

## SERVICES AGREEMENT

This Services Agreement (“**Agreement**”) is entered into this \_\_\_ day of November, 2023 (the “**Effective Date**”), by and between the City of North Port, Florida, a Florida municipal entity (“**FME**”) located at 4970 City Hall Blvd., North Port, FL 34286 and PropLogix, LLC, d/b/a Orange Data Systems (“**ODS**”), a Florida limited liability company, located at 5901 N. Honore Ave., Ste. 200, Sarasota, FL 34243 (each a “**Party**” and collectively, the “**Parties**”).

**WHEREAS**, ODS is engaged in the business of providing certain software and services to facilitate the dissemination of real estate records and information pursuant to requests for the same made to municipal entities by third parties.

**WHEREAS**, FME is engaging ODS to provide such services and software, as further described herein.

**NOW THEREFORE**, in consideration of the foregoing recitals and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE I SERVICES AND FEES

**Section 1.1. Scope of Services.** ODS shall generate a report (each, a “**Report**”) in response to requests from third parties made to FME for information pertaining to fees and debts owed to FME in connection with real property records, including permits, code enforcement, utilities, and related lien status (if any) (the “**Services**”). FME shall automatically provide such information and records to ODS electronically on a mutually agreed basis. The Services shall be provided in a professional, workmanlike, and timely manner, by qualified personnel and in accordance with the terms of this Agreement.

**Section 1.2. Fees; Invoicing.** ODS shall collect payment in the total amount of Seventy Five Dollars and Zero Cents (\$75.00) from the third-party requestor for each Report completed (the “**Fees**”). Payment of the Fees shall be required upon order submission, except for requestors that maintain an established credit account with ODS. For each Report, ODS shall retain Twenty Five Dollars and Zero Cents (\$25.00) of the Fees, and shall remit the balance of Fifty Dollars and Zero Cents (\$50.00) to FME on a monthly basis for FME’s allocable share of those Fees collected in the prior month. For clarity, it is understood and agreed that FME shall not be responsible for payment of the Fees.

Any invoice for Fees not paid by the third-party requestor within thirty (30) days shall be deemed past due. Overdue amounts shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. ODS must invoice Customer for any interest accrued in order to receive the interest payment. Such interest and any reimbursement of fees related to its collection efforts shall be retained by ODS as a reasonable estimate of its damages.

**Section 1.3 Fee Extension.** ODS shall extend the foregoing Fees and payment terms provided in Section 1.2 to any city or similar municipal entity whose boundaries are entirely within the jurisdiction of FME. Any such city or similar municipal entity shall be required to execute a separate agreement with ODS.

**ARTICLE II  
CONFIDENTIALITY AND INTELLECTUAL  
PROPERTY**

**Section 2.1. Confidentiality Requirements.** Each Party acknowledges that during the Term of this Agreement, it may come in contact or be provided with knowledge and information relating to customer, client, vendor, partner, contractor, and/or employee information; financial information; business and marketing plans; concepts, techniques, processes, ideas, discoveries, improvements, and inventions whether patented or not; software, programs, and source code; and other confidential and proprietary information relating to the other Party (collectively "**Confidential Information**"). Confidential Information shall further include any information that is expressly identified as confidential by the disclosing Party, or would reasonably be deemed confidential under the context of disclosure or due to the nature of the information.

Each Party agrees that during the Term of this Agreement and for the two (2) year period thereafter, it shall use at least the same degree of care to safeguard the disclosing Party's Confidential Information as it would its own similar information, and it shall not use, directly or indirectly, on its own behalf or on behalf of any other person or entity, in any capacity, any Confidential Information; it shall not disclose or use any of the other Party's Confidential Information except (i) to subcontractors, parent companies, affiliates, subsidiaries, agents or representatives who need to know such information and only to the extent necessary to carry out such Party's obligations under this Agreement or (ii) as required by any order of any government authority or otherwise required by law.

Notwithstanding the foregoing, it is acknowledged that FME is a public agency subject to Chapter 119, Florida Statutes, and the Parties shall comply with Florida's Public Records Law, as the same may be amended from time to time.

**Section 2.2. Exceptions to Confidential Information.** Confidential Information shall not include information to the extent that it (i) is or becomes public knowledge through no act or omission of the receiving Party, (ii) is disclosed to the receiving Party by a third party having no obligation of confidentiality with respect to the subject information, or (iii) was known to the receiving Party prior to disclosure of the information by the disclosing Party.

**Section 2.3. Return of Confidential Information.** Upon the request of the disclosing Party or upon the termination of this Agreement, the receiving Party shall return or destroy any Confidential Information of the disclosing Party in its possession and certify to the disclosing Party its return or destruction. Notwithstanding the foregoing, the receiving Party shall not be obligated to return or destroy Confidential Information that is required to be held or maintained for regulatory or audit purposes or retained in accordance with the receiving Party's security or disaster recovery procedures, provided that it will remain subject to the obligations of confidentiality contained herein for the duration for which it is held.

**Section 2.4. Intellectual Property.** Each Party shall retain ownership of all of its: (a) patents, patent applications and disclosures, inventions and methods (whether patentable or unpatentable and whether or not reduced to practice), and related improvements, (b) trademarks, service marks, trade dress, logos, trade names, internet domain names, corporate names and telephone numbers containing or reflecting any of the foregoing, along with any associated goodwill, (c) software interfaces (e.g., APIs), programs and applications (including object code and source code), copyrights, copyrightable works, works of authorship (including advertisements, commercials and promotional materials), data, databases, articles, abstracts, graphics, photographs, programs and programming material, jingles, and slogans, (d) trade secrets or proprietary information, (e) internet websites, including all content and

materials displayed on and/or accessible through such sites, (f) other intangible property, including the aesthetic design, format, and layout of the Reports and any non-public data provided therein, (g) copies and tangible embodiments of and any documentation (e.g., user manuals) relating to any of the foregoing (in whatever form or medium), and (h) licenses granting any rights with respect to any of the foregoing (including, without limitation, software licenses) (“Intellectual Property”). Nothing in this Agreement creates, or is intended to create, any right, title or interest for the benefit of one Party in the Intellectual Property rights of the other Party.

**Section 2.5. Brand Usage.** Each Party agrees that it shall not use the names, including registered and fictitious names, trademarks, branding, logos, etc. of the other Party in its promotional activities without the prior written consent of the other Party. FME hereby gives authorization for ODS to utilize its name, logos, and branding on the ODS public-facing website to identify FME as a municipal entity which utilizes the ODS services.

**Section 2.6. Injunctive Relief.** Each Party acknowledges that its breach of any of the provisions of this Article 2 would cause irreparable injury to the other which cannot be reasonably or adequately compensated by monetary damages. Accordingly, either Party will be entitled to seek injunctive relief and other equitable remedies in the event of such a breach by the other. The right of each of the Parties to seek injunctive relief shall not limit in any manner their respective rights to seek other and/or additional remedies at law or in equity.

### **ARTICLE III TERM AND TERMINATION**

**Section 3.1. Term.** Unless terminated earlier as provided below, this Agreement shall commence on the Effective Date and shall continue for three (3) years thereafter (“**Term**”). This Agreement will automatically renew for successive two (2) year terms unless written notice of termination is received by the other Party at least thirty (30) days prior to the expiration date.

**Section 3.2. Termination.** This Agreement may be terminated by either Party (i) as provided in Section 3.1, or (ii) in the event that the other Party materially breaches this Agreement, so long as the non-breaching Party provides the breaching Party with written notice of the subject breach and a ten (10) business day opportunity to cure the same. Termination for breach does not constitute waiver of any other rights or remedies that the non-breaching Party may have for such breach of this Agreement. In the event of termination of this Agreement, ODS retains the right to pursue from third-party requestors payment of outstanding Fees and any other amounts to which it may be entitled pursuant to this Agreement.

### **ARTICLE IV LIABILITY AND INDEMNIFICATION**

**Section 4.1. Services Warranty.** ODS hereby agrees to use commercially reasonable efforts to correct any reproducible and correctable error contained in the Services or the Reports, to the extent that FME advises ODS of such error in writing during the term of this Agreement.

**Section 4.2. Disclaimer of Warranty and Limitation of Liability.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ODS DISCLAIMS AND SHALL NOT BE LIABLE FOR ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES BASED ON A PARTICULAR USE IN TRADE OR BASED ON A COURSE OF DEALING, AND WARRANTIES WITH RESPECT TO THE

QUALITY, ACCURACY, OR FREEDOM FROM ERROR OF THE OPERATION, USE, AND FUNCTION OF THE REPORTS AND SERVICES.

ODS SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) SUFFERED BY THE OTHER PARTY ARISING IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE, OMISSION OF PERFORMANCE, OR TERMINATION THEREOF, WITHOUT REGARD TO THE NATURE OF THE CLAIM (E.G., BREACH OF CONTRACT, NEGLIGENCE, OR OTHERWISE), EVEN IF ODS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ODS SHALL NOT BE RESPONSIBLE FOR, AND HEREBY DISCLAIMS ANY AND ALL LIABILITY RELATED TO OR ARISING FROM (i) ANY INVALID, INACCURATE OR ERRONEOUS INFORMATION FURNISHED BY FME TO ODS OR OTHERWISE PROVIDED IN THE RECORDS OF FME, INCLUDING ANY MIS-INDEXING, MIS-RECORDING, MIS-SPELLING, OR OMISSIONS, OR (ii) ANY LOSS OR CORRUPTION OF SOFTWARE OR DATA, OR THE INTERRUPTION, MALFUNCTION, DELAY OR ERROR OF ANY COMMUNICATION SYSTEM, OPERATION OR COMPUTER SYSTEMS, OR INTERNET OR TELECOMMUNICATION PROVIDER.

**Section 4.3. Maximum Liability.** ODS'S TOTAL LIABILITY AND FME'S EXCLUSIVE REMEDY FOR ANY CLAIM ARISING FROM OR RELATED TO THE PROVISION OF THE SERVICES SHALL BE LIMITED TO THE DIRECT MONEY DAMAGES INCURRED BY FME NOT EXCEEDING THE AMOUNT OF ANY FEES RETAINED BY ODS FROM THE THIRD-PARTY REQUESTOR FOR THE REPORT UNDERLYING SUCH CLAIM.

**Section 4.4. Indemnity.** Each Party shall indemnify, defend and hold the other Party and its officers, directors, shareholders, members, employees, or agents harmless from any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses, judgments, suits, fines, penalties, including reasonable attorneys' fees and costs and/or any investigation or related action (collectively "Claims") incurred by, or imposed or asserted against such Party, by a third party that arise from or in connection with matters related to this Agreement or the Products, to the extent that such Claims arise due to the indemnifying Party's: (i) intentional misconduct, (ii) material breach of the restrictive covenants of Agreement, (iii) failure to comply with any applicable laws, or (iv) with respect to FME as the indemnifying Party, any invalid, inaccurate or erroneous information furnished by FME to ODS or otherwise provided in the records of FME, including any mis-indexing, mis-recording, mis-spelling, or omission. The foregoing shall not be subject to the maximum liability limit stated in Section 4.3. The indemnifying Party shall be permitted to control the defense and settlement of any claim, provided such settlement does not impute any admission of liability or expense on the other Party. The indemnifying Party agrees to permit (barring any conflict of interest) and cooperate with any counsel the other Party engages (at its own cost) to represent it in the participation of the defense and settlement of any claims in which indemnity is sought.

## ARTICLE V MISCELLANEOUS PROVISIONS

**Section 5.1. Independent Relationship.** It is intended that each Party shall at all times be completely independent of the other Party. Nothing contained herein shall constitute a partnership, joint venture, employment, agency, or any other similar relationship by or between the Parties.

**Section 5.2 Waiver and Cumulative Remedies.** No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right. Except as expressly stated, the remedies provided herein are in addition to, and not exclusive of, any other remedies at law or in equity.

**Section 5.3. Severability and Joint Drafting.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable. Each of the Parties hereto acknowledge such participation and negotiation in order to avoid the application of any rule construing contractual language against the drafter and agree that the provisions of this Agreement shall be construed without prejudice to either Party to this Agreement.

**Section 5.4. Applicable Law.** If any legal action is brought by either Party relating to this Agreement, the prevailing Party shall be entitled to the recovery of reasonable attorneys' fees, costs and expenses, including appellate fees. This Agreement will be construed, interpreted and the rights of the Parties determined in accordance with the laws of the State of Florida, without regard to conflict of law principles, and the Parties hereby consent to the exclusive jurisdiction and venue of the courts of Sarasota County, Florida or the United States District Court for the Middle District of Florida, as applicable.

**Section 5.5. Successors and Assigns.** All of the terms and provisions of this Agreement will be binding upon and will insure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither Party is permitted to assign this Agreement and/or the rights and obligations hereunder, unless approved in writing by the other Party; provided, however, that ODS may assign all or any portion of its rights and obligations hereunder to the purchaser of all or substantially all its assets or stock (by merger or otherwise).

**Section 5.6. Notices.** All notices, consents, and similar communications to any Party shall be deemed to be sufficient if in writing, delivered in person, by electronic mail, an overnight courier, or first class registered or certified mail, in all cases evidence of receipt or return receipt required, postage prepaid, addressed to such Party at the address set forth below or such other address as may hereafter be designated in writing by such Party:

**To FME:**  
The City of North Port, Florida  
4970 City Hall Blvd.  
North Port, FL 34286  
Attn: Ginny Duyn – Purchasing Manager  
Email: [gduyn@northportfl.gov](mailto:gduyn@northportfl.gov)

**To ODS:**  
PropLogix, LLC d/b/a Orange Data Systems  
5901 N. Honore Ave., Ste. 200  
Sarasota, FL 34243  
Attn: General Counsel  
Email: [legal@proplogix.com](mailto:legal@proplogix.com)

All such notices, requests, consent, and other communications shall be deemed to have been given when actually received or delivery refused by the applicable Party.

Operational and regular course of dealings communications with ODS should be directed to David Harrington ([david@orangedatasystems.com](mailto:david@orangedatasystems.com)) and Stewart Holley ([stewart@orangedatasystems.com](mailto:stewart@orangedatasystems.com)).

**Section 5.7. Force Majeure.** ODS shall be excused from performance and shall not be held liable in any way for any delay, failure in performance, loss, or damage arising out of or relating to any cause beyond its reasonable control, including but not limited to (i) any act of God, war, act of a public enemy, riot or other civil disorder, act of any government body, labor dispute, shortage of fuel or

power, explosion, epidemic, fire, flood, earthquake, windstorm, or other unusually severe weather, or (ii) any interruptions, omissions, malfunctions, delays, or errors of any third party communication system, telecommunication or similar carrier, operational or computer system, or access thereto which would have an impact on the Services or provision of the Reports.

**Section 5.8. Entire Agreement; Counterparts; Amendment.** This Agreement contains the entire agreement between the Parties, and supersedes all prior and collateral representations, promises, and agreements. Any representation, promise, or agreement not incorporated in this Agreement shall not be binding on either Party. This Agreement may be executed in several counterparts, each copy of which shall serve as an original for all purposes, but all copies shall constitute but one and the same Agreement. This Agreement may be amended at any time only by the signed, written agreement of the Parties. Electronic execution of this Agreement shall be deemed effective and legally binding. Any amendments changing the City's financial obligations under this Agreement shall require approval by the City Commission. The City Commission hereby authorizes the City Manager or City Manager's authorized designee to approve and execute all Agreement amendments on behalf of City that do not change the City's financial obligations under this Agreement.

**Section 5.9. No Third-Party Beneficiaries.** It is expressly intended and agreed that no third-party beneficiaries are created by this Agreement, and that the rights and remedies provided herein shall inure only to the benefit of the Parties to this Agreement.

**Section 5.10. Survival.** The rights and obligations of the Parties which by their nature must survive termination or expiration of this Agreement in order to achieve their fundamental purpose shall survive in perpetuity any termination or expiration of this Agreement.

**Section 5.11. Authority to Execute.** Each Party has full power and authority to enter into this Agreement. The signatory for each Party, respectively, has the authority to legally bind the Party for which it executes this Agreement. Neither Party is bound by any other agreement, whether written or oral, which would preclude it from entering into this Agreement and/or undertaking the responsibilities and obligations contained herein.

**Section 5.12. Non-Discrimination.** The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Parties shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

*[Signatures appear on the following page]*

In Witness Whereof, the Parties hereto have executed this Agreement effective as of the date set forth above.

**THE CITY OF NORTH PORT, FL**

**PROPLOGIX, LLC D/B/A  
ORANGE DATA SYSTEMS**

By: \_\_\_\_\_

By:  \_\_\_\_\_  
Alex Eckelberry (Nov 7, 2023 17:55 EST)

Print Name: A. JEROME FLETCHER II,  
ICMA-CM, MPA  
CITY MANAGER

Print Name: Alexander Eckelberry

Its: \_\_\_\_\_

Its: CEO

ATTEST

\_\_\_\_\_  
HEATHER FAUST, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

\_\_\_\_\_  
AMBER L. SLAYTON, B.C.S.  
CITY ATTORNEY