, Contractor/Service Provider shall promptly correct any deficiencies at no additional cost to the City. For Required Services containing a deliverable, such Required Services will be deemed accepted by the City if not rejected in a reasonably detailed writing within ten (10) business days of submission of the deliverable

to the City, or as otherwise identified in the applicable Statement of Work. In the event the Required Services provided by Logicalis are not in conformance with this warranty, the City must provide written notice to Logicalis within ten (10) days after the performance of the Required Services and such notice will specify in reasonable detail the nature of the breach. Upon confirmation of the breach, Logicalis will use commercially reasonable efforts to take the steps necessary to correct the deficiency at no charge to the City. This is The City's sole and exclusive remedy for breach of this warranty. The Required Services will meet the technical standards of performance or service levels, if any, set forth in the applicable Statement of Work. The City's sole and exclusive remedy for any failure to meet the applicable technical standards of performance or service levels shall be as specified in the applicable Statement of Work. Contractor/Service Provider warrants that no employee, contractor, subcontractor or other agent of Contractor/Service Provider will introduce malware into City's network or data during the performance of any services. Contractor/Service Provider shall use industry standard practices and precautions to prevent (a) the introduction or proliferation of any Malware into its Products or any Client systems, or (b) damage, loss, or unauthorized access of any City's system or City's data. If there is any damage or loss to City's systems or City's data caused or introduced by Contractor/Service Provider as a result of Malware in or passed through the Products or Required Services provided by Contractor/Service Provider, the latter shall take all necessary measures to the extent practicable to mitigate the cause and effects of such Malware (including using commercially reasonable efforts to assist in restoring City's systems damaged by such Malware). As used herein, "Malware" means (a) any code, program, or sub-program whose knowing or intended purpose is to damage or interfere with the operation of the software or computer system containing the code, program or sub-program, or to halt, disable or interfere with the operation of the software, code, program, or sub-program, itself, (b) any device, method, or token that permits any person to circumvent the normal security of the software or the system containing the code, or (c) any code, program, or sub-program whose knowing or intended purpose is to serve as an adaptive threat by, among other possibilities, obtaining and sending data from the software or computer system containing the code, program or sub-program. To the extent Contractor/Service Provider's systems include any data, information, content, user interface designs, layouts, configurations, applications, products, services or other elements provided by third parties ("Third Party Content"), Contractor/Service Provider agrees to pass through any warranty, support, indemnity, or other obligations to City with respect to such Third Party Content as is provided to Contractor/Service Provider. To the extent Contractor/Service Provider provides any third-party software ("Third Party Software") to City for City's use in connection with this Agreement, the following shall apply: (i) Contractor/Service Provider shall specifically identify in writing all Third Party Software; and (ii) Contractor/Service Provider shall disclose any terms (other than financial terms) applicable to City. This requirement will not apply to third party software used by Contractor/Service Provider to provide services that is not directly and independently used by City.

1.5   No Waiver of Standard of Care. Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Contractor/Service Provider of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with

industry standards, or the willful misconduct of the Contractor/Service Provider or its subcontractors.

1.6   Security for Performance. In the event that Exhibit A Section 5 indicates the need for Contractor/Service Provider to provide additional security for performance of its duties under this Agreement, Contractor/Service Provider shall provide such additional security prior to commencement of its Required Services in the form and on the terms prescribed on Exhibit A, or as otherwise prescribed by the City Attorney.

1.7   Compliance with Laws. In its performance of the Required Services or Additional Services, Contractor/Service Provider shall comply with any and all applicable federal, state and local laws, including the Chula Vista Municipal Code.

1.8   Business License. Prior to commencement of work, Contractor/Service Provider shall obtain, at its own expense, a business license from City. Failure of Contractor/Service Provider to obtain and maintain such license throughout the term of this Agreement shall constitute a material breach of the Agreement.

1.9   Subcontractors. Prior to commencement of any work, Contractor/Service Provider shall submit for City's information and approval a list of any and all subcontractors to be used by Contractor/Service Provider in the performance of the Required Services. Contractor/Service Provider agrees to take appropriate measures necessary to ensure that all subcontractors and personnel utilized by the Contractor/Service Provider to complete its obligations under this Agreement comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local, including the Chula Vista Municipal Code. In addition, if any subcontractor is expected to fulfill any responsibilities of the Contractor/Service Provider under this Agreement, Contractor/Service Provider shall ensure that each and every subcontractor carries out the Contractor/Service Provider's responsibilities as set forth in this Agreement.

1.10   Term. This Agreement shall commence on the earlier to occur of the Effective Date or Contractor/Service Provider's commencement of the Required Services hereunder, and shall terminate, subject to Section 6.2 of this Agreement, when the Parties have complied with all their obligations hereunder; provided, however, provisions which expressly survive termination shall remain in effect.

2.   **COMPENSATION**

2.1   General. For satisfactory performance of the Required Services, City agrees to compensate Contractor/Service Provider in the amount(s) and on the terms set forth in Exhibit A, Section 4. Standard terms for billing and payment are set forth in this Section 2.

2.2   Detailed Invoicing. Contractor/Service Provider agrees to provide City with a detailed invoice for services performed each month, within thirty (30) days of the end of the month in which the services were performed, unless otherwise specified in Exhibit A. Invoicing shall begin on the first of the month following the Effective Date of the Agreement. All charges must be presented in a line item format with each task separately

explained in reasonable detail. Each invoice shall include the current monthly amount being billed, the amount invoiced to date, and the remaining amount available under any approved budget. Contractor/Service Provider must obtain prior written authorization from City for any fees or expenses that exceed the estimated budget.

2.3   Payment to Contractor/Service Provider. Upon receipt of an invoice and assurances acceptable to City that the Required Services detailed in the invoice have been satisfactorily performed, City shall pay Contractor/Service Provider for the invoice amount within thirty (30) days. Payment shall be made in accordance with the terms and conditions set forth in Exhibit A and Section 2.4, below. City reserves the right to withhold payment of Reasonably Disputed Charges. For purposes of this Agreement, a "Reasonably Disputed Charge" shall mean any charge or portion of a charge in an invoice that the City, in good faith, believes to be inaccurate, excessive, or not in accordance with the terms of this Agreement. The City shall provide written notice to the Contractor/Service Provider within fifteen (15) days of receiving the invoice, specifying the reasons for the dispute and the amount in question. The City and the Contractor/Service Provider shall then engage in good faith discussions to resolve the dispute. Pending resolution, the City shall not be obligated to pay the disputed portion of the invoice but shall timely pay all other undisputed amounts.

2.4   Retention Policy. City shall retain ten percent (10%) of the amount due for Required Services detailed on each invoice (the "holdback amount"). Upon City review and determination of Project Completion, the holdback amount will be issued to Contractor/Service Provider.

2.5   Reimbursement of Costs. City may reimburse Contractor/Service Provider's out-of-pocket costs incurred by Contractor/Service Provider in the performance of the Required Services if negotiated in advance and included in Exhibit A. Unless specifically provided in Exhibit A, Contractor/Service Provider shall be responsible for any and all out-of-pocket costs incurred by Contractor/Service Provider in the performance of the Required Services.

2.6   Exclusions. City shall not be responsible for payment to Contractor/Service Provider for any fees or costs in excess of any agreed upon budget, rate or other maximum amount(s) provided for in Exhibit A. City shall also not be responsible for any cost: (a) incurred prior to the Effective Date; or (b) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of Contractor/Service Provider, its agents, employees, or subcontractors.

2.7   Payment Not Final Approval. Contractor/Service Provider understands and agrees that payment to the Contractor/Service Provider or reimbursement for any Contractor/Service Provider costs related to the performance of Required Services does not constitute a City final decision regarding whether such payment or cost reimbursement is allowable and eligible for payment under this Agreement, nor does it constitute a waiver of any violation by Contractor/Service Provider of the terms of this Agreement.   If City determines that Contractor/Service Provider is not entitled to receive any amount of compensation already paid, City will notify Contractor/Service Provider in writing and Contractor/Service Provider shall promptly return such amount.

3. **INSURANCE**

Contractor/Service Provider must procure and maintain insurance in strict accordance with the Insurance Requirements identified in Exhibit C, which is attached hereto and incorporated herein by reference.

4. **INDEMNITY**

Contractor/Service Provider must indemnify, defend, and hold harmless the Indemnified Parties (as defined in Exhibit D) as provided in Exhibit D, which is attached hereto and incorporated herein by reference.

5. **FINANCIAL INTERESTS OF CONTRACTOR/SERVICE PROVIDER.**

5.1   Form 700 Filing. The California Political Reform Act and the Chula Vista Conflict of Interest Code require certain government officials and Contractor/Service Providers performing work for government agencies to publicly disclose certain of their personal assets and income using a Statement of Economic Interests form (Form 700). In order to assure compliance with these requirements, Contractor/Service Provider shall comply with the disclosure requirements identified in the attached Exhibit E, incorporated into the Agreement by this reference.

5.2   Disclosures; Prohibited Interests. Independent of whether Contractor/Service Provider is required to file a Form 700, Contractor/Service Provider warrants and represents that it has disclosed to City any economic interests held by Contractor/Service Provider, or its employees or subcontractors who will be performing the Required Services, in any real property or project which is the subject of this Agreement. Contractor/Service Provider warrants and represents that it has not employed or retained any company or person, other than a bona fide employee or approved subcontractor working solely for Contractor/Service Provider, to solicit or secure this Agreement. Further, Contractor/Service Provider warrants and represents that it has not paid or agreed to pay any company or person, other than a bona fide employee or approved subcontractor working solely for Contractor/Service Provider, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor/Service Provider further warrants and represents that no officer or employee of City, has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds hereof, or in the business of Contractor/Service Provider or Contractor/Service Provider's subcontractors. Contractor/Service Provider further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement. For breach or violation of any of these warranties, City shall have the right to rescind this Agreement without liability.

5.3   Levine Act. California Government Code section 84308, commonly known as the Levine Act, prohibits public agency officers from participating in any action related to a contract if such officer receives political contributions totaling more than $250 within the previous twelve months, and for twelve months following the date a final decision

concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. In order to assure compliance with these requirements, Contractor/Service Provider shall comply with the disclosure requirements identified in the attached Exhibit F, incorporated into the Agreement by this reference.

6. **REMEDIES**

6.1 <u>Termination for Cause</u>. If for any reason whatsoever Contractor/Service Provider shall fail to perform the Required Services under this Agreement, in a proper or timely manner, or if Contractor/Service Provider shall violate any of the other covenants, agreements or conditions of this Agreement (each a "Default"), in addition to any and all other rights and remedies City may have under this Agreement, at law or in equity, City shall have the right to terminate this Agreement by giving five (5) days written notice to Contractor/Service Provider. Such notice shall identify the Default and the Agreement termination date. If Contractor/Service Provider notifies City of its intent to cure such Default prior to City's specified termination date, and City agrees that the specified Default is capable of being cured, City may grant Contractor/Service Provider up to ten (10) additional days after the designated termination date to effectuate such cure. Contractor/Service Provider may be entitled to compensation for work satisfactorily performed prior to Contractor/Service Provider's receipt of the Default notice; provided, however, in no event shall such compensation exceed the amount that would have been payable under this Agreement for such work, and any such compensation shall be reduced by any costs incurred or projected to be incurred by City as a result of the Default.

6.2 <u>Termination or Suspension for Convenience of City</u>. The City shall have the right to suspend or terminate this Agreement and/or or any Statements of Work or purchase orders under this Agreement for convenience, by providing Logicalis thirty (30) days written notice; such suspension or termination will impact outstanding Statements of Work or purchase orders as follows:

    a.   Statements of Work or purchase orders shall be cancellable on no less than thirty days' notice provided the City agrees to pay all fees due for any portion of work which has been satisfactorily completed and are not the subject of Reasonably Disputed Charges.

6.3 Subject to the terms in Section 2, any termination of this Agreement or any Statement of Works or purchase orders shall not release the City from paying any amount that it may then owe to Contractor/Service Provider for services completed through the termination date. In the event of any termination under Section 6.1 or Section 6.2, Contractor/Service Provider shall immediately provide City any and all "Work Product" (defined in Section 7 below) prepared by Contractor/Service Provider as part of the Required Services. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof.

6.4 <u>Waiver of Claims</u>. In the event City terminates the Agreement in accordance with the terms of this section, Contractor/Service Provider hereby expressly waives any and all

claims for damages or compensation as a result of such termination except as expressly provided in this Section 6.

6.5 <u>Administrative Claims Requirements and Procedures</u>. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Contractor/Service Provider shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

6.6 <u>Choice of Law; Venue; Service of Process</u>. This Agreement shall be governed by the laws of the State of California, without regard to its conflict of law principles. Any disputes arising out of this Agreement shall be resolved in a court of competent jurisdiction located in San Diego County. Contractor/Service Provider hereby understands and agrees that it is subject to personal jurisdiction in California. If Contractor/Service Provider is a foreign corporation, limited liability company, or partnership that is not registered with the California Secretary of State, Contractor/Service Provider irrevocably consents to service of process on Contractor/Service Provider by first class mail directed to the individual and address listed under "For Legal Notice," in Section 1.B. of Exhibit A to this Agreement, and that such service shall be effective five days after mailing.

7. OWNERSHIP AND USE OF WORK PRODUCT

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced in whole or in part under this Agreement in connection with the performance of the Required Services (collectively "Work Product") shall be the sole and exclusive property of City. No such Work Product shall be subject to private use, copyrights or patent rights by Contractor/Service Provider in the United States or in any other country without the express, prior written consent of City. City shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such Work Product, without requiring any permission of Contractor/Service Provider, except as may be limited by the provisions of the Public Records Act or expressly prohibited by other applicable laws. With respect to computer files containing data generated as Work Product, Contractor/Service Provider shall make available to City, upon reasonable written request by City, the necessary functional computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. GENERAL PROVISIONS

8.1 <u>Amendment</u>. This Agreement may be amended, but only in writing signed by both Parties.

8.2 <u>Assignment</u>. City would not have entered into this Agreement but for Contractor/Service Provider's unique qualifications and traits. Contractor/Service Provider

shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without City's prior, written consent, which City may grant, condition, or deny in its sole discretion. Any direct or indirect change in ownership or control of Contractor/Service Provider, whether through merger, acquisition, sale of stock or assets, or otherwise, shall be deemed an assignment of this Agreement.

8.3   Authority. The person(s) executing this Agreement for each Party warrants and represents that they have the authority to execute same on behalf of such Party and to bind such Party to its obligations hereunder without any further action or direction from such Party or any board, principle or officer thereof.

8.4   Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement after each Party has signed such a counterpart.

8.5   Entire Agreement; Severability. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are suspended. If any provision of this Agreement is found to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.

8.6   Record Retention. During the course of this Agreement and for three (3) years following delivery of the Required Services/Products, Contractor/Service Provider agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the performance of this Agreement, including accounting for costs and expenses charged to City, including such records in possession of sub-contractors.

8.7   Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties.

8.8   Independent Contractor(s). Contractor/Service Provider is and shall at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor/Service Provider or any of Contractor/Service Provider's officers, employees, or agents ("Contractor/Service Provider Related Individuals"), except as set forth in this Agreement. No Contractor/Service Provider Related Individuals shall be deemed employees of City, and none of them shall be entitled to any benefits to which City employees are entitled, including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Furthermore, City will not withhold state or federal income tax, social security tax or any other payroll tax with respect to any Contractor/Service Provider Related Individuals; instead, Contractor/Service Provider shall be solely responsible for the payment of same and shall hold City harmless with

respect to same. Contractor/Service Provider shall not at any time or in any manner represent that it or any of its Contractor/Service Provider Related Individuals are employees or agents of City. Contractor/Service Provider shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

8.9   Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any Party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such Party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement at the places of business for each of the designated Parties as indicated in Exhibit A, or otherwise provided in writing.

8.10   Confidentiality.   Contractor/Service Provider acknowledges that during the performance of this Agreement, it may receive or have access to certain confidential or proprietary information belonging to City, including but not limited to technical, financial, legal, operational, and administrative information, data, and documents ("Confidential Information"). Contractor/Service Provider shall:

a.   Maintain the confidentiality of all Confidential Information and use such information solely for the purpose of performing its obligations under this Agreement.

b.   Not disclose Confidential Information to any third party without the prior written consent of the City, except where disclosure is required by law, in which case Contractor/Service Provider shall provide prompt notice to the City of such disclosure requirement and cooperate with the City in seeking any appropriate protective measures.

c.   Take all reasonable precautions, including those employed for its own confidential information, to protect the confidentiality of the Confidential Information and prevent its unauthorized use or disclosure.

d.   Limit access to Confidential Information only to those of its employees, agents, or subcontractors who need access to the information to perform services under this Agreement, and ensure that those individuals are bound by obligations of confidentiality at least as protective as those contained herein.

e.   Return or destroy all Confidential Information in its possession or control upon termination or expiration of this Agreement, or upon the City's written request, and certify in writing that all Confidential Information has been returned or destroyed, except where retention is required by law or for legitimate business purposes related to the performance of this Agreement.

This obligation of confidentiality shall survive the termination or expiration of this Agreement.

8.11   Nondiscrimination. In performing this Agreement, Contractor/Service Provider may not discriminate against any person on the basis of race, color, religion, sex, gender identity, sexual orientation, national origin, age, disability, or any other protected characteristic under federal, state, or local law. Contractor/Service Provider shall comply with all applicable anti-discrimination laws, including Title VII of the Civil Rights Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act.

8.12   Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

8.13   Force Majeure. Neither party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused by an event (including, fire, flood, terrorism, pestilence, earthquake, elements of nature or acts of God, riots, or civil disorders, catastrophic network or cyber or other IT issues) beyond the reasonable control of such party, provided (i) the non-performing party is without fault in causing such default or delay, (ii) such default or delay could not have been prevented by reasonable precautions (including the implementation of, and adherence to, a prudent disaster recovery and business continuity plan), and (iii) such default or delay could not reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means.

8.14   Required Contractor/Service Provider Obligations. Contractor/Service Provider agrees to perform obligations as stated in this Agreement within the time frames set forth herein.

8.15   Risk of Loss. The location for delivery of the Required Services/Products will be at a destination specified by the City ("Delivery Location") and may only be accepted by City by an authorized employee or representative of City. Until delivery to, and acceptance by, City, Contractor/Service Provider shall bear all risk of loss, injury, and damage to Required Services/Products until City's actual receipt and authorized acceptance of the Required Services/Products in accordance with the terms of this Agreement.

8.16   Shipment and Delivery Requirements. Contractor/Service Provider shall procure, fabricate (as applicable), assemble (as applicable), pack, mark, and ship the Required Services/Products to the Delivery Location following full execution of this Agreement. Contractor/Service Provider may not make partial shipments to City.

8.17   Conflicts. In the event of any inconsistencies, conflicts, or discrepancies between this Agreement and any of the below-referenced list of documents, shall be resolved in the following order of priority:

a.   The main body of this Agreement

b.   Exhibit A of this Agreement

c.   Exhibit B of this Agreement (consisting of (i) Quotation # 2024-189155v4b, and (ii) the Professional Services Statement of Work (collectively (i) and (ii), the "**Design & Build SOW**").

d.   Exhibit B-1 of this Agreement (Logicalis General Responsibilities and Assumptions)

e.   Exhibit B-2 of this Agreement (Logicalis Terms and Conditions of Sale)

f.   Any other exhibits, terms or conditions attached to or otherwise incorporated by reference in the Agreement.

In the event that the City issues a purchase order against Contractor/Service Provider Quotation, Contractor/Service Provider rejects any terms and conditions contained therein which are additional to or different from those set forth in the documents referenced above.

SIGNATURE PAGE
CONTRACTOR/SERVICE PROVIDER SERVICES AGREEMENT

     IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and Contractor/Service Provider agree that they have read and understood all terms and conditions of the Agreement, that they fully agree and consent to bound by same, and that they are freely entering into this Agreement as of the Effective Date.

Logicalis, Inc   CITY OF CHULA VISTA

BY:_____   BY: _____
David Dunn   John McCann
Regional VP Sales   Mayor

APPROVED AS TO FORM

_____
Marco Verdugo
City Attorney

EXHIBITS

    A – Scope of Work and Payment Terms

    B – Contractor/Service Provider Quotation # 2024-189155v4b and Professional Services Statement of Work

        B-1: Logicalis General Responsibilities and Assumptions;

        B-2: Logicalis Terms and Conditions of Sale

    C – Insurance Requirements

    D – Indemnity Requirements

    E – Conflict of Interest Designation

    F – Levine Act

Completed by: Jacey Kinnaird, IT Project Manager and Jose Cisneros

EXHIBIT A
SCOPE OF WORK AND PAYMENT TERMS

1. **Contact People for Contract Administration and Legal Notice**

    A. City Contract Administration:
        Jose Cisneros, Director Information Technology Services
        276 Fourth Avenue, Chula Vista, CA 91910
        (619) 691-5013
        jcisneros@chulavistaca.gov

        For Legal Notice Copy to:
        City of Chula Vista
        City Attorney
        276 Fourth Avenue, Chula Vista, CA 91910
        619-691-5037
        CityAttorney@chulavistaca.gov

    B. Contractor/Service Provider Contract Administration:
        LOGICALIS, INC
        2600 W Big Beaver Rd, Suite 150, Troy, MI 48084
        425-201-8139
        LogicalisGovEdContracts@us.logicalis.com

        For Legal Notice Copy to:
        Nancy Saltzman
        2600 W Big Beaver Rd, Suite 150, Troy, MI 48084
        248-957-5600
        LegalServices@us.logicalis.com

2. **Required Services**. See Exhibit B.

3. **Term**: The term of this Agreement shall commence on the Effective Date of that certain Contractor/Service Provider Services Agreement between the City and Logicalis and shall terminate the earlier of June 30, 2026 or upon the parties' execution of the Project Closure and Acceptance (PCA) form, unless otherwise extended or terminated earlier in accordance with the terms herein.

4. **Compensation:**

    A. **Form of Compensation**

        ☒ Fixed Fee Paid in Increments. City shall pay a fixed fee for the Required Services in an amount not to exceed $708,720.00. Subject to satisfactory receipt of the associated Deliverable, City will pay the invoiced amount within thirty days of invoicing.

B. **Reimbursement of Costs**

☒ None, the compensation includes all costs

Notwithstanding the foregoing, the maximum amount to be paid to the Contractor/Service Provider for services performed through during the Term may not exceed $708,720.00.

5. **Special Provisions:**

☒ Permitted Sub-Contractor/Service Providers:

1. Intelinet – 38397 Innovation Ct. Suite 101 Murrieta, CA 92563
2. GSD Telecom Services - 118900 Monroe Road 451, Paris, MO 65275
3. Core Technology Solutions - 34 Maple Ave, 2nd Floor Pine Brook, NJ 07058

☐ Security for Performance: None

☒ Prevailing Wages – **Notwithstanding anything stated to the contrary in any Contractor/Service Provider terms, Contractor/Service Provider shall comply with all applicable prevailing wage laws.**

In accordance with the provisions of Section 1773 of the Labor Code, City has ascertained the general prevailing wage scales are applicable to the work to be done under this Agreement. The prevailing wage scales are those determined by the Department of Industrial Relations, which can be found online at http://www.dir.ca.gov/dlsr. Contractor/Service Provider and any and all subcontractors are required by Labor Code Sections 1771 and 1774 to pay no less than the prevailing wages to persons employed by them to provide work under this Agreement. If Contractor/Service Provider intends to use a craft or classification not shown on the general prevailing wage rates, determinations may be required to pay the wage rate of that craft or classification most closely related to it as shown in the general wage rates determinations effective at the time of the call for bids.

Contractor/Service Provider and its subcontractors of every tier shall comply with all Federal and State law prevailing wage requirements for all persons employed to perform the work contemplated under the Agreement, including but not limited to payment of prevailing wages at the specified rates. The prevailing wage rates are determined by the Department of Industrial Relations (DIR) and are available at the City and on the DIR's website.

Prior to commencing the work contemplated under the Agreement, the Contractor/Service Provider shall provide the City with a list of its subcontractors and the classifications and wages of workers that will be employed to perform the work contemplated under the Agreement. If Contractor/Service Provider desires to modify the list during the term of the Agreement, Contractor/Service Provider shall immediately provide an updated list to the City. To verify compliance with State prevailing wage requirements, Contractor/Service Provider shall be registered with the DIR's online registration of contractors and shall furnish and submit certified

payrolls and other required documentation directly to the DIR. Contractor/Service Provider and its subcontractors of every tier shall comply with all requirements of Labor Code section 1776.

This Agreement is subject to compliance monitoring and enforcement by the DIR pursuant to Labor Code section 1771.4.

In addition to Federal and State law prevailing wage requirements, Contractor/Service Provider shall also comply with the following in its performance of the Required Services:

- Labor Code 1810: Hours in legal day's work;
- Labor Code 1813: Penalty for exceeding legal day's work; and
- Labor Code 1815: One and one-half time rate of pay.

Contractor/Service Provider acknowledges and agrees that a failure to comply with any requirements of this section authorizes the City to withhold payments under the Agreement. Nothing contained in, or not contained in, this section shall be construed to in any way limit Contractor/Service Provider's obligations to comply with any applicable Federal, State, or local law or regulation.

Employment of Apprentices
Contractor/Service Provider and its subcontractors of every tier shall comply with all requirements for employment of apprentices as provided by any applicable law or regulation, including but not limited to Labor Code sections 1777.5, 1777.6, and 1777.7. Information regarding apprenticeship standards, wage schedules, and other requirements may be obtained from the DIR.

Upon request, Contractor/Service Provider shall provide a certified copy of an employee's payroll record to City, the employee or his or her authorized representative, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards, and as further provided by the Labor Code.

EXHIBIT B
[Insert Quotation # 2024-189155v4b and Professional Services Statement of Work]

_____

EXHIBIT B-1
[Insert Logicalis General Responsibilities and Assumptions]

EXHIBIT B-2
<mark>[Insert Logicalis Terms and Conditions of Sale</mark>]

EXHIBIT C
INSURANCE REQUIREMENTS

1.   Required Insurance. Contractor/Service Provider must procure and maintain, after execution of this Agreement, throughout the term of the Agreement, and for twelve months following the end of the term, the policies of insurance set forth herein ("Required Insurance"). The Required Insurance shall also comply with all other terms of this Exhibit.

2.   [INTENTIONALLY OMITTED.]

3.   Standards for Insurers. Required Insurance must be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of A V or better, or, if insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. For Worker's Compensation Insurance, insurance issued by the State Compensation Fund is also acceptable.

4.   Subcontractors. Contractor/Service Provider must include all sub-contractors/service providers as insured under its policies and/or furnish separate certificates and endorsements demonstrating separate coverage for those not under its policies. Any separate coverage for sub-contractors/service providers must also comply with the terms of this Agreement.

5.   Additional Insureds. City, its officers, officials, employees, agents, and volunteers must be named as additional insured with respect to any policy of general liability or automobile insurance specified as required below in Section 13. The general liability additional insured coverage must be provided in the form of an endorsement to the Contractor/Service Provider's insurance using ISO CG 20 10 (04/13) (11/85) or its equivalent, i.e. CG2037 (4/13); such endorsement must not exclude Products/Completed Operations coverage. Additional insured status for both ongoing and completed operations will be extended to City, its officers, officials, employees, agents, and volunteers by Contractor/Service Provider's independent subcontractors performing onsite installation.

6.   General Liability Coverage to be "Primary." Contractor/Service Provider's general liability coverage must be primary insurance as it pertains to City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers is wholly separate from the insurance provided by Contractor/Service Provider and in no way relieves Contractor/Service Provider from its responsibility to provide insurance.

7.   No Cancellation. No Required Insurance policy may be canceled by either Party during the required insured period under this Agreement, except after prior written notice to City in accordance with applicable policy provisions by certified mail, return receipt requested. Prior to the Effective Date of any such cancellation Contractor/Service Provider must procure and put into effect equivalent coverage(s).

8.   Waiver of Subrogation. Contractor/Service Provider will provide a Waiver of Subrogation in favor of City for each Required Insurance policy under this Agreement. In addition,

Contractor/Service Provider waives any right it may have or may obtain to subrogation for a claim against City.

9.   Verification of Coverage. Prior to commencement of any work, Contractor/Service Provider shall furnish City with original certificates of insurance and any amendatory endorsements necessary to demonstrate to City that Contractor/Service Provider has obtained the Required Insurance in compliance with the terms of this Agreement. The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" or any similar language must be deleted from all certificates. The required certificates and endorsements should otherwise be on industry standard forms. City reserves the right to require, at any time, complete, certified copies or all required insurance endorsements evidencing the coverage required by these specifications.

10.   Claims Made Policy Requirements. If General Liability, Pollution, and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are required and are provided on a claims-made form, the following requirements also apply:

  a.   The "Retro Date" must be shown, and must be before the date of this Agreement or the beginning of the work required by this Agreement.

  b.   Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the work required by this Agreement.

  c.   If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the Effective Date of this Agreement, Contractor/Service Provider must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the work required by this Agreement.

  d.   A copy of the claims reporting requirements must be submitted to City for review.

11.   Not a Limitation of Other Obligations. Insurance provisions under this section shall not be constructed to limit Contractor/Service Provider's obligations under this Agreement, including Indemnity.

12.   Additional Coverage. To the extent that insurance coverage provide by Contractor/Service Provider maintains higher limits than the minimums appearing below in Section 13, City requires and shall be entitled to coverage for higher limits maintained.

13. <u>Insurance Requirements</u>.

	Type of Insurance	Minimum Amount	Form
☒	General Liability: Including products and complete operations, personal and advertising injury	$1,000,000 per occurrence for bodily injury, personal injury (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit must apply separately to this Agreement or the general aggregate limit must be twice the required occurrence limit. Additional Insured Endorsement or Blanket AI Endorsement for City* Waive of Recovery Endorsement	Insurance Services Office Form CG 00 01 *Must be primary and must not exclude Products/Completed Operations
Re ☒	Automobile Liability	$1,000,000 per accident for bodily injury, including death, and property damage	Insurance Services Office Form CA 00 01 Code 1 – Any Auto Code 8 – Hired Code 9 – Non-Owned
☒	Workers' Compensation Employer's Liability	$1,000,000 each accident $1,000,000 disease policy limit $1,000,000 disease each employee Waiver of Recovery Endorsement	
☒	Professional Liability (Errors & Omissions)	$1,000,000 each occurrence $2,000,000 aggregate	

Other Negotiated Insurance Terms: Policy limits set forth in this Section 13 (Insurance Requirements) may be met by the applicable policy itself or by a combination of the applicable policy and any applicable excess/umbrella coverage.

EXHIBIT D
INDEMNITY REQUIREMENTS

1.   General. Subject to the terms of this Agreement, Contractor/Service Provider shall protect, defend, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, "Indemnified Parties"), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys' fees and court costs), liability, or loss arising out of or incident to any alleged negligent acts, omissions, negligence, or willful misconduct of Contractor/Service Provider, its officials, officers, employees, agents, contractors, subcontractors or other agents arising out of or in connection with (i) the performance of the Required Services or any Additional Services, (ii) the results of such performance, or (iii) this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising solely from the negligent or willful misconduct of the Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by negligent acts or omissions of the Indemnified Parties, except only to the extent such liability arises from the active or passive negligent acts or omissions of the Contractor/Service Provider, its employees, agents or officers, or any third party.

2.   Modified Indemnity Where Agreement Involves Design Professional Services. Notwithstanding the forgoing, if the services provided under this Agreement are design professional services, as defined by California Civil Code Section 2782.8, as may be amended from time to time, the defense and indemnity obligation under Section 1 of these Indemnity Requirements, above, shall be limited to the extent required by California Civil Code Section 2782.8.

3.   Costs of Defense and Award. Included in Contractor/Service Provider's obligations under these Indemnity Provisions is Contractor/Service Provider's obligation to defend, at Contractor/Service Provider's own cost, expense and risk, any and all suits, action or other legal proceedings described under Paragraph 1 above that may be brought or instituted against one or more of the Indemnified Parties. Subject to the limitations applicable to this Agreement, Contractor/Service Provider shall pay and satisfy any judgment, award or decrees that may be rendered against one or more of the Indemnified Parties for any and all related legal expenses and costs incurred by any of them.

4.   Contractor/Service Provider's Obligations Not Limited or Modified. Contractor/Service Provider's obligations under these Indemnity Provisions shall not be limited to insurance proceeds, if any, received by the Indemnified Parties, or by any prior or subsequent declaration by Contractor/Service Provider. Furthermore, Contractor/Service Provider's obligations under this Indemnity Requirements shall in no way limit, modify or excuse any of Contractor/Service Provider's other obligations or duties under this Agreement.

5.   Intentionally Omitted.

6.   Limitation of Liability. LOGICALIS WILL NOT, IN ANY EVENT, BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST

REVENUES, LOST OR DAMAGED DATA, AND LOSS OF BUSINESS OPPORTUNITY), HOWEVER CAUSED, ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE, EVEN IF LOGICALIS HAS BEEN ADVISED OF SUCH DAMAGES AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, INFRINGEMENT OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY, CONTRIBUTION, OR OTHERWISE.

7.   <u>Survival</u>. Contractor/Service Provider's obligations under these Indemnity Provisions shall survive the termination of this Agreement.

EXHIBIT E
CONTRACTOR/SERVICE PROVIDER CONFLICT OF INTEREST DESIGNATION

The Political Reform Act1 and the Chula Vista Conflict of Interest Code2 ("Code") require designated state and local government officials, including some consultants, to make certain public disclosures using a Statement of Economic Interests form (Form 700). Once filed, a Form 700 is a public document, accessible to any member of the public. In addition, consultants designated to file the Form 700 are also required to comply with certain ethics training requirements.3

☒ A. Contractor/Service Provider IS a corporation or limited liability company and is therefore EXCLUDED4 from disclosure.

B. Contractor/Service Provider NOT a corporation or limited liability company and disclosure designation is as follows:

APPLICABLE DESIGNATIONS FOR INDIVIDUAL(S) ASSIGNED TO PROVIDE SERVICES

(Category descriptions available at www.chulavistaca.gov/departments/city-clerk/conflict-of- interest-code.)

Name	Email Address	Applicable Designation
Enter Name of Each Individual Who Will Be Providing Service Under the Contract – If individuals have different disclosure requirements, duplicate this row and complete separately for each individual	Enter email address(es)	☐ **A. Full Disclosure** ☐ **B. Limited Disclosure** (select one or more of the categories under which the shall file): ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. Justification: ☐ **C. Excluded from Disclosure**

1.   **Required Filers**

Each individual who will be performing services for the City pursuant to the Agreement and who meets the definition of "Consultant," pursuant to FPPC Regulation 18700.3, must file a Form 700.

2.   **Required Filing Deadlines**

Each initial Form 700 required under this Agreement shall be filed with the Office of the City Clerk via the City's online filing system, NetFile, within 30 days of the approval of the Agreement. Additional Form 700 filings will be required annually on April 1 during the term of the Agreement, and within 30 days of the termination of the Agreement.

3. **Filing Designation**

The City Department Director will designate each individual who will be providing services to the City pursuant to the Agreement as *full disclosure, limited disclosure, or excluded from disclosure*, based on an analysis of the services the Contractor/Service Provider will provide. Notwithstanding this designation or anything in the Agreement, the Contractor/Service Provider is ultimately responsible for complying with FPPC regulations and filing requirements. If you have any questions regarding filing requirements, please do not hesitate to contact the City Clerk at (619)691-5041, or the FPPC at 1-866-ASK-FPPC, or (866) 275-3772 *2.

Pursuant to the duly adopted City of Chula Vista Conflict of Interest Code, this document shall serve as the written determination of the consultant's requirement to comply with the disclosure requirements set forth in the Code.

1   Cal. Gov. Code §§81000 et seq.; FPPC Regs. 18700.3 and 18704.

2   Chula Vista Municipal Code §§2.02.010-2.02.040.

3   Cal. Gov. Code §§53234, et seq.

4   CA FPPC Adv. A-15-147 (Chadwick) (2015); Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261; FPPC Reg. 18700.3 (Consultant defined as an "individual" who participates in making a governmental decision; "individual" does not include corporation or limited liability company

EXHIBIT F
CONSULTANT LEVINE ACT DISCLOSURE

California Government Code section 84308, commonly referred to as the Levine Act, prohibits any City of Chula Vista Officer[1] ("Officer") from taking part in decisions related to a contract if the Officer received a political contribution totaling more than $250 within the previous twelve months, and for twelve months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. The Levine Act does not apply to competitively bid, labor, or personal employment contracts.

☐   A. The Levine Act (Govt. Code §84308) DOES NOT apply to this Agreement.

☐   B. The Levine Act (Govt. Code §84308) does apply to this Agreement and the required disclosure is as follows:

Current Officers can be located on the City of Chula Vista's websites below:
- Mayor & Council - https://www.chulavistaca.gov/departments/mayor-council
- City Attorney - https://www.chulavistaca.gov/departments/city-attorney/about-us
- Planning Commissioners – www.chulavistaca.gov/pc
- Candidate for Elected Office – www.chulavistaca.gov/elections

1.   Have you or your company, or any agent on behalf of you or your company, made political contributions totaling more than $250 to any Officer in the 12 months preceding the date you submitted your proposal, the date you completed this form, or the anticipated date of any Council action related to this Agreement?

     YES: ☐ If yes, which Officer(s): Click or tap here to enter text.

     NO: ☐

2.   Do you or your company, or any agent on behalf of you or your company, anticipate or plan to make political contributions totaling more than $250 to any Officer in the 12 months following the finalization of this Agreement or any Council action related to this Agreement?

     YES: ☐   If yes, which Officer(s): Click or tap here to enter text.

     NO: ☐

Answering yes to either question above may not preclude the City of Chula Vista from entering into or taking any subsequent action related to the Agreement. However, it may preclude the identified Officer(s) from participating in any actions related to the Agreement.

---

1 "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency. GC § 84308