

A G R E E M E N T

THIS AGREEMENT is made, as of the Effective Date which is written on the City's signature page below, between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("**Denver**"), for itself and on behalf of the **DENVER ELECTIONS DIVISION**, (the "**Agency**", an office of the **Denver Clerk and Recorder**, and together with Denver, the "**City**"), whose address is 200 West 14th Avenue, Suite 100, Denver, Colorado 80204, and the **NATIONAL CYBERSECURITY CENTER** ("**NCC**"), a Colorado not-for-profit corporation, **TUSK/MONTGOMERY PHILANTHROPIES, INC.**, a New York not-for-profit corporation ("**Tusk**"), and **VOATZ, INC.**, a Delaware corporation ("**Voatz**"). Each of NCC, Tusk, Voatz, and the City, are referred to herein as a "Party", and collectively, the "Parties".

R E C I T A L S

A. NCC is a Colorado-based, state and nationally focused 501(c)(3) nonprofit organization who is working to foster innovation and provide cybersecurity leadership, services, and training for public and private partners engaged in executing pilot voting projects utilizing a blockchain-based mobile voting platform; the organization has programming that focuses on (a) working with government, military, education and industry to gain awareness of cyber issues and to help shape public policy; (b) fostering innovation, equipping entrepreneurs, and partnering with startup accelerators and industry; and (c) working with K-12, colleges and other partners to help educate, train and equip the cyber workforce.

B. Tusk is a private philanthropic organization engaged in building support for non-partisan blockchain-based mobile voting initiatives designed to expand voting options to increase participation in the electoral process.

C. Voatz is a vendor experienced in executing pilot voting projects utilizing its innovative and highly secure Blockchain-based mobile voting platform.

D. The City desires to pursue a limited, opt-in only, pilot program for a blockchain-secured, mobile voting solution (the "**Solution**") for the 2019 Denver municipal elections for use only by voters registered in the city and county of denver and the state of Colorado and are eligible for remote voting under Uniformed and Overseas Citizens Absentee Voting Act ("**UOCAVA**") set forth in 42 U.S.C. 1973ff and Denver Clerk and Recorder Rules including Rule 11 (the "**Pilot**").

The Parties agree as follows:

1. COORDINATION AND LIAISON: All activities under this Agreement will be coordinated through the Director of Elections (the "**Director**") or the Director's Designee as the designated representative of the Denver Clerk and Recorder (the "**Clerk**"). The Director will have final decision-making authority concerning the delivery and return of all materials and ballots to voters who opt-in to use the Solution under this Agreement and the performance of all election activities by the Parties will be subject to the directions and instructions of the Director.

2. PURPOSE OF AGREEMENT:

A. Pilot. The purpose of the Agreement is to facilitate the development and implementation of the Pilot. The Parties shall use commercially reasonable efforts to perform their respective roles and responsibilities as set forth in Section B below, and as otherwise provided in this Agreement. In connection with this Agreement, the Parties intend to collaborate with each other to increase opportunities to provide public awareness and education for non-partisan blockchain-based mobile voting initiatives designed to expand voting options to increase participation in the electoral process.

B. Roles and responsibilities of the Parties. Each Party shall provide reasonable assistance and cooperation to the other Parties in connection with the Pilot, as may be reasonably required, and shall undertake the specific obligations as set forth below, in Exhibit A, and as the Director reasonably requests.

1. Voatz shall perform all necessary technology development and deployment services in order to develop and implement the Solution for the Pilot, including by fulfilling its obligations set forth on Exhibit A hereto. The timeline for Voatz's various obligations is set forth in Exhibit A. Voatz acknowledges that meeting the milestone set forth in the timeline is an essential condition for the successful implementation of the Pilot, and Voatz shall promptly inform the other Parties in writing if it determines it cannot meet any milestone. Voatz shall have the right to subcontract its obligations under this Agreement to third parties only with the prior written consent of each other Party and shall at all times remain responsible and liable for the acts and omissions of such subcontractors as if they were the acts and omissions of Voatz.

2. As between NCC, Tusk, and Voatz, NCC, in conjunction with Tusk, shall serve as project manager, overseeing community and government relations and cyber awareness building efforts for the Pilot, including the performance of their obligations set forth on Exhibit A. The Director or the Director's Designee shall serve as the project manager for the City and will coordinate project management activities with NCC.

3. NCC and Tusk shall use commercially reasonable efforts to increase public awareness of the Pilot, and provide the City with explanatory materials about Blockchain technology and the Pilot, including by fulfilling its obligations set forth on Exhibit A.

4. NCC, in addition to the above, shall provide recommendations for improvement, and develop a use case and roadmap for other cities and states to use for going mobile and how to get there securely, including fulfilling its obligations set forth on Exhibit A.

5. The City shall provide the other Parties with access to all necessary publicly available information and materials necessary for the development and deployment of the Solution for the Pilot, shall tabulate and record the votes that have been cast using the Solution, and fulfill its obligations set forth on Exhibit A. If the Pilot requires sharing of confidential or proprietary information or personal identifying information, the Parties will execute data sharing and non-disclosure agreements prior to such data sharing.

3. **FUNDING:**

A. No Cost to City. The Solution for the Pilot shall be developed and deployed at no cost to the City. Notwithstanding any other provision of the Agreement, or exhibit, the City will have no financial obligation, whether direct or contingent, to the other Parties under this Agreement. In the event, any such obligation is determined by a court of competent jurisdiction, payment by the City, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

B. Pilot Funding. Funding for the Pilot shall be provided as follows: Within five (5) business days of the Effective Date, Tusk shall pay to NCC a sum of **One Hundred Seventy Nine Thousand Five Hundred Dollars and Zero Cents (\$179,500.00)** USD, plus any appropriate overhead costs, for the May 7, 2019 Municipal General Election and **Twenty Seven-Thousand Five Hundred Dollars and Zero Cents (\$27,500.00)** for the June 4, 2019 Run-off, if necessary, to coordinate and manage the implementation of the Pilot under this Agreement, including to fund the services provided by Voatz (the “**Pilot Funding**”). As consideration for services rendered by Voatz hereunder **and** by separate agreement between Voatz and the City, NCC shall pay Voatz , for the May 7, 2019 Municipal General Election, the sum of **One Hundred Seventy-Nine Thousand Five Hundred Dollars and Zero Cents (\$179,500.00)** USD to be delivered in two equal installments of Eighty Nine Thousand Seven Hundred Fifty Dollars (\$89,750.00) each. The first installment will be delivered within five (5) business days of receipt of the foregoing payment from Tusk, and the second installment will be delivered upon successful deployment of the Pilot as determined by the City. As additional consideration for services rendered by Voatz for the June 4, 2019, Run-off Election, if the Run-off Election is conducted, NCC shall pay Voatz the sum of Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) USD to be delivered in two equal installments of Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750.00) each. The first installment will be delivered within five (5) business days of the date the Agency certifies the election results for the May 7, 2019, but only if the certified results establish the Run-off election will be conducted. The second installment will be delivered upon successful deployment of the Pilot for the Run-off Election as determined by the City. The performance of the roles and responsibilities of the Parties under this Agreement and the Pilot Funding shall constitute full and complete consideration for the Solution and the Pilot program.

C. Return of funds for early termination. In the event that this Agreement is terminated in accordance with section 6 below, prior to completion of the Pilot: (i) any portion of the Pilot Funding not yet paid by NCC to Voatz or any other vendors permitted under this Agreement shall be promptly returned by NCC to Tusk, and (ii) any overhead amounts received by NCC shall promptly be paid back to Tusk less any reasonable costs already incurred by NCC in connection with fulfilling its obligations under this Agreement, which costs shall be documented in writing to Tusk.

4. **PUBLICITY AND PILOT REVIEW:**

A. Publicity. The Parties shall designate a point of contact for finalizing and executing the communications plan, and shall coordinate with respect to future public announcements and press opportunities. Other than use of the Party's name in connection with publicity announcements coordinated under this section, this Agreement does not grant any Party the right to use any name, trademark, service mark, trade name, logo, symbol, or other designation of origin of any other Party without the prior written approval of such Party.

B. 2019 Municipal Election Review.

1. Within thirty (30) days following completion of the Pilot, the Parties shall meet and confer to discuss the outcome of the Pilot, whether it can be deemed successful based on the metrics in **Exhibit B**, and any lessons that can be deployed in consideration of further use of the Solution in Colorado or in other voting projects. In the event of termination pursuant to section **6.A** below, the Parties shall meet and confer to discuss why the reasons for the termination and how changes may be implemented to attempt other pilots or expansions of the program going forward.

2. In connection with the foregoing discussions, Voatz and the City shall provide NCC and Tusk with access to data, in aggregate form that does not contain personal identifying information or cannot be traced to a specific voter, from the implementation of the Solution in the 2019 Municipal and Run-off Elections, including the number of eligible voters who were presented with the Solution, how many accessed the Solution but did not use it, and how many used the Solution. NCC and Tusk may use this data in connection with other voting projects and in other ways they deem appropriate to facilitate the broader adoption of Blockchain based solutions, including development of a use case and roadmap for other cities and states to use in going mobile.

3. NCC, Tusk, and Voatz shall use reasonable efforts to generate a report for the City summarizing the performance and outcomes of the implementation of the Solution in the 2019 Municipal and Run-off Elections, including recommendations for improvement.

4. Tusk shall have the right to select a third-party provider to conduct an independent audit of the Solution and the Pilot to identify any security gaps, vulnerabilities or risks that could have affected the Pilot and to ensure the validity of the results. Tusk will pay for any such audit directly and the City and Voatz agrees to cooperate fully with Tusk and the third party in the auditing process except that release and sharing of data will be memorialized by the Parties in writing in advance. The City will also have the right to independently audit the Solution and the Pilot for purposes of improving the conduct of elections.

C. 2020 Elections. NCC, Tusk and Voatz acknowledge that it is their intention to advocate to the Office of the Secretary of State that the Solution be used statewide in the 2020 Elections, at no-cost to the state of Colorado, if its implementation has been successful in the 2019 Municipal and Run-off Election Pilot. NCC, Tusk and Voatz further acknowledge that a new Clerk and Recorder will be elected in connection with the 2019 Municipal Elections. Accordingly, upon

the successful implementation of the Solution in the 2019 Municipal and Run-off Elections, as mutually determined in good faith by the Parties in connection with the meet-and-confer described in section 6.B.1 above, the NCC, Tusk and Voatz, and the current Clerk and Recorder shall attempt to enter into good faith discussions with the Office of the Secretary of State regarding the cost and implementation of the Solution in the 2020 Statewide Elections, and shall use their reasonable best efforts to reach an agreement with the SOS, with the acknowledgement that material changes to the technology underlying the Solution may affect the viability of such implementation as a technical or financial matter or otherwise.

5. TERM: This Agreement shall commence as of the Effective Date and, unless terminated earlier in accordance with section 6 below, shall expire:

A. in the event that the Parties do not implement the Solution in the 2019 Municipal and Run-off Elections in accordance with this Agreement and exhibits, on June 5, 2019;

B. in the event that the Parties implement the Solution in the 2019 Municipal and Run-off Elections, but are not able to reach agreement regarding the 2020 Elections as specified in section 4.C, on the one-year anniversary of the May 7, 2019 Municipal, or the June 4 Run-off Election if conducted, whichever is later; and

C. in the event that the State of Colorado implements the Solution in Statewide 2020 Elections, on December 31, 2020.

6. TERMINATION:

A. This Agreement may be terminated:

1. By the City if at any time it determines in its sole discretion that Voatz will not be able to meet any required milestone set forth in Exhibit A, or that the Solution is not in compliance with federal, state or local laws the laws;

2. By newly elected Clerk and Recorder without cause upon 20 days' prior written notice to the other Parties; or

3. Upon the written mutual agreement of all of the Parties at any time.

B. All rights and remedies provided in this Agreement, including termination of the Agreement pursuant to this section 6, are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties or otherwise.

7. REPRESENTATIONS:

A. The parties represent that all services and actions taken under this Agreement will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards;

B. Each party has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to the City all rights with respect to the Solution and Pilot free and clear from any and all liens, adverse claims, encumbrances and interests of any third party;

C. Voatz, Tusk, and NCC represent there are no pending or threatened lawsuits, claims, disputes or actions: (i) alleging that the Solution or Pilot, in whole or in part, infringes, violates or misappropriates any third party rights; (ii) adversely affecting any software, service or supplier's ability to perform its obligations hereunder; or (ii) adversely affects a voter's right to anonymity or ballot secrecy in accordance with applicable laws;

D. Voatz represents and warrants the Solution: i) is its own original works, products, and services; ii) will be free from deficiencies and defects in materials, workmanship, design or performance during the Term; iii) will not violate, infringe, or misappropriate any intellectual property rights of any third party, and iv) will protect the voter's right to ballot secrecy and anonymity in accordance with applicable laws.

8. INTELLECTUAL PROPERTY:

A. All intellectual property which was or is owned or developed by Voatz prior to, during or after the Pilot, including the Solution, and any improvements thereto (collectively, "Voatz Intellectual Property") is and shall remain the property of Voatz. Voatz hereby grants to the City, NCC, and Tusk a non-exclusive, non-transferable, non-sublicensable, limited license to use the Voatz Intellectual Property solely to the extent necessary to use the Solution during the Pilot, and the City, NCC, and Tusk will have no other right, title or interest in the Voatz Intellectual Property, whether express or implied.

B. Any and all copyright, trade secret, patent, or other intellectual property or proprietary rights, both registered and unregistered, whether existing now or in the future in and to any and all other materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, web pages, plans, drawings, prints, photographs, specifications, data, products, ideas, inventions, templates and any other work or recorded information supplied by the City, NCC, or Tusk for the Pilot, in preliminary or final form and on any media whatsoever including any improvements to and derivative works thereof (collectively, "Materials"), will belong to the Party supplying the materials. This Agreement does not contemplate the creation of new works or any "work made for hire".

9. STATUS OF PARTIES: The parties will perform their duties under this Agreement independent from each other. Neither party, nor any employee, officer, or agent thereof, will be considered to be an agent or employee of the other party for any purpose whatsoever.

10. EXAMINATION OF RECORDS: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of other Parties, involving transactions related to the performance of the roles and responsibilities under the Agreement until the latter of three (3) years after the final payment under the Agreement, if applicable, or expiration of the applicable statute of limitations.

11. TAXES, LATE CHARGES, AND PERMITS: No party shall be liable for the payment of taxes, late charges, or penalties of the other.

12. ASSIGNMENT AND/OR SUBCONTRACTING: The parties are not obligated or liable under this Agreement or its provisions to any party other than each other. Neither party shall assign or subcontract except with the written permission of the other.

13. DEFENSE AND INDEMNIFICATION:

(a) NCC, Tusk, and Voatz, each an “Indemnifying Party”, hereby agree to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the performance of the Indemnifying Party’s roles and responsibilities specified in this Agreement and Exhibits to implement the Solution and the Pilot (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of an Indemnifying Party or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

(b) The duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. The duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

(c) The Indemnifying Party will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

(d) Insurance coverage requirements specified in the Agreement shall in no way lessen or limit the liability of the Foundation under the terms of this indemnification obligation.

The Foundation shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

(e) The defense and indemnification obligation shall survive the expiration or termination of the Agreement.

14. CITY LIABILITY/ COLORADO GOVERNMENTAL IMMUNITY ACT:

The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S. The City shall be liable for the actions and omissions of its respective officers, agents, employees, and subcontractors to the extent provided by the Colorado Governmental Immunity Act. This obligation shall survive the termination of this Agreement.

15. NO THIRD-PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the Parties performing their roles and responsibilities pursuant to the Agreement is an incidental beneficiary only.

16. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any action of any party hereunder constitute or be construed to be a waiver of any breach of covenant or default which may then exist, and a party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the other party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

17. NO AUTHORITY TO BIND THE OTHER PARTY: No Party has the authority to bind any other Party on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City, as required by Charter and ordinance.

18. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement, including the exhibits attached hereto (each of which is specifically incorporated herein), is intended as the complete integration of all understandings between the parties. No prior contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect unless embodied herein in writing and executed in the same manner as this Agreement. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. No oral representation by either party at variance with the terms and conditions of this Agreement or any written amendment to this Agreement shall have any force or effect or bind the parties. Amendments to this Agreement will become effective when approved by both parties and executed in the same manner as this Agreement. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

19. SEVERABILITY: Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion thereof to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

20. INUREMENT: The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

21. CONFLICT OF INTEREST:

(a) No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. NCC, Tusk, and Voatz shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

(b) NCC, Tusk, and Voatz shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. NCC, Tusk, and Voatz represents that each has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the disclosing Party by placing that Party's own interests, or the interests of any party with whom it has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given the other Parties written notice describing the conflict.

22. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, as follows:

If to NCC:

National Cybersecurity Center
3650 N. Nevada
Colorado Springs, CO 80907
Email: Forrest.Senti@cyber-center.org
Attention: Forrest Senti

If to Tusk:

Tusk Philanthropies
251 Park Ave S, 8th Floor
New York, NY 10010

Email: sheila@tuskholdings.com
Attention: Sheila Nix

If to Voatz:

Voatz, Inc.
50 Milk St, 12th Floor
Boston MA 02109
Email: ns@voatz.com
Attention: Nimit Sawhney

If to the City:

Denver Elections Division
200 W. 14th Ave., Suite 100
Denver, CO 80204
Email: Jocelyn.Bucaro@denvergov.org
Attention: Jocelyn Bucero

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

23. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

(a) The Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

(b) NCC, Tusk, and Voatz certify that:

(1) At the time of its execution of the Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

(c) NCC, Tusk, and Voatz also agree and represent that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subcontractor that fails to certify to NCC, Tusk, and Voatz, as appropriate, that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subcontractor and the City within three (3) days. NCC, Tusk, and Voatz will also then terminate such subcontractor if within three (3) days after such notice the subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

(d) NCC, Tusk, and Voatz each is liable for any violations it has committed as provided in the Certification Ordinance. If NCC, Tusk, or Voatz violates any provision of this section or the Certification Ordinance, the City may terminate the Agreement for a breach of the Agreement. If the Agreement is so terminated, Party in violation shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds

for disqualifying the Party in violation from submitting bids or proposals for future contracts with the City.

24. DISPUTES: All disputes between the City and the Parties, individually or collectively arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Director as defined in the Agreement.

25. GOVERNING LAW; VENUE: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District.

26. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, neither NCC, Tusk, or Voatz may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. NCC, Tusk, and Voatz shall insert the foregoing provision in all subcontracts.

27. COMPLIANCE WITH ALL LAWS: The Parties shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

28. LEGAL AUTHORITY: Each Party represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of the Party represents and warrants that he has been fully authorized to execute the Agreement on behalf of that Party and to validly and legally bind it to all the terms, performances and provisions of the Agreement. The Parties shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of a Party or the person signing the Agreement to enter into the Agreement.

29. NO CONSTRUCTION AGAINST DRAFTING PARTY: The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

30. ORDER OF PRECEDENCE: In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

31. CONFIDENTIAL INFORMATION; OPEN RECORDS:

A. Except as provided in subsection B below, each Party shall keep confidential, and cause all subcontractors to keep confidential, all Confidential Information, unless the information is publicly available under the Colorado Open Records Act, § 24-72-201, et seq., C.R.S. A Receiving Party may not, without prior written approval of the Disclosing Party, use, publish, copy, disclose to any third party, or permit the use by any third party of any Confidential Information except as otherwise stated in this Agreement, permitted by law, or approved in writing by the Disclosing Party. Each Party shall provide for the security of all Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines.

B. The Receiving Party agrees to exercise the same degree of care and protection with respect to the Confidential Information that it exercises with respect to its own similar Confidential Information and not to directly or indirectly provide, disclose, copy, distribute, republish or otherwise allow any third party to have access to any Confidential Information without prior written permission from the disclosing party. However: (a) either party may disclose Confidential Information to its employees and authorized agents who have a need to know; (b) either party may disclose Confidential Information if so required to perform any obligations under this Agreement; and (c) either party may disclose Confidential Information if so required by law (including court order or subpoena). Nothing in this Agreement shall in any way limit the ability of City to comply with any laws or legal process concerning disclosures by public entities.

C. The Receiving Party will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Receiving Party under this Agreement shall survive the expiration or earlier termination of this Agreement. The Receiving Party shall not disclose Confidential Information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

D. Colorado Open Records Act. The Parties understand that all materials supplied by a Party to the City under this Agreement, including items marked Proprietary or Confidential, may be subject to the Colorado Open Records Act, § 24-72-201, et seq., C.R.S., and that the release of Confidential Information in compliance with those acts or any other law will not constitute a breach or threatened breach of this Agreement. In the event of a request to the City for disclosure of such information, the City shall advise the Party in interest of such request to give it the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Party in interest agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. NCC, Tusk, and Voatz, each agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Party's intervention to protect and assert its claim of privilege against disclosure under this section including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages

that the City may incur directly or may be ordered to pay by such court.

32. SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable.

33. CITY EXECUTION OF AGREEMENT: The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

34. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

35. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: NCC, Tusk, and Voatz each shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

36. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: NCC, Tusk, and Voatz each consent to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

End.

Signature pages and Exhibits follow this page.

EXHIBIT LIST:

Exhibit A – Responsibilities

Exhibit B – Metrics for Performance

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of the last signature hereto.

National Cybersecurity Center

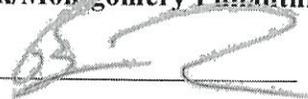
By 

Name: JONATHAN STEBBINS

Title: COO

Date: 3/6/2019

Tusk/Montgomery Philanthropies, Inc.

By 

Name: Bradley Tusk

Title: CEO

Date: 3/6/2019

Voatz, Inc.

By 

Name: Nimit Sawhney

Title: Co-Founder, CEO

Date: March 6th 2019

City and County of Denver, Colorado
(Additional required City signatures are also attached to the Agreement)

Denver Clerk and Recorder

By 

Name: Debra Johnson

Title: Clerk and Recorder

Date: 3/6/19

Contract Control Number: CLERK-201948381-00

Contractor Name: Tusk/Montgomery Philanthropies, Inc.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of March 12, 2019.

SEAL



CITY AND COUNTY OF DENVER

ATTEST:

Debra Johnson
Debra Johnson, Clerk and Recorder,
Ex-Officio Clerk of the City and
County of Denver

By Michael B Hancock
Michael B Hancock, Mayor

APPROVED AS TO FORM:

Attorney for the City and County of
Denver

By Victoria Ortega
Victoria Ortega, Assistant City
Attorney

REGISTERED AND COUNTERSIGNED:

By Brendan J Hanlon
Brendan Hanlon, CFO of Finance

By Timothy M O'Brien
Timothy M. O'Brien, Auditor



Contract Control Number: CLERK-201948381-00

Contractor Name: Tusk/Montgomery Philanthropies, Inc.

SIGNATURES ON PREVIOUS PAGE

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A

Responsibilities

Voatz

- Provide a UOCAVA voting solution to the City by March 22, 2019, as memorialized in that certain agreement between Voatz and the City and County of Denver executed separately between Voatz and the City. The parties anticipating executing that Agreement simultaneously with this Agreement.
- Training and support during the duration of the Pilot

NCC and Tusk

- Provide voter education materials to the City for use in explaining how a Blockchain operates and how it is used in voting.
- Provide financial and other reasonable resources to respond to City, State, and citizen inquiries on the Pilot (to the extent not addressed by technical provider).
- Ensure key stakeholders have access to the information they need to make informed decisions regarding the use of Blockchain technology and communicate effectively about Blockchain with voters, the media, and other external partners.
- Capture, chronicle, and publish key insights from the deployment to facilitate future scaling (monitor and evaluate the Pilot).
- Prepare report after the Pilot has concluded on the performance of the Solution and the success of the Pilot for public distribution and to inform future scaling.

City

- Provide other Parties with access to all necessary information and materials necessary for the development and deployment of the Solution for the Pilot.
- Deploy the Solution for the Pilot in the 2019 Municipal and Run-Off Elections.
- Tabulate and record the votes that have been cast using the Solution, and update voter records as needed.

EXHIBIT B

Metrics for Performance

Publicly available audit records comparing the voter verified digital receipts with the paper ballots extracted from the blockchain must demonstrate 100% accuracy.

At least 90% of the eligible voters who opt-in to the participate in the pilot, download and access the application are successful in casting their ballots within the Solution and ballot secrecy for all voters is maintained.

Survey results demonstrating at least 75% of the voters participate in the survey report that they would prefer to vote using the Solution again in the future.