

# Contract Abstract

## Contract Information

Contract & Solicitation Title: Granite Net Software, Products, Parts, and Support Service

Contract Summary: Contractor agrees to provide METRO products, parts, and support services in respect of the software (Granite Net) already installed METRO's computers

Contract Number: 6547812 Solicitation Number: N/A Requisition Number: SS2023202

Replaces Expiring or Expired Contract? (Enter "No" or Contract No and Expiration Date): No

Type of Contract/PO: IDIQ Contract **Requires Council Legislation:** Yes

**High Risk Contract** (Per Finance Department Contract Risk Management Policy): No

**Sexual Harassment Training Required** (per BL2018-1281): Yes

Estimated Start Date: 01/26/2025 Estimated Expiration Date: 01/25/2030 Contract Term: 60 Months

Estimated Contract Life Value: \$2,000,000.00 Fund:\* 67331 BU:\* 65555030

(\*Depending on contract terms, actual expenses may hit across various departmental BUs and Funds at PO Levels)

Payment Terms: Net 30 Selection Method: Sole Source

Procurement Staff: Terri Ray BAO Staff: Jeremy Frye

Procuring Department: Water Services Department(s) Served: Water Services

## Prime Contractor Information

Prime Contracting Firm: CUES, Inc ISN#: 24990

Address: 3600 Rio Vista Avenue City: Orlando State: FL Zip: 32805

Prime Contractor is a Uncertified/Unapproved: SBE ☐ SDV ☐ MBE ☐ WBE ☐ LGBTBE ☐ (select/check if applicable)

Prime Company Contact: Mark Dennis Email Address: mdennis@cuesinc.com Phone #: 800.327.7791

**Prime Contractor Signatory:** Jonathan Russell **Email Address:** Jonathan.Russell@spx.com

## Business Participation for Entire Contract

*Small Business and Service Disabled Veteran Business Program:* N/A

Amount: N/A Percent, if applicable: N/A

*Equal Business Opportunity (EBO) Program:* Program Not Applicable

MBE Amount: N/A MBE Percent, if applicable: N/A

WBE Amount: N/A WBE Percent, if applicable: N/A

*Federal Disadvantaged Business Enterprise:* No

Amount: N/A Percent, if applicable: N/A

Note: Amounts and/or percentages are not exclusive.

B2GNow (Contract Compliance Monitoring): No

## Summary of Offer

Offeror Name	MBE	WBE	SBE	SDV	LGBTBE	Score	Evaluated Cost	Result
	(check as applicable)					(RFP Only)		
<u>CUES, Inc</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>N/A</u>	<u>N/A</u>	<u>Approved Sole Source Form</u>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<u>Select from the Following:</u>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<u>Select from the Following:</u>
<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<u>Select from the Following:</u>

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## Terms and Conditions

### 1. GOODS AND SERVICES CONTRACT

#### 1.1. Heading

This contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County (METRO)** and **CUES, Inc (CONTRACTOR)** located at **3600 Rio Vista Avenue, Orlando, FL 32805**, resulting from an approved sole source form signed by Metro's Purchasing Agent. This Contract consists of the following documents:

- *Any properly executed contract amendment (most recent with first priority),*
- *This document*
- *Exhibit A – Pricing*
- *Exhibit B - MISA Terms and Conditions*
- *Exhibit C - Affidavits*
- *Exhibit D- Cues GraniteNet Software License Agreement*
- *Exhibit E – Terms and Condition of Sale*
- *Purchase Orders (and PO Changes),*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

### 2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

#### 2.1. Duties and Responsibilities

CONTRACTOR agrees to provide METRO products, parts, and support services in respect of the software (Granite Net) already installed METRO's computers.

#### 2.2. Delivery and/or Installation.

To the extent applicable, all deliveries (if provided by the performance of this Contract) are F.O.B. Destination, Prepaid by Supplier, Inside Delivery, as defined by METRO.

METRO assumes no liability for any goods delivered without a purchase order. All deliveries shall be made as defined in the solicitation or purchase order and by the date specified on the purchase order.

Installation, if required by the solicitation and/or purchase order shall be completed by the date specified on the purchase order.

### 3. CONTRACT TERM

#### 3.1. Contract Term

The Contract Term will begin on the date (the "Effective Date") this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office. This Contract Term will end (60) months from the Effective Date. In no event shall the term of this Contract exceed sixty (60) months from the Effective Date.

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## **4. COMPENSATION**

### **4.1. Contract Value**

This Contract has an estimated value of \$2,000,000.00. The pricing details are included in Exhibit A and are made a part of this Contract by reference. CONTRACTOR shall be paid as invoiced.

### **4.2. Other Fees**

There will be no other charges or fees for the performance of this Contract. METRO will make payments within 30 days of receipt of invoice but in any event shall make payment within 45 days. To the extent applicable, METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

### **4.3. Payment Methodology**

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will compensate CONTRACTOR in accordance with Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered/performed products and/or services properly authorized by METRO in accordance with this Contract.

### **4.4. Escalation/De-escalation**

This Contract is eligible for annual escalation/de-escalation adjustments. Any request for adjustment is capped at 6% annually and must be supported by the consumer price index. The request for adjustment must be in accordance with Exhibit A and submitted by CONTRACTOR to the Purchasing Agent no less than sixty (60) days prior to the annual anniversary of the Effective Date of this Contract. Any such adjustment, if approved by the Purchasing Agent, shall become effective on the anniversary of the Effective Date of this Contract.

### **4.5. Electronic Payment**

All payments shall be effectuated by ACH (Automated Clearing House).

### **4.6. Invoicing Requirements**

CONTRACTOR shall submit invoices for payment in a format acceptable to METRO and shall submit invoices no more frequently than monthly for satisfactorily and accurately performed services. CONTRACTOR shall be paid as work is completed and invoices are approved by METRO. Invoices shall detail this Contract Number accompanied by any necessary supporting documentation as required by METRO. CONTRACTOR shall submit all invoices no later than ninety (90) days after the services have been delivered/performed.

Payment of an invoice by METRO shall not waive METRO's rights of revocation of acceptance due to non-conformity or the difficulty of discovery of the non-conformance. Such revocation of acceptance shall occur within a reasonable time after METRO discovers or should have discovered the non-conforming product and/or service but prior to any substantial change in condition of the products and/or services caused by METRO.

### **4.7. Subcontractor/Subconsultant Payments**

To the extent applicable, when payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no

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rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

## **5. TERMINATION**

### **5.1. Breach**

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, METRO shall identify the breach and CONTRACTOR shall cure the performance within thirty (30) days. If there is agreement between the parties, the time period to cure can be extended in writing. If CONTRACTOR fails to satisfactorily provide cure, METRO shall have the right to immediately terminate this Contract. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any breach by CONTRACTOR.

### **5.2. Lack of Funding**

Should funding for this Contract be discontinued, METRO shall have the right to terminate this Contract immediately upon written notice to CONTRACTOR. In the event of such termination, METRO shall, within thirty (30) days, pay for all completed or partially completed satisfactory work as at date of termination.

### **5.3. Notice**

METRO may terminate this Contract at any time upon thirty (30) days written notice to CONTRACTOR. Should METRO terminate this Contract, CONTRACTOR shall immediately cease work and deliver to METRO, within thirty (30) days, all completed or partially completed satisfactory work, and METRO shall pay to CONTRACTOR the amount due for satisfactory work.

## **6. NONDISCRIMINATION**

### **6.1. METRO's Nondiscrimination Policy**

It is the policy of METRO not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

### **6.2. Nondiscrimination Requirement**

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. **CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement.** Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

### **6.3. Equal Business Opportunity (EBO) Program Requirement**

The Equal Business Opportunity (EBO) Program is not applicable to this Contract.

### **6.4. Covenant of Nondiscrimination**

All offerors have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.



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**6.5. Americans with Disabilities Act (ADA)**

CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ('ADA') 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

**7. INSURANCE****7.1. Proof of Insurance**

CONTRACTOR shall provide METRO an ACORD, in the appropriate form and reflecting the required liability coverages within seven (7) days of the contract of the Effective Date.

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required including METRO as additional insured and identifying Contract number on the ACORD document.

**7.2. Products Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars per occurrence and in the aggregate.

**7.4. Automobile Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars combined single limit.

**7.5. General Liability Insurance**

In the amount of one million (\$1,000,000.00) dollars per occurrence and in the aggregate.

**7.6. Worker's Compensation Insurance (if applicable)**

CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars— Bodily Injury by Accident – Each Accident/\$100,000 – Bodily Injury by Disease – Each Employee/\$100,000 - Bodily Injury by Disease – Policy Limit, as required by the laws of Tennessee.

**7.9. Technological Errors and Omissions Insurance**

In the amount of one million (\$1,000,000.00) dollars per claim and in the aggregate.

**7.10. Such insurance shall:**

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's Commercial General Liability insurance coverage shall be primary insurance with respects to METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

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Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance as required herein. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

#### **7.11. Other Insurance Requirements**

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

**PROCUREMENTCOI@NASHVILLE.GOV**

In the event of a lawsuit, provide certified copies of endorsements and policies relevant to the claim or lawsuit, if requested in writing by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO prior to the commencement of services. If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

### **8. GENERAL TERMS AND CONDITONS**

#### **8.1. Taxes**

METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

#### **8.2. Warranty**

To the extent any warranties are applicable to the services under supply, the CONTRACTOR warrants said services in accordance with the warranties provided for the in Cues GraniteNet Software License Agreement attached hereto as Exhibit "A". To the extent CONTRACTOR supplies any products or parts under this Contract, the CONTRACTOR warrants those products or parts in accordance with the limited warranty provided for in the Cues, Inc. Standard Terms and Conditions of Sale attached hereto as Exhibit "E".

### **8.3. Software License**

To the extent applicable to the services, CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use the software subject to the terms and conditions set out in the Cues GraniteNet Software License Agreement.

### **8.4. Confidentiality**

Tennessee Code Annotated § 10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. "Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

The foregoing listing is not intended to be comprehensive, and any information which METRO marks or otherwise designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as "sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

CONTRACTOR, and its Agents, for METRO, may have access to sensitive information. CONTRACTOR, and its Agents, are required to maintain such information in a manner appropriate to its level of sensitivity. All sensitive information must be secured at all times including, but not limited to, the secured destruction of any written or electronic information no longer needed. The unauthorized access, modification, deletion, or disclosure of any METRO information may compromise the integrity and security of METRO, violate individual rights of privacy, and/or constitute a criminal act.

Upon the request of METRO, CONTRACTOR shall return all information in whatever form in a format chosen by METRO. In the event of any disclosure or threatened disclosure of METRO information, METRO is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against CONTRACTOR, including but not limited to emergency and ex parte relief where available.

### **8.5. Information Ownership**

All METRO information is and shall be the sole property of METRO. CONTRACTOR hereby waives any and all statutory and common law liens it may now or hereafter have with respect to METRO information. Nothing in this Contract or any other agreement between METRO and CONTRACTOR shall operate as an obstacle to such METRO's right to retrieve any and all METRO information from CONTRACTOR or its agents or to retrieve such information or place such information with a third party for provision of services to METRO, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. To the extent applicable to the services under supply, upon METRO's request, CONTRACTOR shall supply METRO with an inventory of METRO information that CONTRACTOR stores and/or backs up.

Any information provided to the CONTRACTOR, including information provided by METRO customers or citizens, is only to be used to fulfill the contracted services. Any additional information that is inferred or determined based on primary information that is provided to the CONTRACTOR, i.e. "second-order data", is only to be used to fulfill the contracted services. This information is not to be used for marketing or commercial purposes and the CONTRACTOR asserts no rights to this information outside of fulfilling the contracted services. Storage of this information is not allowed outside United States' jurisdiction.

### **8.6. Information Security Breach Notification**

If and to the extent applicable, In addition to the notification requirements in any Business Associate Agreement with METRO, when applicable, CONTRACTOR shall notify METRO of any data breach within 24 hours of CONTRACTOR's knowledge or reasonable belief (whichever is earlier) that such breach has occurred (Breach Notice) by contacting the METRO ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach as well as specific information about the data compromised so that METRO can properly notify those individuals whose information was compromised. CONTRACTOR shall periodically update the information contained in the Breach Notice to METRO and reasonably cooperate with METRO in connection with METRO's efforts to mitigate the damage or harm of such breach.

### **8.7. Virus Representation and Warranty**

To the extent applicable to the services, CONTRACTOR represents and warrants that Products and/or Services, or any media upon which the Products and/or Services are stored, do not have, nor shall CONTRACTOR or its Agents otherwise introduce into METRO's systems, network, or infrastructure, any type of software routines or element which is designed to or capable of unauthorized access to or intrusion upon, disabling, deactivating, deleting, or otherwise damaging or interfering with any system, equipment, software, data, or the METRO network. In the event of a breach of this representation and warranty, CONTRACTOR shall compensate METRO for any and all harm, injury, damages, costs, and expenses incurred by METRO resulting from the breach.

For CONTRACTOR managed systems, CONTRACTOR shall install and maintain approved Antivirus Software and, to the extent possible, use real time protection features. CONTRACTOR shall maintain the Anti-virus Software in accordance with the Antivirus Software provider's recommended practices. In addition, CONTRACTOR shall ensure that:

- Anti-virus Software checks for new Anti-virus signatures no less than once per day, and;
- Anti-virus signatures are current and no less recent than two versions/releases behind the most current version/release of the Anti-virus signatures for the Anti-virus Software.

### **8.8. Copyright, Trademark, Service Mark, or Patent Infringement**

CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a Copyright, Trademark, Service Mark, or Patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the products or services furnished under this Contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:

- Procure for METRO the right to continue using the products or services
- Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing
- Remove the products or discontinue the services and cancel any future charges pertaining thereto Provided; however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO;

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however, if any such infringement or claim thereof is based upon or arises out of:

- The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;
- The use of the products or services in a manner for which the products or services were neither designated nor contemplated; or,
- The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

#### **8.9. Maintenance of Records**

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. Breach of the provisions of this paragraph is a material breach of this Contract.

All records referenced above, which are in the possession of CONTRACTOR or any subcontractor or subconsultant shall be made available to METRO for inspection and copying upon reasonable written request from METRO. Said documents shall also be made available for inspection and/or copying by any state, federal or other regulatory authority, upon request from METRO.

#### **8.10. Monitoring**

CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

To the extent as may be applicable to the services provided under this Agreement, METRO shall have the option of reviewing and performing a security assessment of the information security management practices of CONTRACTOR. As may be applicable, METRO shall have the right, at its expense, during normal business hours and with reasonable advance notice, to evaluate, test, and review at CONTRACTOR's premises the Products and/or Services to ensure compliance with the terms and conditions of this Contract. METRO shall have the right to conduct such audits by use of its own employees and internal audit staff, or by use of outside consultants and auditors provided such persons conducting the audit agree to enter into a negotiated Non-disclosure Agreements.

#### **8.11. METRO Property**

To the extent as may be applicable, any METRO property, including but not limited to books, records, and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract. METRO property includes, but is not limited to, all documents which make up this Contract; all other documents furnished by METRO.

Except as to Contracts involving sensitive information, CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of this Contract; provided, however, that in no event shall CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization. CONTRACTOR shall maintain sensitive information securely and if required by METRO, provide secured destruction of said information. Distribution and/or reproduction of METRO sensitive information outside of the intended and approved use are strictly prohibited unless permission in writing is first received from the METRO Chief Information Security Officer.

Notwithstanding anything contained herein to the contrary, all intellectual property rights in the Software and user documentation are owned by CONTRACTOR and are protected by applicable intellectual property laws (including patent, trademark and copyright laws) and international treaty provisions. CONTRACTOR retains all rights not expressly granted.

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**8.12. Modification of Contract**

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

**8.13. Partnership/Joint Venture**

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

**8.14. Waiver**

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

**8.15. Employment**

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

**8.16. Compliance with Laws**

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

**8.17. Iran Divestment Act**

In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.

**8.18. Boycott of Israel**

The Contractor certifies that it is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

**8.19. Taxes and Licensure**

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

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**8.20. Ethical Standards**

It shall be a breach of the Ethics in Public Contracting standards in the Metropolitan Code of Laws for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of the Ethics in Public Contracting standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical and legal standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

Pursuant to Metropolitan Code of Laws, Section 4.48.020, entities and persons doing business with, or proposing to do business with, the Metropolitan Government of Nashville & Davidson County must adhere to the ethical standards prescribed in Section 4.48 of the Code. By signing this contract, you agree that you have read the standards in Section 4.48 and understand that you are obligated to follow them. Violation of any of those standards is a breach of contract and a breach of legal standards that may result in sanctions, including those set out in Section 4.48.

**8.21. Indemnification and Hold Harmless**

CONTRACTOR's liability to indemnify and hold METRO harmless with respect to services CONTRACTOR provides under this Contract shall be in accordance with the provisions of the Cues GraniteNet Software Agreement attached hereto as Exhibit "D". To the extent CONTRACTOR supplies any products or parts under this Contract, CONTRACTOR's liability to METRO shall be limited in accordance with the Cues, Inc. Standard Terms And Conditions Of Sale attached hereto as Exhibit "E".

**8.22. Assignment--Consent Required**

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this Contract, neither this Contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO, which shall not be unreasonably withheld or delayed. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

**PRG@NASHVILLE.GOV (Preferred Method)**

**OR**

**METRO'S PURCHASING AGENT**

**PROCUREMENT DIVISION**

**DEPARTMENT OF FINANCE**

**PO BOX 196300**

**NASHVILLE, TN 37219-6300**

Contract 6547812

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

#### **8.23. Entire Contract**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

#### **8.24. Force Majeure**

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

#### **8.25. Governing Law**

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that CONTRACTOR may provide.

#### **8.26. Venue**

Any action between the Parties arising from this Contract shall be maintained in the courts of Davidson County, Tennessee.

#### **8.27. Severability**

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

[BALANCE OF PAGE IS INTENTIONALLY LEFT BLANK]



Contract Number: 6547812

**Notices and Designation of Agent for Service of Process**

All notices to METRO shall be mailed or hand delivered to:

**PURCHASING AGENT**

**PROCUREMENT DIVISION**

**DEPARTMENT OF FINANCE**

**PO BOX 196300**

**NASHVILLE, TN 37219-6300**

Notices to CONTRACTOR shall be mailed or hand delivered to:

CONTRACTOR: CUES, Inc.

Attention: Al Milley

Address: 3600 Rio Vista Avenue, Orlando, FL 32805

Telephone: 781-248-6559

Fax: N/A

E-mail: amilley@cuesinc.com

CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will

waive any objection to service of process if process is served upon this agent:

Designated Agent: CT Corporation

Attention: CT Corporation System

Address: 300 Montvue Road, Knoxville, TN 37919

Email: ctstatecommunications@walterskluwer.com

**[SPACE INTENTIONALLY LEFT BLANK]**

**Notices & Designations**  
**Department & Project Manager**

<b>Contract Number</b>	6547812
------------------------	---------

The primary DEPARTMENT/AGENCY responsible for the administration of this contract is:

<b>DEPARTMENT</b>	Water Services
<b>Attention</b>	Stephanie Belcher
<b>Address</b>	1600 2nd Ave North, Nashville, TN 37208
<b>Telephone</b>	615-862-4513
<b>Email</b>	stephanie.belcher@nashville.gov

The primary DEPARTMENT/AGENCY responsible for the administration of this contract designates the following individual as the PROJECT MANAGER responsible for the duties outlined in APPENDIX – Z CONTRACT ADMINISTRATION:

<b>Project Manager</b>	Scott McPencow
<b>Title</b>	Information Services Division Manager
<b>Address</b>	1700 3rd Ave N, Nashville, TN 37208
<b>Telephone</b>	615-405-2619
<b>Email</b>	scott.mcpencow@nashville.gov

## **Appendix Z – Contract Administration**

Upon filing with the Metropolitan Clerk, the PROJECT MANAGER designated by the primary DEPARTMENT/AGENCY is responsible for contract administration. Duties related to contract administration include, but are not necessarily limited to, the following:

### **Vendor Performance Management Plan**

For contracts in excess of \$50,000.00, the project manager will develop a vendor performance management plan. This plan is managed by the primary department/agency and will be retained by the department/agency for their records. At contract close out, copies of all vendor performance management documents will be sent to [PRG@nashville.gov](mailto:PRG@nashville.gov).

For best practices related to vendor performance management, project managers will consult chapter eight of the PROCUREMENT MANUAL found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

### **Amendment**

For all contracts, the project manager will notify [PRG@nashville.gov](mailto:PRG@nashville.gov) if changes to the term, value, scope, conditions, or any other material aspect of the contract are required. The email notification will include a complete CONTRACT AMENDMENT REQUEST FORM found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

### **Escalation**

For contracts that include an escalation/de-escalation clause, the project manager will notify [PRG@nashville.gov](mailto:PRG@nashville.gov) when any request for escalation/de-escalation is received. The email notification will include any documentation required by the contract to support the request.

### **Contract Close Out – Purchasing**

For all contracts, the project manager will notify [PRG@nashville.gov](mailto:PRG@nashville.gov) when the work is complete and has been accepted by the department/agency. The email notification will include the contract number, contract title, date of completion, warranty start date and warranty end date (if applicable), and copies of all vendor performance management documents (if applicable).

### **Contract Close Out – BAO**

For contracts with compliance monitored by the Business Assistance Office (BAO), the project manager will notify the designated contract compliance officer via email when the contract is complete and final payment has been issued. The email notification will include the contract number, contract title, and the date final payment was issued.

### **Best Practices**

Project managers are strongly encouraged to consult chapter eight of the PROCUREMENT MANUAL for best practices related to contract administration. The manual is found on the division of purchases internal resources page:

<https://metronashville.sharepoint.com/sites/IMFinanceProcurement>

Contract Number 6547812

Effective Date

This contract shall not be binding upon the parties until it has been fully electronically approved by the CONTRACTOR, the authorized representatives of the Metropolitan Government, and filed in the office of the Metropolitan Clerk.

THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

APPROVED AS TO PROJECT SCOPE:

Scott Potter TV  
Dept. / Agency / Comm. Head or Board Chair. Dept. Fin.

APPROVED AS TO COMPLIANCE WITH  
PROCUREMENT CODE:

Dennis Rowland DR  
Purchasing Agent Purchasing

APPROVED AS TO AVAILABILITY OF FUNDS:

Jennine Reed/MRB AC  
Director of Finance BA

APPROVED AS TO FORM AND LEGALITY:

Tara Ladd B  
Metropolitan Attorney Insurance

FILED BY THE METROPOLITAN CLERK:

Metropolitan Clerk Date

CONTRACTOR:

CUES, Inc.  
Company Name

Jonathan Russell  
Signature of Company's Contracting Officer

Jonathan Russell  
Officer's Name

VP & General Manager  
Officer's Title

Exhibit A - Pricing

Contract 6547812

**CUES SOFTWARE DIVISION**

<b><u>PART#</u></b>	<b><u>GNET SOFTWARE &amp; SERVICES</u></b>	<b><u>PRICE</u></b>
GN538	GraniteNet Office Annual Suport Plan	500.00
GN536	GraniteNet Premium Inspection Annual Support Plan	2,060.00
GN567	GraniteNet WebOffice Server Annual Support Plan	2,625.00

GNet Software and Service Plan (attached)

**CUSTOMER SERVICE**

Labor Rate:     \$160.00 per hour  
Parts Discount: 3% off list price  
List Parts Price Book will be provided to the department annually for review and records.

**Exhibit B – MISA Terms and Conditions****Contract 6547812****SECTION A-1****General Terms and Conditions**

- 1 Safeguards.** To the extent as may be directly applicable to the Services and/or Goods, in addition to the controls specified in the exhibits to this Agreement, Contractor agrees to implement administrative, physical, and technical safeguards to protect the availability, confidentiality and integrity of Metropolitan Government of Nashville and Davison County (Metro Government) Information, information technology assets and services. All such safeguards shall be in accordance with industry-wide best security practices and commensurate with the importance of the information being protected, but in no event less protective than those safeguards that Contractor uses to protect its own information or information of similar importance, or is required by applicable federal or state law.
- 2 Inventory.** to the extent as may be directly applicable to the Services and/or Goods, Contractor agrees to maintain at all times during the Term of this Agreement a Product and Service Inventory. Contractor shall upon request of Metro Government, which shall be no more frequently than semi-annually, provide the current Product and Service Inventory to Metro Government within thirty (30) days of the request.
- 3 Connection of Systems or Devices to the Metro Government Network.** to the extent as may be directly applicable to the Services and/or Goods, Contractor shall not place any systems or devices on the Metro Government Network without the prior written permission of the Director of ITS, designee, or the designated Metro Government contact for this Agreement.
- 4 Access Removal.** to the extent as may be directly applicable to the Services and/or Goods, If granted access to Metro Government Network or systems, Contractor and its Agents shall only access those systems, applications or information which they are expressly authorized by Metro Government to access, even if the technical controls in the system or application do not prevent Contractor or its Agent from accessing those information or functions outside of Metro Government's authorization. Contractor shall impose reasonable sanctions against any Agent who attempts to bypass security controls. Notwithstanding anything to the contrary in the Purchasing Agreement or other agreement between Metro Government and Contractor, Metro Government at its sole discretion, may refuse granting access right to Metro Government Network or Sensitive Information to any Agent of Contractor, and may at any time remove access rights (whether physical premise access or system access) from Contractor or any Agents, without prior notice or liability to Contractor, if Metro Government reasonably suspects a security violation by Contractor or such Agent or otherwise deems such action appropriate to protect Metro Government Infrastructure, Metro Government Network or Metro Government Information.
- 5 Subcontracting/Outsourcing.**
  - 5.1 Prior Approval.** to the extent as may be directly applicable to the Services and/or Goods, Without Metro Government's prior written consent, Contractor may not subcontract with a third party to perform any of its obligations to Metro Government which involves access to Metro Government Information or connection to Metro Government Network. Nor shall Contractor outsource any Contractor infrastructure (physical or virtual) which Stores Sensitive Information without such consent. To obtain Metro Government's consent which shall not be unreasonably withheld or delayed, Contractor shall contact the Metro Government ITS department. In addition, Metro Government may withdraw any prior consent if Metro Government reasonably suspect a violation by the subcontractor or outsource provider of this Agreement, or otherwise deems such withdraw necessary or appropriate to protect Metro Government Network, Metro Government Infrastructure or Metro Government Information.
  - 5.2 Subcontractor Confidentiality.** Contractor Agents are bound by the same confidentiality obligations set forth in this Agreement. Contractor or its Agent may not transfer, provide access to or otherwise make available Metro Government Information to any individual or entity outside of the United States (even within its own organization) without the prior written consent of Metro Government. To obtain such consent, Contractor shall send Metro Government a notice detailing the type of information to be disclosed, the purpose of the disclosure, the recipient's identification and location, and other information required by Metro Government.
  - 5.3 Contractor Responsibility.** to the extent as may be directly applicable to the Services and/or Goods, Prior to subcontracting or outsourcing any Contractor's obligations to Metro Government, Contractor shall enter into a binding agreement with its subcontractor or outsource service provider ("Third Party Agreement") which (a) prohibits such third party to further subcontract any of its obligations, (b) contains provisions no less protective to Metro Government Network, Metro Government Infrastructure and/or Metro Government Information than those in this Agreement, and (c) expressly provides

**Exhibit B – MISA Terms and Conditions**

**Contract 6547812**

Metro Government the right to audit such subcontractor or outsource service provider to the same extent that Metro Government may audit Contractor under this Agreement. Contractor warrants that the Third Party Agreement will be enforceable by Metro Government in the U.S. against the subcontractor or outsource provider (e.g., as an intended third party beneficiary under the Third Party Agreement).

Without limiting any other rights of Metro Government in this Agreement, Contractor remains fully responsible and liable for the acts or omissions of its Agents. In the event of an unauthorized disclosure or use of Sensitive Information by its Agent, Contractor shall, at its own expense, provide assistance and cooperate fully with Metro Government to mitigate the damages to Metro Government and prevent further use or disclosure.

**Exhibit B – MISA Terms and Conditions****Contract 6547812****SECTION A-2****Definitions**

Capitalized terms used in the Agreement shall have the meanings set forth in this Exhibit A-2 or in the [Metropolitan Government Information Security Glossary](#), which can be found on the Metropolitan Government of Nashville website . Terms not defined in this Exhibit A-2 or otherwise in the Agreement shall have standard industry meanings.

1. “Affiliates” as applied to any particular entity, means those entities, businesses, and facilities that are controlled by, controlling, or under common control with a stated entity, as well as (with respect to Metro Government) any entity to which Metro Government and/or any of the foregoing provides information processing services.
2. “Agent” means any subcontractor, independent contractor, officer, director, employee, consultant or other representative of Contractor, whether under oral or written agreement, whether an individual or entity.
3. “Agreement” means this Information Security Agreement, including all applicable exhibits, addendums, and attachments.
4. “Information Breach” means any actual or suspected unauthorized disclosure or use of, or access to, Metro Government Information, or actual or suspected loss of Metro Government Information.
5. “Effective Date” means the date first set forth on page 1 of the Agreement.
6. “Metro Government Information” means an instance of an information type belonging to Metro Government. Any communication or representation of knowledge, such as facts, information, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative or audiovisual, owned by or entrusted to Metro Government.
7. “Metro Government Infrastructure” means any information technology system, virtual or physical, which is owned, controlled, leased, or rented by Metro Government, either residing on or outside of the Metro Government Network. Metro Government Infrastructure includes infrastructure obtained from an IAAS provider or systems that are provided and located on the Metro Government Network as part of a Service.
8. “Metro Government Network” means any Wide Area Network (WAN) or Local Area Network (LAN) owned, operated, managed or controlled by Metro Government.
9. “Term” means the period during which this Agreement is in effect.



**SECTION SOFT****Software / System Capability****1 Supported Product.**

- 1.1 Unless otherwise expressly agreed by Metro Government in writing, Contractor shall provide Metro Government only supported versions of the Product, which will not become "end of life" for at least 24 months. When the Product or Service requires third party components, Contractor must provide a Product that is compatible with currently supported third party components. Unless otherwise expressly agreed by Metro Government, Contractor represents that all third party components in its Product are currently supported, are not considered "end of life" by the third party provider of such components, and will not become "end of life" in less than 24 months from the date of acquisition by Metro Government.
- 1.2 If Open Source Software is incorporated into the Product, Contractor shall only use widely supported and active Open Source Software in the Product, and shall disclose such software to Metro Government prior to its acquisition of the Product.
- 1.3 Information transfers within applications and involving services should be done using web services, APIs, etc. as opposed to flat file information transport.

**2 Software Capabilities Requirements.**

- 2.1 Contractor shall disclose to Metro Government all default accounts included in their Product or provide a means for Metro Government to determine all accounts included in the Product.
- 2.2 Contractor shall not include fixed account passwords in the Product that cannot be changed by Metro Government. Contractor shall allow for any account to be renamed or disabled by Metro Government.
- 2.3 Contractor's Product shall support a configurable Session Timeout for all users or administrative access to the Product.
- 2.4 Contractor shall ensure that the Product shall transmit and store Authentication Credentials using Strong Encryption.
- 2.5 Contractor Products shall mask or hide the password entered during Interactive User Login.
- 2.6 Contractor shall ensure that Products provided can be configured to require a Strong Password for user authentication.
- 2.7 Contractor's Product shall allow user accounts to be disabled after a configurable amount of failed login attempts over a configurable amount of time.
- 2.8 Contractor's Product shall have the capability to require users to change an initial or temporary password on first login.
- 2.9 Contractor's Product shall have the capability to report to Metro Government, on request, all user accounts and their respective access rights within three (3) business days or less of the request.
- 2.10 Contractor's Product shall have the capability to function within Metro Governments Information Technology Environment. Specifications of this environment are available upon request.

- 3 **Backdoor Software.** Contractor shall not provide Products with Backdoor Software, including, without limitation, undocumented or secret access functions (e.g., accounts, authorization levels, over-rides or any backdoor). Contractor shall supply all information needed for the Metro Government to manage all access (local or remote) capabilities within the Product including denying of Remote Access entirely from any party including Contractor. Contractor shall not include any feature within the Product that would allow anyone to circumvent configured authorization remotely.

## Affidavits

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she and the contracting organization is presently in compliance with, and will continue to maintain compliance with, all applicable federal, state, and local laws.

**Taxes and Licensure:** Affiant states that Contractor has all applicable licenses, including business licenses. Affiant also states that Contractor is current on its payment of all applicable gross receipt taxes and personal property taxes. M.C.L. 4.20.065

**Nondiscrimination:** Affiant affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age or sex, and are not in violation of, and will not violate, any applicable laws concerning the employment of individuals with disabilities. M.C.L. 4.28.020

**Employment Requirement:** Affiant affirms that Contactor's employment practices are in compliance with applicable United States immigrations laws. M.C.L. 4.40.060.

**Covenant of Nondiscrimination:** Affiant affirms that in consideration of the privilege to submit offers in response to this solicitation, we hereby consent, covenant, and agree as follows:  
To adopt the policies of the Metropolitan Government relating to equal opportunity in contracting on projects and contracts funded, in whole or in part, with funds of the Metropolitan Government;  
- To attempt certain good faith efforts to solicit Minority-owned and Woman-owned business participation on projects and contracts in addition to regular and customary solicitation efforts;  
- Not to otherwise engage in discriminatory conduct;  
- To provide a discrimination-free working environment;  
- That this Covenant of Nondiscrimination shall be continuing in nature and shall remain in full force and effect without interruption;  
- That the Covenant of Nondiscrimination shall be incorporated by reference into any contract or portion thereof which the Supplier may hereafter obtain; and  
- That the failure of the Supplier to satisfactorily discharge any of the promises of nondiscrimination as made and set forth herein shall constitute a material breach of contract. M.C.L. 4.46.070

**Contingent Fees:** It is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Metro contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned Affiant states that the Contractor has not retained anyone in violation of the foregoing. M.C.L. 4.48.080

**Iran Divestment Act Affidavit:** By submission of this offer and in response to the solicitation, Contractor(s) and each person signing on behalf of Contractor(s) affirm, under penalty of perjury, that to the best of their knowledge and belief, neither the Contractor(s), nor proposed subcontractors, subconsultants, partners and any joint venturers, are on the list created pursuant to the Tennessee Code Annotated § 12-12-106 (Iran Divestment Act). Referenced website:

[https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/library/2022/List\\_of\\_persons\\_pursuant\\_to\\_Tenn.\\_Code\\_Ann.\\_12-12-106\\_Iran\\_Divestment\\_Act\\_updated\\_with%20NY05.04.22.pdf](https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/library/2022/List_of_persons_pursuant_to_Tenn._Code_Ann._12-12-106_Iran_Divestment_Act_updated_with%20NY05.04.22.pdf)

**Sexual Harassment:** Affiant affirms that should it be awarded a contract with the Metropolitan Government for a period of more than twelve (12) months and/or valued at over five hundred thousand (\$500,000) dollars, affiant shall be required to provide sexual harassment awareness and prevention training to its employees if those employees:

1. Have direct interactions with employees of the Metropolitan Government through email, phone, or in-person contact on a regular basis;
2. Have contact with the public such that the public may believe the contractor is an employee of the Metropolitan Government, including but not limited to a contractor with a phone number or email address associated with Metropolitan government or contractors with uniforms or vehicles bearing insignia of the Metropolitan Government; or
3. Work on property owned by the metropolitan government.

Such training shall be provided no later than (90) days of the effective date of the contract or (90) days of the employee's start date of employment with affiant if said employment occurs after the effective date of the contract. M.C.L. 2.230.020.

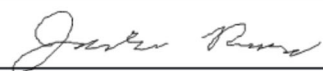
Affiant affirms that Contractor is not currently, and will not for the duration of the awarded Contract, engage in a boycott of Israel for any awarded contract that meets the following criteria:

- Has total potential value of two hundred fifty thousand (\$250,000) or more;
- Affiant has ten (10) or more employees.

Affiant affirms that offeror is and will remain in compliance with the provisions of Chapter 4.12 of the Metro Procurement Code and the contents of its offer as submitted. Affiant further affirms that offeror understands that failure to remain in such compliance shall constitute a material breach of its agreement with the Metropolitan Government.

**And Further Affiant Sayeth Not:**

Organization Name: CUES, Inc.

Organization Officer Signature: 

Name of Organization Officer: Jonathan Russell

Title: Vice President & General Manager

**Exhibit D – Cues GraniteNet Software License Agreement**

Telephone 407/849-0190  
FAX 407/425-1569

3600 Rio Vista Avenue  
Orlando, FL 32805 (U.S.A.)

**Contract 6547812**



## **CUES GRANITENET SOFTWARE AGREEMENT**

**IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE.**

**INTELLECTUAL PROPERTY INFRINGEMENT CAN CARRY SEVERE PENALTIES, FROM FINES OF UP TO \$250,000 TO IMPRISONMENT. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE, OR, IF THE SOFTWARE HAS BEEN PRE-INSTALLED AND YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT USE THE SOFTWARE.**

**CUES GRANITENET SOFTWARE CONTAINS SECURITY SIGNATURES THAT ENABLE CUES TO IDENTIFY ANY COPY THAT HAS BEEN INSTALLED ON ANY COMPUTER. CUES WILL VIGOROUSLY PURSUE OFFENDERS REGARDLESS OF SIZE OR LOCATION.**

### **1. USE**

You (an entity or a person) may use CUES GraniteNet (the "Software"), on a stand-alone computer, in the quantity purchased, if you meet the following conditions. In addition you may make one (1) archival copy of the Software.

#### **STAND-ALONE COMPUTER USE:**

You must acquire one copy of the Software for each computer on which the Software will be installed. You may not use this single copy of the application on more than one computer.

#### **SHARED NETWORK USE:**

You may use the Software on a network provided you have purchased Software equal to the maximum number of copies in use at any time. Software is "in use" on a computer when it is resident in memory (i.e. RAM) or when executable and other files are installed on the hard drive or other storage device. Software which is stored on a server and not resident in memory on that machine is not considered "in use."

#### **MULTIPLE COPIES:**

The CUES GraniteNet software is licensed for one installation on one computer. If you load the software on a second computer you must contact CUES to purchase an additional license and obtain an authorization code.

#### **EXCEPTIONS:**

You are currently authorized to install the software in your On Premise or Cloud environment so that multiple users may access the GraniteNet Web applications. You may also make free copies of the Read-Only desktop GraniteNet Viewer software. Also, each copy of the Read-Only desktop GraniteNet Viewer software is licensed for one installation on one computer. This privilege is subject to change without notice.

### **2. RESTRICTIONS**

Except as expressly provided in Section 1, you may not reverse engineer, disassemble or decompile the software. Additionally should you make customized changes directly to the database schema, CUES shall not be held responsible to analyze, fix and or repair the database as a result of database modifications that you have made at the database schema level.

You may not sell, distribute, loan, rent, lease, license or otherwise transfer the Software or any copy; except by expressed written permission of CUES. This shall apply whether the software was purchased separately, or preloaded on a computer as part of your purchase of the computer ("OEM Software").

If you are using the Software in any country in the European Community, the prohibition against altering, merging, modifying or adapting the Software does not affect your rights under any legislation implementing the E.C. Council Directive on the Legal Protection of Computer Programs. If you seek interface information within the meaning of Article 6.1.b of that Directive, you should initially approach the Customer Service Department, CUES, 3600 Rio Vista Ave. Orlando, FL32805, United States of America.

### 3. INTELLECTUAL PROPERTY RIGHTS

All intellectual property rights in the Software and user documentation are owned by CUES and are protected by applicable intellectual property laws (including patent, trademark and copyright laws) and international treaty provisions. CUES retains all rights not expressly granted.

### 4. INDEMNIFICATIONS; LIMITATION OF LIABILITY

4.1. **Indemnification.** CUES shall indemnify you and hold you harmless from and against all claims, damages, losses and expenses, including reasonably attorneys' fees, arising out of or resulting from (a) any action by a third party against you that is based on any claim that any Services performed under this Agreement, or the results thereof, including without limitation Deliverables and/or Developed Software, infringe a patent, copyright or other proprietary right of any third party or violate a trade secret right of any person or entity; (b) the performance of the Services caused by any negligent act or omission or willful misconduct of CUES or CUES's employees and which result in (i) any bodily injury, sickness, disease or death, (ii) any injury or destruction to tangible or intangible property (including computer programs and data) or any loss of use resulting therefrom, or (iii) any violation of any statute, ordinance, or regulation. Legal counsel for the defense of any third party claim of infringement shall be selected by mutual agreement between you and CUES. CUES obligation of infringement indemnity pursuant to subsection 4.1(a) above shall be subject to (i) you promptly notifying CUES, in writing, of the suit, claim or proceeding; and (ii) at CUES reasonable request and expense, you hereby agree to reasonably cooperate with CUES to facilitate the settlement or defense of the claim or proceeding.

4.2. **Intellectual Property Claims.** If a claim of infringement of a patent, trade secret or copyright occurs, or if CUES determines that a claim is likely to occur, CUES will have the right, in its sole discretion, to either: (i) procure for XYZ Utility, at CUES expense, the right or license to continue to use the Deliverables and/or Developed Software free of the infringement claim; or (ii) replace or modify the Deliverables and/or Developed Software to make it non-infringing, provided that such replacement or modification provides substantially the same functionality in the Deliverables and/or Developed Software. If neither of these remedies are commercially reasonably available to CUES, CUES may, at its option, require you to cease using the infringing Deliverables and/or Developed Software upon entry of a court or other, binding fact-finding authority's order precluding further use of such Deliverables and/or Developed Software, and return to you all amount(s) paid to CUES hereunder.

4.3. **Limitations.** CUES shall have no liability for any infringement claim based upon: (i) any alteration or modification of any Deliverable and/or Developed Software not provided or authorized by CUES, if the infringement would not have occurred but for the alteration or modification by a party other than CUES or not authorized by CUES; (ii) use of the Deliverable and/or Developed Software in combination with other programs or data not intended to be used with the Deliverable and/or Developed Software, if the infringement would not have occurred but for the use in combination with such programs or data; (iii) use of the Deliverable and/or Developed Software in a way not provided for or described in the applicable documentation, if the infringement would not have occurred but for such use; or (iv) use of other than a current unaltered release of the Deliverable and/or Developed Software, after you have been reasonably notified that use of such release would avoid the infringement without any loss of functionality to you and CUES has reasonably provided to you such release free of charge, if the infringement would not have occurred but for the use of other than a current altered release of the Developed Software.

4.4. THE FOREGOING STATES CUES'S ENTIRE LIABILITY AND OBLIGATIONS AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY PATENT, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS AGAINST DEVELOPED SOFTWARE UNDER THIS AGREEMENT AND IS IN LIEU OF ANY WARRANTY OF NON-FRINGEMENT OF PATENT, TITLE AND THE LIKE.

## 5. LIMITATION OF LIABILITY

Because software is inherently complex and may not be completely free of errors, it is your responsibility to verify your work and to make backup copies. To the extent permitted by state law, in no event will CUES be liable for indirect, special, incidental, tort, economic, cover or consequential damages arising out of the use of or inability to use CUES products or services, including, without limitation, damages or costs relating to the loss of profits, business, goodwill, data or computer programs, even if advised of the possibility of such damages. To the extent permitted by state law, in no case shall CUES liability exceed the amount paid by you for the Software out of which such claim arose.

This limitation on monetary damages will not apply to claims relating to death or personal injury, which arise out of products deemed to be consumer goods under applicable law. Some states, provinces and other jurisdictions do not allow the exclusion or limitation of implied warranties or limitation of liability for incidental or consequential damages, so the above exclusion or limitation may not apply to you. However, in appropriate jurisdictions, CUES limits its liability, according to the terms of this Agreement, to the extent permissible at law.

Nothing in this Agreement operates to exclude, restrict or modify the application of any of the provisions of the Trade Practices Act 1974 (Cth) or any equivalent state or territory legislation, the exercise of a right conferred by such a provision, or any liability of CUES for a breach of a condition or warranty (including but not limited to a condition or warranty in relation to goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption) implied by such a provision. To the extent permitted by state law, CUES expressly limits its liability for any breach of a condition or warranty under this Agreement or implied by virtue of any legislation to one of the following, the choice of which is to be at CUES sole discretion: (i) the replacement of the Software or the supply of equivalent software; or (ii) the payment of the cost of replacing the Software or of acquiring equivalent software.

## 6. U.S. GOVERNMENT RESTRICTED RIGHTS

The Software and/or user documentation are provided with RESTRICTED AND LIMITED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in FAR 52.227-14 (June 1987) Alternate III(g)(3) (June 1987), FAR 52.227-19 (June 1987), or DFARS 52.227-7013 (c)(1)(ii) (June 1988), as applicable. Contractor/Manufacturer is CUES, 3600 Rio Vista Ave. Orlando, FL 32805. In the event the Government seeks to obtain the Software pursuant to standard commercial practice, this software agreement, instead of the noted regulatory clauses, shall control the terms of the Government's license.

## 7. GENERAL

No CUES dealer, distributor, agent or employee is authorized to make any modification or addition to this Agreement.

FOR US CUSTOMERS: Should you have any questions concerning this Agreement or CUES software use policies, write to CUES Software Division, CUES, 3600 Rio Vista Ave. Orlando, FL 32805, or email: [granitesupport@cuesinc.com](mailto:granitesupport@cuesinc.com) or call 1-800-327-7791.

For customers in all other countries: Please call 1-407-849-0190 or call or write your local CUES sales office.



Exhibit E – Terms and Conditions of Sale for Contract 6547812

**CUES, INC.**  
**STANDARD TERMS AND CONDITIONS OF SALE**

**ACCEPTANCE AND GOVERNING PROVISIONS.** No orders shall be binding upon CUES, INC. (“Seller”) until accepted in writing by an authorized representative of Seller at its headquarters office or factory. SELLER’S ACCEPTANCE OF BUYER’S ORDER IS CONDITIONED UPON BUYER’S ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN (THE “TERMS”) AND BUYER’S AGREEMENT TO BE BOUND BY AND COMPLY WITH THE TERMS. THESE TERMS, THE TERMS ON THE FACE OF THIS DOCUMENT, ALL REFERENCED ATTACHMENTS, AND THE GOODS AND SERVICES CONTRACT #6547812, CONSTITUTE THE ENTIRE AGREEMENT BETWEEN BUYER AND SELLER, AND NO AMENDMENT OR MODIFICATION SHALL BE BINDING ON SELLER UNLESS SIGNED BY AN OFFICER OF SELLER. THE FAILURE OF SELLER TO OBJECT TO PROVISIONS CONTAINED IN ANY PURCHASE ORDER OR OTHER DOCUMENT OF BUYER SHALL NOT BE CONSTRUED AS A WAIVER BY SELLER OF THE TERMS OR AN ACCEPTANCE OF ANY SUCH PROVISIONS. ANY CONFLICTING OR ADDITIONAL TERMS OR CONDITIONS SET FORTH BY BUYER IN A PURCHASE ORDER OR OTHER DOCUMENT ARE NOT BINDING UPON SELLER, AND SELLER HEREBY EXPRESSLY OBJECTS THERETO.

**LIMITED WARRANTY.** Seller warrants that all parts, components, and equipment manufactured by Seller shall be free from defects in material and workmanship under normal use and service for which it was intended for a period of twelve (12) months from the date of shipment of materials by Seller to the Buyer. Seller’s obligation under this warranty is limited. Seller, at its option, may replace or repair any defective materials returned freight prepaid, to the Seller’s designated service facility. For all warranty claims, the materials must be returned in accordance with Seller’s Material Return Policy or as otherwise directed by the Seller. Buyer must notify Seller of a breach of warranty not later than the last day of the warranty period; otherwise, such claims shall be deemed waived.

Major items of equipment, such as vehicles, generators, etc., furnished, but not manufactured by Seller, will be covered only under the warranty of the third party manufacturer of such equipment. Expendable parts, such as light bulbs, fuses, connectors, etc., are excluded from this warranty. Seller does not warrant the materials to meet the requirements of the safety codes of any federal, state, municipal or other governmental or administrative jurisdiction. Buyer assumes all risk and liability whatsoever resulting from the use of its products, whether used singly or in combination with other products, machines or equipment. This Warranty shall not apply to any materials, or parts thereof, which have; **(a)** been repaired or altered by anyone other than Seller without Seller’s written consent; **(b)** been subject to misuse, abuse, negligence, accident, or damage; **(c)** not been installed or operated in accordance with Seller’s printed instructions, or; **(d)** been operated under conditions exceeding or more severe than those set forth in the specifications of design tolerance of the equipment.

TO THE EXTENT PERMITTED BY STATE LAW, THIS WARRANTY AND THE OBLIGATION AND LIABILITIES OF CUES HEREUNDER ARE EXCLUSIVE AND IN LIEU OF (AND PURCHASER HEREBY WAIVES) ALL OTHER WARRANTIES, GUARANTEES, REPRESENTATIONS, OBLIGATIONS, OR LIABILITIES, EXPRESSED OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDLESS WHETHER OR NOT OCCASIONED BY SELLER’S NEGLIGENCE. SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE RESULTING, DIRECTLY OR INDIRECTLY, FROM THE USE OR LOSS OF USE OF THE MATERIALS, OR FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, ECONOMIC LOSSES, LOSS OF PROFITS, LOSS OF BUSINESS, OR LOSS OF BUSINESS OPPORTUNITY. Without limiting the generality of the foregoing, this exclusion from liability includes Buyer’s expenses for downtime or for making up downtime, damages to property, and injury to or death of any persons.

Seller neither assumes nor authorizes any person (including employees, agents, or representatives of Seller) to assume for it any other liability, guarantee, or warranty in connection with the sale or use of the materials, and no oral agreements, warranties, or understandings exist collateral to or affecting this warranty. This warranty shall not be extended, altered, modified, or waived except by a written instrument signed by Seller.





## Exhibit E – Terms and Conditions of Sale for Contract 6547812

**PATENTS AND TRADEMARKS.** (a) If notified promptly by Buyer in writing and provided with Buyer's authority, information, and assistance, Seller shall defend or may at any time settle, at Seller's option, any suit or proceeding alleging that any goods designed and sold by Buyer pursuant to Seller's proposal infringe any United States patent or trademark. Seller shall pay any damages awarded in such suit or proceeding up to the amount of the depreciated purchase price of the goods. In the event any goods are held to constitute such infringement and the use of the goods is enjoined, Seller shall, at its option and expense: (i) procure for Buyer the right to continue using the goods; (ii) replace the goods with non-infringing goods; (iii) modify the goods so that they become non-infringing; or (iv) remove the goods and return the depreciated purchase price. TO THE EXTENT PERMITTED BY STATE LAW, THE FOREGOING CONSTITUTES THE ENTIRE LIABILITY OF SELLER AND SOLE AND EXCLUSIVE REMEDY OF BUYER FOR PATENT OR TRADEMARK INFRINGEMENT RELATED TO THE GOODS. (b) NOTWITHSTANDING THE FOREGOING, SECTION (a) ABOVE SHALL NOT APPLY TO ANY SUIT OR PROCEEDING ALLEGING INFRINGEMENT RESULTING FROM OR RELATED TO SELLER'S COMPLIANCE WITH THE SPECIFICATIONS OR DESIGN OF BUYER OR THE USE OF GOODS OF SELLER IN COMBINATION WITH OTHER GOODS OR MATERIALS. Buyer shall defend and pay any damages awarded in such suit or proceeding.

**DELIVERY AND DELAY.** (a) Unless otherwise agreed to in a writing signed by Seller: (i) goods shall be delivered Ex Works Seller's premises (Incoterms 2010), with availability of goods to the carrier constituting delivery to Buyer; (ii) title to the goods and risk of damage or loss shall pass to Buyer upon loading of goods on the initial carrier at Seller's premises; (iii) transportation costs shall be paid by Buyer; and (iv) Buyer shall have sole responsibility for filing any claims with any carrier for delay, loss or damage. (b) Dates of delivery or other performance are estimates and are based on timely receipt from Buyer of accurate and complete approved drawings and technical data. Seller shall not be liable for any delay beyond its reasonable control or caused by accident, bad weather, embargo, act of Buyer or third parties, labor disputes, national emergency, riots, non-delivery of suppliers, delays of carriers or delivery agents, inability to obtain labor, materials or manufacturing facilities, acts of God, or government restrictions, prohibitions or requirements. In the event of any such delay, Seller's time period for delivery or performance shall be extended accordingly. **TO THE EXTENT PERMITTED BY STATE LAW, REGARDLESS OF THE CAUSE, SELLER SHALL HAVE NO LIABILITY FOR PENALTIES OF ANY NATURE AS A RESULT OF A DELAY.** During any period of shortage due to the stated or similar causes, Seller may prorate its supply of material among its internal demand and its customers in whatever manner it chooses.

**LIMITATION OF LIABILITY.** TO THE EXTENT PERMITTED BY STATE LAW, (a) EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED UNDER SECTION 3 ABOVE, SELLER SHALL NOT BE LIABLE UNDER ANY THEORY OF RELIEF, INCLUDING, WITHOUT LIMITATION, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OF OTHERWISE, ARISING OUT OF OR RELATED TO AN ORDER OR SELLER'S ACTS OR OMISSIONS, FOR: (i) INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DAMAGE TO PROPERTY, OR LOSS OF USE; OR (ii) ANY DAMAGE OR LOSS IN EXCESS OF THE PURCHASE PRICE ACTUALLY PAID BY BUYER. (b) Any action by Buyer must be commenced within one year after the cause of action has accrued.

**CHANGES, SUBSTITUTIONS, AND CANCELLATION.** (a) Any material changes requested by Buyer are not effective unless accepted in writing by an authorized representative of Seller from Seller's corporate offices. Any changes accepted by Seller which affect the specifications or scope of work of an order shall be reflected in an updated purchase order and entitle Seller, as appropriate, to an adjustment to the price, delivery schedule, or other terms affected by such change. (b) Seller may furnish suitable substitutes for materials unobtainable due to regulations of governmental authorities or unavailability of materials from suppliers. Details of design and construction in any proposal are approximate and subject to revision by Seller. If changes in performance of services or in materials, design, layout or arrangement of goods are desired or required by conditions of which Seller was unaware or which were unforeseen by Seller, the price is subject to revision. (c) Buyer may cancel an order only with the written consent of Seller and upon payment of cancellation charges. In the event Seller accepts such cancellation for all or any part of the goods or services, Buyer shall be liable for the higher of: (i) 25% of the purchase price; or (ii) any loss incurred by Seller, including, without





## Exhibit E – Terms and Conditions of Sale for Contract 6547812

limitation, costs of engineering, reconditioning, labor, materials, overhead and profit margin.

**APPROVALS, INSPECTION AND ACCEPTANCE.** (a) Buyer's approval, or failure to disapprove, of drawings submitted hereunder constitutes Buyer's acceptance of equipment design, specifications and other data contained therein. (b) Inspection of goods at our plant by Buyer, or Buyer's representatives, will be permitted insofar as such inspection does not interfere with Seller's production and provided that complete written details of such inspection are submitted to Seller ten (10) days in advance. (c) The goods and services shall be deemed accepted, and any claim of Buyer against Seller with respect to an order shall be waived and not enforceable, unless: (i) Buyer has promptly inspected the goods and services, and written notice from Buyer of any defect has been received by Seller within forty-eight (48) hours of rejection of any equipment inspected at Seller's factory or, if no factory inspection has taken place, within thirty (30) days following any delivery of goods or performance of services; and (ii) Seller has been given by Buyer reasonable advance notice and authorization to attend any tests designed to demonstrate that goods or services are defective, and the test conditions are mutually agreed to by Buyer and Seller. (d) Goods may not be returned without obtaining written authorization and shipping instructions from an authorized representative of Seller.

**PRICES, PAYMENT, AND CREDIT.** (a) Unless other terms have been expressly stated by Seller in writing, Seller's prices: (i) are Ex-Works Seller's Premises (Incoterms 2010); (ii) do not include any domestic sales, use, excise, or similar taxes under existing or future laws (with Buyer to be charged for same, unless Buyer has provided Seller with an appropriate tax exemption certificate); (iii) are valid for sales for 45 days from the proposal date; and (iv) do not include costs for installation of goods. All quoted prices are in U.S. Dollars and are subject to correction for clerical errors. (b) Unless otherwise agreed in writing and subject to credit approval, payment terms shall be net 30 days from the date of shipment. (c) Pro-rata payments shall become due with partial shipments of goods or partial delivery of services. Seller shall charge 1<sup>1</sup>/<sub>2</sub>% per month (or such lower percentage as required by applicable law) of the unpaid invoice balance, commencing 30 days following the shipment date. Any delay in delivery or performance of an installment shall not relieve Buyer of its obligation to accept and make payment for remaining installments. If Buyer is notified by Seller that the goods are ready for shipment and there is an unreasonable delay in shipment for reasons beyond Seller's control (including Buyer's failure to provide shipping instructions), the date of completion shall be treated as the date of shipment for payment purposes, and completed goods shall be held at Buyer's risk of loss or damage, with Buyer paying all storage and insurance expenses. (d) Seller may, at its option, decline to deliver goods or provide services, except for cash, or stop goods in transit whenever, for any reason, Seller doubts Buyer's financial responsibility.

**PROPRIETARY INFORMATION.** Seller retains title to all engineering and production prints, drawings, technical data, and other information and documents that relate to the goods and services sold to Buyer. Unless advised by Seller in writing to the contrary, all such information and documents disclosed or delivered by Seller to Buyer are to be deemed proprietary to Seller and shall be used by Buyer solely for the purpose of inspection, installation, and maintenance and not used by Buyer for any other purpose.

REV. 01/01/21 JA



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
10/03/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Central, Inc. MSC#17382 Aon PO Box 1447 Lincolnshire IL 60069 USA	CONTACT NAME:	
	PHONE (A/C. No. Ext): (312) 381-1000	FAX (A/C. No.):
INSURED Cues, Inc. SPX Technologies Inc 6325 Ardrey Kell Road Suite 400 Charlotte NC 28277 USA	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: Lloyd's Syndicate No. 2623	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES CERTIFICATE NUMBER: 570108763331 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS.

Limits shown as requested									
INSR LTR	TYPE OF INSURANCE		ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY							EACH OCCURRENCE	
	<input type="checkbox"/>	CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	
								MED EXP (Any one person)	
								PERSONAL & ADV INJURY	
								GENERAL AGGREGATE	
								PRODUCTS - COMP/OP AGG	
	GEN'L AGGREGATE LIMIT APPLIES PER:								
	<input type="checkbox"/>	POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							
		OTHER:							
	AUTOMOBILE LIABILITY							COMBINED SINGLE LIMIT (Ea accident)	
	<input type="checkbox"/>	ANY AUTO						BODILY INJURY ( Per person)	
	<input type="checkbox"/>	OWNED AUTOS ONLY	<input type="checkbox"/>	SCHEDULED AUTOS				BODILY INJURY (Per accident)	
	<input type="checkbox"/>	HIRED AUTOS ONLY	<input type="checkbox"/>	NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB							EACH OCCURRENCE	
	<input type="checkbox"/>	EXCESS LIAB	<input type="checkbox"/>	CLAIMS-MADE				AGGREGATE	
	<input type="checkbox"/>	DED	<input type="checkbox"/>	RETENTION					
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY							PER STATUTE	OTH-ER
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH)		<input type="checkbox"/>	N/A				E.L. EACH ACCIDENT	
	If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. DISEASE-EA EMPLOYEE	
								E.L. DISEASE-POLICY LIMIT	
A	E&O - Miscellaneous Professional-Primary				FSCEO2400084 PL,E&O,Cyber-Claims Made SIR applies per policy terms & conditions	03/01/2024	03/01/2025	Each Claim Aggregate	\$1,000,000 \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RE: CUES products, Parts, Services and Software, Job Location: Nashville, TN, Contract No. 6547812.

CERTIFICATE HOLDER

Purchasing Agent  
Metropolitan Government of Nashville  
and Davidson County  
Metropolitan Courthouse  
Nashville TN 37201 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Central, Inc.

Holder Identifier : 6547812

570108763331

Certificate No :





# CERTIFICATE OF LIABILITY INSURANCE

 DATE(MM/DD/YYYY)  
10/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Services Central, Inc. MSC#17382 Aon PO Box 1447 Lincolnshire IL 60069 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (312) 381-1000 FAX (A/C. No.): E-MAIL ADDRESS: <table border="1"> <tr> <th data-bbox="803 472 1388 514">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1388 472 1520 514">NAIC #</th> </tr> <tr> <td data-bbox="803 514 1388 546">INSURER A: Greenwich Insurance Company</td> <td data-bbox="1388 514 1520 546">22322</td> </tr> <tr> <td data-bbox="803 546 1388 577">INSURER B: XL Specialty Insurance Co</td> <td data-bbox="1388 546 1520 577">37885</td> </tr> <tr> <td data-bbox="803 577 1388 609">INSURER C:</td> <td data-bbox="1388 577 1520 609"></td> </tr> <tr> <td data-bbox="803 609 1388 640">INSURER D:</td> <td data-bbox="1388 609 1520 640"></td> </tr> <tr> <td data-bbox="803 640 1388 672">INSURER E:</td> <td data-bbox="1388 640 1520 672"></td> </tr> <tr> <td data-bbox="803 672 1388 686">INSURER F:</td> <td data-bbox="1388 672 1520 686"></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Greenwich Insurance Company	22322	INSURER B: XL Specialty Insurance Co	37885	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER F:															
<b>INSURED</b> Cues, Inc. SPX Technologies Inc 6325 Ardrey Kell Road Suite 400 Charlotte NC 28277 USA															

**COVERAGES**
**CERTIFICATE NUMBER:** 570109180693

**REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS												
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		RGE3002534 SIR applies per policy terms & conditions	11/01/2024	11/01/2025	<table border="1"> <tr><td>EACH OCCURRENCE</td><td>\$1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$1,000,000</td></tr> <tr><td>MED EXP (Any one person)</td><td>Excluded</td></tr> <tr><td>PERSONAL &amp; ADV INJURY</td><td>\$1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td>\$1,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td>\$1,000,000</td></tr> </table>	EACH OCCURRENCE	\$1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000	MED EXP (Any one person)	Excluded	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$1,000,000	PRODUCTS - COMP/OP AGG	\$1,000,000
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	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						<table border="1"> <tr><td>EACH OCCURRENCE</td><td></td></tr> <tr><td>AGGREGATE</td><td></td></tr> </table>	EACH OCCURRENCE		AGGREGATE									
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B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	RWD3002535 Deductible - AOS RWR3002536 Retro - WI	11/01/2024	11/01/2025	<table border="1"> <tr><td><input checked="" type="checkbox"/> PER STATUTE</td><td>OTH-ER</td><td></td></tr> <tr><td>E.L. EACH ACCIDENT</td><td></td><td>\$1,000,000</td></tr> <tr><td>E.L. DISEASE-EA EMPLOYEE</td><td></td><td>\$1,000,000</td></tr> <tr><td>E.L. DISEASE-POLICY LIMIT</td><td></td><td>\$1,000,000</td></tr> </table>	<input checked="" type="checkbox"/> PER STATUTE	OTH-ER		E.L. EACH ACCIDENT		\$1,000,000	E.L. DISEASE-EA EMPLOYEE		\$1,000,000	E.L. DISEASE-POLICY LIMIT		\$1,000,000
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E.L. DISEASE-POLICY LIMIT		\$1,000,000																	
B	Excess Workers Compensation			RWE9435680 Excess - MI & OH SIR applies per policy terms & conditions	11/01/2024	11/01/2025	<table border="1"> <tr><td>EL Each Accident</td><td>\$1,000,000</td></tr> <tr><td>EL Disease - Policy</td><td>\$1,000,000</td></tr> <tr><td>EL Disease - Ea Emp</td><td>\$1,000,000</td></tr> </table>	EL Each Accident	\$1,000,000	EL Disease - Policy	\$1,000,000	EL Disease - Ea Emp	\$1,000,000						
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EL Disease - Ea Emp	\$1,000,000																		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: CUES products, Parts, Services and Software, Job Location: Nashville, TN, Contract No. 6547812. Metropolitan Government of Nashville & Davidson County, its official, officers, employees and Volunteers are Additional Insured under the General Liability policy described hereon up to the limits of liability required in a written contract and only with respect to the work performed and/or products supplied in a written contract-as provided in the attached endorsement, this insurance applies only to the vicarious liability of the Additional Insured as a result of the Named Insured's performance according to a written contract and not to liability arising out of the negligent, willful or tortuous misconduct of any person or organization included as an additional insured hereunder. Metropolitan Government of Nashville & Davidson County, its official, officers,

**CERTIFICATE HOLDER**
**CANCELLATION**

Purchasing Agent Metropolitan Government of Nashville and Davidson County Metropolitan Courthouse Nashville TN 37201 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Holder Identifier : 6547812

Certificate No : 570109180693





ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Central, Inc.		NAMED INSURED Cues, Inc.	
POLICY NUMBER See Certificate Number: 570109180693			
CARRIER See Certificate Number: 570109180693	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Description of Operations / Locations / Vehicles:  
employees and Volunteers are Additional Insured under the Automobile Liability policy described hereon only with respect to Named Insured's activities in connection with the contract described hereon - as provided in the attached endorsement, this insurance applies only to the vicarious liability of the additional insured and does not apply to or cover any liability arising out of the negligence, willful misconduct or tortuous misconduct of any person or organization included as an additional insured hereunder.

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**  
**DEPARTMENT OF FINANCE – PROCUREMENT**  
**SOLE SOURCE JUSTIFICATION FORM**



SS2023202

SS #: \_\_\_\_\_

June 28, 2023

Date Received: \_\_\_\_\_

Send an email to [PRG@nashville.gov](mailto:PRG@nashville.gov) and attach completed sole source form and supporting documentation.

**Proposed supplier MUST be Registered in iProcurement**

Date: 06/26/2023 Requesting Department/Agency/Commission: Water ServicesRequesting Official: Stephanie BelcherTelephone #: 615-862-4513This is for a multi-year contract.Product/Service Description: Cues products, parts, services, software (Granite Net)**Total Purchase (Enter the value for the entire contract life) Price: \$2,000,000**BU Number: 65555030Fund #: 67331Object Account: 502233

Any Other Accounting Info: \_\_\_\_\_

Proposed Supplier: Cues, IncProposed Supplier Contact: Jonathan RussellSupplier Address: 3600 Rio Vista AvenueCity: OrlandoST: FLZip: 32805Supplier Telephone #: 800-327-7791Supplier Email: Jonathan.Russell@spx.com**Metro Code: 4.12.060 Sole Source Procurement.**

A contract may be awarded for a supply, service or construction item without competition when, under regulations promulgated by the standards board, the purchasing agent determines in writing that there is only one source for the required supply, service or construction item. The standards board may, by regulation, establish specific categories of supplies, services, or construction items as sole source items. (Ord. 92-210 § 1 (3-205), 1992)

**R4.12.060.02 Conditions for Use of Sole Source Procurement.**Other, see explanation below

If Other, Explain Request: Metro Water Services currently uses Cues software (GraniteNet) and products for sewer line inspection/televising. No other software or products are compatible with existing equipment (Cues TV Vans, cameras, etc.).

Signatures will be gotten by Procurement in DocuSign

Department Requester's Initials: SBRequesting Department Director's Signature of Approval: Amanda Sexton-MayerDate: 6/30/2023 | 6:18 AM PDT

Date Received: June 28, 2023



June12, 2023

Matt Lott  
Nashville Metro Water Services  
1450 Lebanon Pike  
Nashville, TN 37210

Dear Mr. Lott:

**Sole Source/OEM Cues Parts and Services:**

Please be advised that CUES Inc, 3600 Rio Vista Blvd., Orlando, FL 32805 is the sole source for CUES replacement parts, repairs on CUES equipment, and for major unit equipment. CUES designs are proprietary and third party replacement parts can either void the warranty or affect the function of the entire system. CUES factory certified technicians are trained via a rigorous process for supporting the equipment and are privy to all confidential design drawings, assembly drawings, wiring schematics, and wiring diagrams for each part, assembly, and system.

**100% Full Circle Compatibility Note:**

CUES current cameras, light heads, power control units, footage systems are 100% compatible with existing TV equipment without modifications. This allows older equipment to operate on newer TV systems and newer equipment to operate on older systems giving you full circle compatibility. Other manufactures may have components (i.e. cameras, etc.) that can be modified to operate on existing CUES systems, however this may require special one of a kind cables and/or modifications to the internal electronics of the camera, power control unit, etc. Any modification to the system's electronics voids the manufactures warranty and the life-time loaner policy.

We sincerely appreciate your interest in CUES products and services. If you have any questions or need additional information, please do not hesitate to contact me at 617-519-7125.

Best Regards,  
***CUES, Inc.***

Jonathan Russell  
Vice President & General Manager

Corporate Office:

3600 Rio Vista Avenue, Orlando, FL 32805 • Telephone (407) 849-0190 / (800) 327-7791 • Fax (407) 425-1569



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March 8, 2023

Marvin Heywood  
Nashville and Davidson County (TN)  
[Marvin.Haywood@nashville.gov](mailto:Marvin.Haywood@nashville.gov)

Dear Marvin:

CUES is the sole source provider for GraniteNet software and the source code is closed. CUES manufactures, sells and supports GraniteNet and no other entity is authorized or licensed to do same.

If you have any other questions, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "Cameron Keefe", is written over a white background.

Cameron Keefe  
CUES Software Division  
[CKeefe@cuesinc.com](mailto:CKeefe@cuesinc.com)  
321.400.5054



Corporate site: <http://www.cuesinc.com>  
Support site: <http://support.gnet.us.com>  
Support by phone: (800) 327-7791