

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: August 3, 2021
PUBLIC HEARING DATE: NA

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Paul Stresow, Assistant Director of International Bridges, 915-212-7502
Bruce D. Collins, Director of Purchasing & Strategic Sourcing, (915) 212-1181

DISTRICT(S) AFFECTED: 6 and 8

STRATEGIC GOAL: No. 1 – Cultivate an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: 1.6 – Provide business-friendly permitting and inspection process

SUBJECT:

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to sign Service Agreements between the City Of El Paso and The Revenue Markets, Inc dba TRMI Systems Integration, the sole source provider for the Toll System Maintenance and replacement parts, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

BACKGROUND / DISCUSSION:

The Revenue Markets, Inc. dba TRMI is the sole source provider for the application software and related equipment for the electronic toll collection system for the International Bridges. Contract would provide maintenance coverage for all electronic toll equipment and software applications, including updates.

SELECTION SUMMARY:

N/A

CONTRACT VARIANCE:

The difference in price, based on comparison to the previous contract is as follows: An increase of \$39,784.59 for the initial term, which represents a 12.17% increase due to price increases.

PROTEST

No protest received for this requirement.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Amount: \$366,579.63 (3 Years)
Funding Source: Operational Fund
Account: 522290 – 564 – 3300 - 64830

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: International Bridges
SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Paul Stresow

Paul Stresow, Assistant Director International Bridges

**COUNCIL PROJECT FORM
(Sole Source)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **REGULAR** agenda (under Purchasing Requests) for the Council Meeting of **August 3, 2021**.

STRATEGIC GOAL: NO. 1 – Cultivate An Environment Conducive To Strong, Sustainable Economic Development

The Linkage to the Strategic Plan is subsection 1.6 – Provide business-friendly permitting and inspection process

Discussion and action on the request that the City Manager be authorized to sign Agreements between the City of El Paso and The Revenue Markets, Inc dba TRMI Systems Integration, the sole source provider for the Toll System Maintenance and replacement parts, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

Contract Variance

The difference in price, based on comparison to the previous contract is as follows: An increase of \$39,784.59 for the initial term, which represents a 12.17% increase due to additional services and price increases.

Department:	International Bridges
Award to:	The Revenue Markets, Inc. dba TRMI Systems Integration Accord, NY
Initial Term:	3 years
Annual Estimated Award:	\$122,193.21
Initial Term Estimated Award:	\$366,579.63 (3 years)
Account No.:	522290 – 564 – 3300 - 64830
Funding Source:	Operational Fund
District(s):	6 and 8
Sole Source No.:	2021-1114

This is a Sole Source, service and maintenance contract.

5120 US HIGHWAY 209

ACCORD NY 12404

P 845.626.8655

F 845.626.2492

WWW.TRMI.COM



July 9, 2021

Ms. Paula Salas
Purchasing Agent
City of El Paso
300 N. Campbell
El Paso, Texas 79901

Re: Sole Source Letter – (3) Year Maintenance Agreement 2021-24

Dear Ms. Salas:

The Revenue Markets, Inc. (TRMI) integrated and installed the computerized toll collection system in use at the three International Bridges for the City of El Paso.

TRMI is the designer and developer for the hardware and software for this system. We are the only integrator of record who can install and produce changes to our design and specifications. We know of no other system integrator who produces a product of equal design.

Therefore, we submit that TRMI is to be considered the sole source for El Paso's Maintenance Agreement.

Sincerely,

A handwritten signature in blue ink that reads 'Marcy Nigro-Paris'. The signature is fluid and cursive, with the first name 'Marcy' being particularly prominent.

Marcy Nigro-Paris
Director of Operations



PURCHASING & STRATEGIC SOURCING DEPARTMENT

SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared _____ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Henry Kroll. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: The Revenue Markets, Inc. dba: TRMI Systems
3. The above named company or firm is the sole source for the following item(s), product(s) or ^{Integration} service(s):
TRMI is the designer and developer for the hardware and software for this system. We are the only integrator of record who can install and produce changes to our design and specifications. Therefore, we submit that TRMI is to be considered the sole source for El Paso's Maintenance Agreement 2021-24
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Henry Kroll
Signature

SUBSCRIBED AND SWORN to before me on this 9th day of July 2021

Marcy Nigro Paris
NOTARY PUBLIC
Marcy Nigro-Paris
PRINTED NAME
May 17, 2023
MY COMMISSION EXPIRES

MARCY NIGRO PARIS
Notary Public, State of New York
NYS Reg. # 01N16025091
Qualified in Ulster County
Commission Expires May 17, 2023

COMPANY NAME: The Revenue Markets, Inc. dba: TRMI Systems Integration
ADDRESS, CITY, STATE & ZIP CODE 5120 US Highway 209, Accord, NY 12404
PHONE: 845.626.8655 FAX NUMBER: 845.626.2492
CONTACT NAME AND TITLE: Henry Kroll, Chief Executive Officer
WEB ADDRESS: www.trmi.com EMAIL: Hkroll@trmi.com
FEDERAL TAX ID NUMBER: 14-1560054 TEXAS SALES TAX NUMBER: _____

MAINTENANCE AGREEMENT

1. Parties

The Revenue Markets, Inc (TRMI) dba: TRMI Systems Integration 5120 US Highway 209 Accord, NY 12404 Attention: Henry Kroll T: (845) 626-8655 F: (845) 626-2492 E-Mail: hkroll@trmi.com	CUSTOMER City of El Paso International Bridges 1001 S. Stanton Street El Paso, TX 79901 Attention: Eddie Romero T: (915) 533-7428 F: (915) 533-0895 E-Mail: romeroex@elpasotexas.gov
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This Maintenance Agreement (“maintenance agreement”) is intended for the exclusive benefit of the Parties; nothing herein will be construed to create any benefits, rights, or responsibilities to any other parties.

2. Term and Termination

- 2.1 Term: This maintenance agreement will be provided for a three (3) year term. This agreement will provide coverage starting on October 1, 2021 and ending on September 30, 2024. This agreement removes TRMI’s right to remove equipment from service. Should the Customer fail to renew its maintenance coverage or pay the applicable fees, TRMI reserves the right to withhold all support. If Customer resumes maintenance coverage after one or more annual periods without such coverage, Customer will pay an amount equivalent to one hundred ten percent (110%) of all maintenance fees attributable to the period(s) without coverage, as such fees are calculated based upon pricing in effect at the time of resumption of maintenance coverage.

- 2.2 Termination: This Agreement may be terminated with 30 days written notice. However; Customer may terminate if TRMI materially breaches this maintenance agreement and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Upon any termination or expiration of this maintenance agreement all rights granted to Customer are cancelled.

In the event, the Customer terminates for convenience; TRMI shall be paid 25% of remaining balance of contract.

TRMI has the right to terminate the agreement at any time if the Customer should default in payment for more than 45 days.

3. Scope of Maintenance

- 3.1 Maintenance Coverage: This maintenance agreement will include all revenue collection equipment and software applications as supplied by TRMI for the collection of toll revenue at the Customers locations.

- 3.2 Maintenance Services

- 3.2.1 Procedure: All maintenance issues are to be emailed to support@trmi.com with a detailed description of the issue and/or maintenance problem. This will allow TRMI to assign an IT#, capture all the pertinent information and provide for better efficiency in resolving the issue. Be sure to include a contact person, phone number in every email and

reference the IT# when assigned. Failure to submit maintenance issues via support@trmi.com will be considered a non-issue and will not be addressed.

- 3.2.2 Support is available Monday through Friday, excluding TRMI's observed holidays, from 8:00 a.m. until 4:30 p.m. EST, with 1-hour response time. Support will be (2) hours per week / (8) hours per month. Support includes phone, texts messages & emails. Telephone expenses incurred by the Customer will be the responsibility of the Customer. If support extends beyond four hours for a particular problem, TRMI management will be notified, and the situation will be evaluated between the Customer and TRMI with formal communication given to Customer on action to be taken for successful resolution.
- 3.2.3 Remote Support: When required to properly resolve a maintenance request, TRMI will provide remote assistance using mutually acceptable remote communications method.
- 3.2.4 On-site Support: If Customer does not wish for TRMI to resolve its maintenance requests remotely, TRMI will provide on-site assistance to Customer at TRMI's rate of \$179.00 per hour. The annual increase of this maintenance agreement, three percent (3%), will be added to the hourly rate each year. Any increase in hourly rate beyond 3% per year, if required, will be negotiated between the Customer and TRMI. In addition to these charges, Customer will compensate TRMI for associated airfare, lodging, rental transportation, meals, and other incidental expenses as such expenses accrue. Expenses will be reasonably and mutually agreed upon between the Customer and TRMI in advance.
- 3.2.5 Software Updates: At no additional cost to Customer beyond the maintenance fees TRMI will provide revisions (fixes and patches) to maintained software products to Customer as such updates are generally released by TRMI.
- 3.2.6 Software Upgrades: Are not covered under this maintenance agreement and will be quoted and invoiced to the Customer under separate purchase orders or contracts.
- 3.2.7 Replacement Parts and Equipment: Will be made available from TRMI to the Customer through purchase orders and will be invoiced.
- 3.2.7.1 Defective Equipment: Returned to TRMI will be repaired and returned to the Customer under the following guidelines:
- In-house repair rate shall be \$106.00 per hour plus parts, with a one-hour minimum labor charge.
 - All shipping expenses shall be the responsibility of the Customer.

3.3 Maintenance Limitations

- 3.3.1 Limitations Generally: The following are not covered by this maintenance agreement, but may be separately available at rates and on terms which may vary from those described herein:
- a) Services required due to software corrections, customizations, or modifications not developed or authorized by TRMI;
 - b) Services required by Customer to be performed by TRMI outside of TRMI's usual working hours;
 - c) Services required due to external factors including, but not necessarily limited to, Customer's use of software or hardware not authorized by TRMI;

- d) Services required to resolve or work-around conditions which cannot reasonably be reproduced in TRMI's support environment;
- e) Services which relate to tasks other than maintenance of Customer's existing implementation and configuration of the TRMI maintained software products including, but not necessarily limited to, enhancing or adapting such products for specific operating environments;
- f) Services requested by Customer to implement software upgrades provided by TRMI pursuant to this maintenance agreement; and new or additional applications, modules, or functionality released by TRMI during the term of this maintenance agreement;
- g) Services required by TRMI for the repair of any components damaged due to vandalism, obvious misuse, traffic accidents, violent storms or other damage not due to the normal use of the equipment. In the occurrence of chargeable damages, materials plus equipment removal, repair and installation labor, will be charged;
- h) Equipment considered consumables. Initial consumable parts and equipment will remain the property of the Customer. Consumable items are parts or equipment that have a relatively short life span, are depleted on a regular basis, or are subject to a considerable amount of wear during regular usage. Examples of consumable items are printer paper (plaza and receipt), magnetic card readers, treadles, light bulbs, and coin baskets for automatic coin machines. These items will be the responsibility of the Customer. Additional consumable items, as needed, may be purchased by the Customer under the terms of this maintenance contract or through another vendor.

3.3.2 Legacy Releases: TRMI will provide maintenance support for the release of each of its maintained software applications and software releases while there is a maintenance agreement in place. All releases are deemed to be "Legacy Releases". (Systems become "Legacy" after 6+ years & cost to maintain system increases.) TRMI will respond to maintenance requests concerning Legacy Releases only using currently available information. Services requiring additional research, engineering-level support, or coding or programming by TRMI will not be provided pursuant to this maintenance agreement but may be separately available at rates and on terms which may vary from those described herein.

3.4 Warranty: TRMI warrants all application software produced by TRMI for the term of this agreement. Any warranties for off the shelf (second party) software used during the term of this agreement will be as specified by the manufacturer. TRMI has no control over second-party software; therefore, fixes and patches will be implemented as they become available to TRMI. TRMI warrants all hardware components installed by TRMI against manufacturing defects in materials and workmanship for a period of one (1) year from date of shipment from TRMI's factory.

3.5 Compensation

3.5.1 Maintenance Fees: In exchange for the Maintenance Services described hereinabove, Customer will pay to TRMI the amounts indicated in the contract.

3.5.1.1 Oracle Support: In support of El Paso's system, an annual Oracle Support fee of \$3,850.00 will be invoiced separately. This support fee will provide El Paso with Oracle support for the current Oracle license.

3.5.2 Payment Terms: Amounts are quoted in United States dollars and do not include applicable taxes, if any. Customer will be responsible for payment of all federal, state or provincial, and local taxes and duties, except those based on TRMI's income. If Customer is exempt from certain taxes, Customer must provide TRMI with an appropriate certificate to receive exemption. Customer will be invoiced for all amounts as they become due. The payment terms of all invoices are net thirty (30) calendar days from the dates of the invoices. Any payment not paid to TRMI within said period is subject to a late payment fee equal to five percent (5%) of the amount past due and will accrue interest in an amount equal to one-and-a-half percent (1.5%) per month, compounded monthly, on the outstanding balance from the billing date. Late payment fees will be invoiced at the discretion of TRMI. TRMI may, at its sole discretion, suspend its obligations hereunder without penalty until payments for all past-due billings have been paid in full by Customer.

4. Other Terms and Conditions – Maintenance

- 4.1 Customer Obligations: As required, Customer will provide TRMI with appropriate access to Customer's facilities, data systems, and other resources. If Security restrictions impair such access, Customer acknowledges that some maintenance services hereunder may not be provided to Customer. It is Customer's sole responsibility to maintain current backup copies of its data and of its implementation of TRMI's software products. If Customer's failure to create proper backups substantially increases the difficulties of any remedial actions by TRMI hereunder, TRMI reserves the right to charge Customer for any extra work reasonably attributable to such increased difficulty, as calculated at TRMI's then-current time-and-materials rates.
- 4.2 Proprietary Rights: The remedial methods, software updates, and product information provided to Customer pursuant to this maintenance agreement are protected under the laws of the United States and the individual states and by international treaty provisions. TRMI retains full ownership in such items and grants to Customer a limited, nonexclusive, nontransferable license to use the items, subject to the terms and conditions of this maintenance agreement and other agreements between TRMI and Customer.
- 4.3 Limitation of Liability: TRMI provides no warranty for any third-party hardware or software products. Third-party applications which utilize or rely upon the Application Services may be adversely affected by remedial or other actions performed pursuant to this maintenance agreement; TRMI bears no liability for and has no obligation to remedy such effects. Except as set forth herein, TRMI provides all Maintenance Services "as is" without express or implied warranty of any kind regarding the character, function, capabilities, or appropriateness of such services or deliverables. To the extent not offset by its insurance coverage and to the maximum extent permitted by applicable laws, in no event will TRMI's cumulative liability for any general, incidental, special, compensatory, or punitive damages whatsoever suffered by Customer or any other person or entity exceed the fees paid to TRMI by Customer during the twelve (12) calendar months immediately preceding the circumstances which give rise to such claim(s) of liability, even if TRMI or its agents have been advised of the possibility of such damages.
- 4.4 Force Majeure: If either party is delayed in its performance of any obligation under this maintenance agreement due to causes or effects beyond its control, that party will give timely

notice to the other party and will act in good faith to resume performance as soon as practicable.

- 4.5 Dispute Resolution: This maintenance agreement is governed by the laws of the State of New York venue of any action in New York. The prevailing party may be awarded its expenses, reasonable attorneys' fees, and costs. The failure of either party to object to a breach of this maintenance agreement will not prevent that party from thereafter objecting to that breach or any other breach of this maintenance agreement.
- 4.6 Assignment: TRMI may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets. TRMI may subcontract with qualified third parties to provide portions of the Maintenance Services described hereinabove.
- 4.7 Survival: The following provisions will survive the termination or expiration of this maintenance agreement: Section 2.1, as to Customer's obligation to pay any fees associated with a lapse in maintenance coverage upon resumption of such coverage; Section 3.3, as to limitation of remedy; Section 3.4 and all subsections thereof, as to Customer's obligation to pay any fees accrued or due at the time of termination or expiration; Section 4 and all subsections thereof; and Section 5 and all subsections thereof with the exceptions of Subsections 5.1 and 5.4.
- 4.8 Alternate Terms Disclaimed: The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.
- 4.9 Severability and Amendment: If any particular provision of this maintenance agreement is determined to be invalid or unenforceable, that determination will not affect the other provisions of this maintenance agreement, which will be construed in all respects as if the invalid or unenforceable provision were omitted. No extension, modification, or amendment of this maintenance agreement will be effective unless it is described in writing and signed by the Parties.

5 Intellectual Property License

- 5.1 License: The software products ("Software") are protected under the laws of the United States and the individual states and by international treaty provisions. TRMI does not grant ownership of the software to the Customer. The license to use the Software is subject to the following terms and conditions:
- 5.1.1 The Software is provided for use only by Customer employees.
- 5.1.2 The Software may be installed on one or more computers but may not be used by more than the number of users for which the Customer has user licenses. The Software is deemed to be in use when it is loaded into memory in a computer, regardless of whether a user is actively working with the Software.
- 5.1.3 Customer may make backup copies of the Software only to protect against destruction of the Software. Customer may copy TRMI's documentation only for internal use by Customer's employees.

- 5.1.4 Customer is permitted to develop additional or alternative functionality for the Software using tools and/or techniques licensed to Customer by TRMI.
- 5.1.5 Customer may not obscure, alter, or remove any confidentiality or proprietary rights notices.
- 5.1.6 Customer is liable to TRMI for any losses incurred as the result of unauthorized reproduction or distribution of the Software which occur while the Software is in Customer's possession or control to the extent that such losses are attributable to Customer's failure to establish and observe reasonable and appropriate physical, electronic, and operational security measures.
- 5.1.7 Customer may use the Software only to process transactions relating to properties within both its own geographical and political boundaries and may not sell, rent, assign, sublicense, lend, or share any of its rights under this maintenance agreement.
- 5.1.8 Customer is entitled to receive the licensed program source code and object code and is licensed to use any data code produced through implementation and/or normal operation of the Software.
- 5.1.9 All rights not expressly granted to Customer are retained by TRMI.

5.2 License Warranties

- 5.2.1 TRMI warrants that it has full power and authority to grant this license and that, as of the effective date of this maintenance agreement, the Software does not infringe on any existing intellectual property rights of any third party. If a third-party claim that the Software does infringe, TRMI may, at its sole option, secure for Customer the right to continue using the Software or modify the Software so that it does not infringe. TRMI will have the sole right to conduct the defense of any legal action and all negotiations for its settlement or compromise.
- 5.2.2 TRMI has no obligation for any claim based upon a modified version of the Software or the combination or operation of the Software with any product, data, or apparatus not provided by TRMI. TRMI provides no warranty whatsoever for any third-party hardware or software products.

5.3 Compensation: In exchange for the Software described hereinabove, Customer will pay to TRMI the amounts indicated in the contract.

6 Confidentiality

6.1 Definitions: "Disclosing Party" and "Recipient" refer respectively to the party which discloses information and the party to which information is disclosed in a given exchange. Either TRMI or Customer may be deemed Disclosing Party or Recipient depending on the circumstances of a particular communication or transfer of information. "Confidential Information" means all disclosed information relating in whole or in part to non-public data, proprietary data compilations, computer source codes, compiled or object codes, scripted programming statements, byte codes, or data codes, entity-relation or workflow diagrams, financial records or information, client records or information, organizational or personnel information, business plans, or works-in-progress, even where such works, when completed, would not necessarily

comprise Confidential Information. The foregoing listing is not intended by the Parties to be comprehensive, and any information which Disclosing Party marks or otherwise designates as “Confidential” or “Proprietary” will be deemed and treated as Confidential Information. Information which qualifies as “Confidential Information” may be presented to Recipient in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as Confidential Information. Notwithstanding, the following specific classes of information are not “Confidential Information” within the meaning of this Section:

- a) Information which is in Recipient’s possession prior to disclosure by Disclosing Party;
- b) Information which is available to Recipient from a third party without violation of this maintenance agreement or Disclosing Party’s intellectual property rights;
- c) Information disclosed pursuant to Subsection 7.4 below;
- d) Information which is in the public domain at the time of disclosure by Disclosing Party, or which enters the public domain from a source other than Recipient after disclosure by Disclosing Party;
- e) Information which is subpoenaed by governmental or judicial authority; and
- f) Information subject to disclosure pursuant to a state’s public records laws.

6.2 Confidentiality Term: The obligations described in this Section commence on the Effective Date and will continue for one (1) year following any termination or expiration of this maintenance agreement (“Confidentiality Term”).

6.3 Confidentiality Obligations: During the Confidentiality Term, Recipient will protect the confidentiality of Confidential Information using the same degree of care that it uses to protect its own information of similar importance but will in any case use no less than a reasonable degree of care to protect Confidential Information. Recipient will not directly or indirectly disclose Confidential Information or any part thereof to any third party without Disclosing Party’s advance express written authorization to do so. Recipient may disclose Confidential Information only to its employees or agents under its control and direction in the normal course of its business and only on a need-to-know basis. In responding to a request for Confidential Information, Recipient will cooperate with Disclosing Party, in a timely fashion and in a manner not inconsistent with applicable laws, to protect the Confidential Information to the fullest extent possible.

- “Notwithstanding provision in this Agreement, TRMI acknowledges that City is a governmental entity subject to the Public Information Act, Chapter 552, Texas Government Code (the "Act"). City will maintain the confidentiality of the proposed confidential and proprietary information to the extent permitted by law and agrees that, as required by the Act, it will notify TRMI if a request relating to such proprietary information is received. TRMI represents that it understands that the Act excepts from disclosure trade secrets and confidential commercial information and that it will need to assert its own proprietary interest as a basis for nondisclosure.”

6.4 Publicity: During the term of this maintenance agreement, including the term of any amendment hereto, TRMI may publicly disclose its ongoing business relationship with Customer. Such disclosures may indicate Customer’s identity and the TRMI product(s) and services provided or contracted to be provided to Customer but may not expressly or impliedly indicate Customer’s endorsement of TRMI’s products or services without Customer’s prior written authorization.

7 Other Terms and Conditions – Intellectual Property License

- 7.1 Indemnification [Rev. 04-15-99] [Rev. 01-04-04]: Contractor or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Contractor may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Contractor will pay all judgments finally establishing liability of the City in actions defended by Contractor pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor's property from any cause.
- 7.2 Dispute Resolution: This maintenance agreement is governed by the laws of the State of Texas, with venue of any action be in El Paso County, El Paso, Texas. The prevailing party may be awarded its expenses, reasonable attorneys' fees, and costs. The failure of either party to object to a breach of this maintenance agreement will not prevent that party from thereafter objecting to that breach or any other breach of this maintenance agreement.
- 7.3 Assignment: With the approval of the City, TRMI may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets.
- 7.4 Survival: The following provisions will survive the termination or expiration of this maintenance agreement: Section 3.3 and all subsections thereof, as to Customer's obligation to pay any fees accrued or due at the time of termination or expiration; Section 4 and all subsections thereof; and Section 5, and all subsections thereof.
- 7.5 Alternate Terms Disclaimed: The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.

8 Price and Contract Duration

The total price of maintenance agreement for:

1. Year One: 2021-22 is \$23,370.96, invoiced monthly at \$1,947.58.
2. Year Two: 2022-23 is \$24,072.12, invoiced monthly at \$2,006.01.
3. Year Three: 2023-24 is \$24,794.28, invoiced monthly at \$2,066.19.

The annual rates for repairs, support, site visits and travel will maintain the same rate throughout the (3) year contract so long as the contract remains in effect.

- TRMI will provide eight (8) hours of support per month. Total man-hours exceeding eight (8) hours per month will be invoiced to the Customer at a rate of \$151.00 per hour.
- *After hours and weekend support is not included in this maintenance contract. However, if/when available, support during this time, (which includes phone, email, and onsite support) will be billed at a rate of \$255.00 per hour. A minimum of (3) hours plus parts, if applicable, will be invoiced.*
**This statement does not imply 24/7 coverage is available.*

TRMI will provide on-site preventive maintenance approved through purchase orders under the following guidelines:

- Site visits will be scheduled Monday through Friday, between the hours of 8:00 a.m. EST and 4:30 p.m. EST, excluding holidays.
- Site visits will be invoiced at a rate of \$179.00 an hour, per person for travel & onsite maintenance, plus expenses.

The first monthly maintenance payment of \$1,947.58 and the Yearly Oracle Support fee of \$3,850.00 will be invoiced on October 1, 2021.

9 Hardware Purchase Option

TRMI will provide *non-binding cost estimates* for budgetary purposes for the following hardware to be purchased throughout the three (3) year term of this maintenance contract. The following is the example of items requested and used at the El Paso International Bridges, along with unit cost, extensions and minimum quantities required to order. The prices include standard ground shipping.

Quantity	Description	Unit Price	Total
2,000	Neology Tags (minimum order 2,000)	\$7.00	\$14,000.00
5,000	<i>Example Tag Quantities:</i>	\$6.00	\$30,000.00
10,000		\$3.10	\$31,000.00
6	TollPro Gates, RC01002	\$6,077.00	\$36,462.00
2	3M 6204 4-Port Reader	\$19,385.00	\$38,770.00
3	Daktronics Control Boards:	\$6,287.00	\$18,861.00
	(3) Comm Box, Copper Ethernet		
	(3) Switch Interface, 32 input		
	(3) L30:AF-3550-16x16-20-1r1g1 service B-NSPX336A-6.2-P-B1		
	(3) Power Supply		
	(3) M3 CNTRLR III, 3500, 8CONN, J1087, TB, Coated		

Signature Page:

The Revenue Markets, Inc. (TRMI)



Henry Kröll
Chief Executive Officer

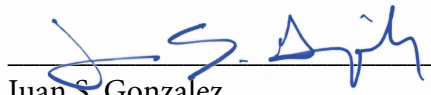
Date

City of El Paso

Print Name/Title

Date

APPROVED AS TO CONTENT:



Juan S. Gonzalez
Senior Assistant City Attorney