CONTRACT# FAC/250530

Invoice #38524

From	Invoice Summary	
FMX	**Invoice Number**	38524
Facilities Management Express, LLC	**Date**	03/01/2025
800 Yard Street, Suite 115	**Terms**	Net 30
Columbus, OH 43212	**Due Date**	03/31/2025
(844) 664-4400	**Amount Due (USD)**	$ 30,618.00
billing@gofmx.com		

Bill To

City of Ocala
110 Southeast Watula Avenue
Ocala, Florida 34471
United States
facilities@ocalafl.gov, skendall@ocalafl.gov

Item / Description	Amount
FMX Subscription Fee FMX Software Sales Software License (04/01/2025 to 03/31/2026)	1,575.00
Feature Maintenance Request for the FMX Software (04/01/2025 to 03/31/2026)	7,182.00
Feature Standard Dashboards for the FMX Software (04/01/2025 to 03/31/2026)	4,536.00
Feature Preventive Maintenance for the FMX Software (04/01/2025 to 03/31/2026)	7,182.00
Feature Inventory for the FMX Software (04/01/2025 to 03/31/2026)	4,536.00
Custom Work Request Module CapEx for the FMX Software (04/01/2025 to 03/31/2026)	7,182.00
Feature Commissioned Reports for the FMX Software (04/01/2025 to 03/31/2026)	3,780.00
FMX Recurring Discount Recurring Discount- Commissioned Reports (04/01/2025 to 03/31/2026)	-3,780.00
FMX Recurring Discount Recurring Feature Bundle Discount (04/01/2025 to 03/31/2026)	-1,575.00
Amount Due (USD)	$ 30,618.00

Payment via ACH or through Stripe (links below) is preferred.

By Wire Transfer or ACH:

- Huntington National Bank
- International Services EA2E85
- 7 Easton Oval, Columbus, OH 43219
- Routing & Transit: 044000024
- Account No: 01893040205
- For the Credit of: Facilities Management Express, LLC.
- SWIFT ID: HUNTUS33 (for International transfers)
- Remittance Advice: billing@gofmx.com

Checks can be mailed to the following address:

- Facilities Management Express, LLC
- L-4410
- Columbus, OH 43260

FMX Terms of Use *Attached hereto

Software as a Service Agreement

This Software as a Service Agreement (the "Agreement"), effective as of Signature Date (the "Effective Date"), is by and between Facilities Management Express, LLC ("FMX") and the customer listed on the applicable Subscription Summary ("Customer"). FMX and Customer may be referred to herein collectively as the "Parties" or each individually as a "Party."

WHEREAS, FMX provides access to its software-as-a-service offerings to its customers, as described in the applicable Subscription Summary, attached hereto;

WHEREAS, Customer desires to access the software-as-a-service offerings, and FMX desires to provide Customer access to such offerings, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1.   Definitions. The definitions identified above are hereby incorporated by reference.

"Aggregated Statistics" means data and information related to Customer's use of the Services that is used by FMX in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

"Authorized Users" means Customer's employees, consultants, contractors, and agents (a) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the Services has been purchased hereunder, as set forth in the Subscription Summary.

"Confidential Information" has the meaning set forth in Section 5.

"Customer Data" means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or an Authorized User by or through the Services. For the avoidance of doubt, Customer Data does not include Aggregated Statistics or any other information reflecting the access or use of the Services by or on behalf of Customer or any Authorized User.

"Customer IP" means Customer's trademarks, service marks, trade names, logos, symbols, or brand names.

"Customer Systems" means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks.

"Digital Notice" means any notices, demands, or other communications required or desired to be given hereunder by any Party may be delivered by electronic mail or other digital means.

"Documentation" means any manuals, instructions, or other documents or materials that the FMX provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.

"Fees" has the meaning set forth in Section 4(a).

"Feedback" has the meaning set forth in Section 6(c).

"Force Majeure Event" has the meaning set forth in 14(d).

"FMX IP" means the Services, Documentation, and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by FMX in connection with the Services or otherwise comprise or relate to the Services. For the avoidance of doubt, FMX IP includes Aggregated Statistics and any information, data, or other content derived from FMX's monitoring of Customer's access to or use of the Services, but do not include Customer Data.

"Renewal Term" has the meaning set forth in Section 13(b).

"Services" means the software-as-a-service solutions described in the Subscription Summary.

"Service Suspension" has the meaning set forth in Section 3(f).

"Subscription Summary" means the Subscription Summary entered into by the Parties and attached to this Agreement.

"Term" has the meaning set forth in Section 13(a).

"Third Party Claims" means any losses, damages, liabilities, costs (including attorneys' fees) resulting from any third-party claim, suit, action, or proceeding.

"Third-Party Services" means software, services or other material offered by a third-party.

2.   Provision of Access.

        (a)   Access to Services. Subject to and conditioned on Customer's payment of Fees and compliance with all other terms and conditions of this Agreement, FMX hereby grants Customer a non-exclusive, non-transferable right to access and use the Services listed on the Subscription Summary, as attached hereto, during the Term,

solely for use by Customer and its Authorized Users (if any), in accordance with the terms and conditions herein. Such use is limited to Customer's internal use.

(b)   Subscription Summary. The specific Services to be provided, the initial Service term(s), and the Fees for such Services shall be identified on the Subscription Summary, as may be amended by the parties from time to time, in writing. If applicable to the Services offered under the Subscription Summary, the Subscription Summary shall further identify the quantity of Authorized Users purchased by the Customer to access the Services.

(c)   Documentation License. Subject to the terms and conditions contained in this Agreement, FMX hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.

(d)   Changes. FMX may, via Digital Notice, keep Customer informed of Service updates, scheduled maintenance, new versions of the Services offered hereunder, and other developments which may affect Customer's use of the Services. FMX reserves the right, in its sole discretion, to make any changes to the Services and Documentation that it deems necessary or useful to (among other things): (a) maintain or enhance: (i) the quality or delivery of FMX's services to its customers; (ii) the competitive strength of or market for FMX's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law. All updates shall remain the sole property of FMX and be subject to this Agreement in all respects.

(e)   Third-Party Services. FMX may from time to time make Third-Party Services available to Customer. For purposes of this Agreement, such Third-Party Services are subject to their own terms and conditions. Customer acknowledges that FMX makes no representations or warranties with respect to or regarding such Third-Party Services, including but not limited to the quality, availability, interoperability, or functionality of any third-party platforms or APIs. All use of Third-Party Services is subject to compliance with terms and conditions of use required by such third-parties and is at Customer's sole risk.

3.   Use of Services.

(a)   Control.

(i)   Customer acknowledges and agrees that it is solely responsible for the operation, supervision, management and control of the Customer's and Authorized Users' (if any) use of the Services, including but not limited to maintaining the confidentiality and security of its login credentials, providing training for its personnel, instituting appropriate security procedures applicable to its Authorized Users' access and use of the Services, and implementing reasonable procedures to examine and verify all output before use.

(ii)   Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of the Customer Systems, whether operated directly by Customer or through the use of third-party services. Customer shall, at its sole expense, provide, configure and be responsible for the proper functioning of Internet connectivity at levels recommended by FMX, hardware, systems software, and other applications software, during the Term, for proper functioning of the Services.

(iii)   Customer is responsible and liable for all uses of the Services and Documentation resulting from access provided by or through Customer's account, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement.

(b)   Authorized Users.

(i)   FMX will review Customer's compliance with the Authorized User allocation identified on the Subscription Summary on a regular basis if any Authorized User is provided access to the Services. Upon notification from FMX, Customer will have thirty (30) days to bring Customer's account back into compliance with the Authorized User quantity from the Subscription Summary. FMX will exercise reasonable efforts to work with the Customer to reduce Customer's Authorized Users by identifying users that are inactive or improperly classified so that it achieves compliance. In the event that the Customer is unable to achieve compliance, the Customer agrees to pay for excess usage in accordance with the Section 4 below.

(ii)   If any Authorized User is provided access to the Services, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users, if any, aware of this Agreement's provisions as applicable to such Authorized User's use of the Services and shall cause Authorized Users to comply with such provisions.

(c)   Use Restrictions. Customer shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; or (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right, right of privacy, or other right of any person, or that violates any applicable law.

(d)   Cooperation. Customer shall at all times during the Term (as defined herein), provide all cooperation and assistance as FMX may reasonably request to enable FMX to exercise its rights and perform its obligations under and in connection with this Agreement.

(e)   Support. FMX will provide normal phone and email support on business days Monday through Friday 8:00 AM to 6:00 PM Eastern Time.

(f)   Suspension. Notwithstanding anything to the contrary in this Agreement, FMX may temporarily suspend Customer's and any Authorized User's (if any) access to any portion or all of the Services if: (i) FMX reasonably determines that (A) there is a threat or attack on any of the FMX IP; (B) Customer's or any Authorized User's use of the Services disrupts or poses a security risk to the FMX IP or to any other customer or vendor of FMX; (C) Customer, or any Authorized User, is using the Services for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) FMX's provision of the Services to Customer or any Authorized User is prohibited by applicable law; (ii) any vendor of FMX has suspended or terminated FMX's access to or use of any Third-Party Services or products required to enable Customer to access the Services; or (iii) in accordance with Section 4(b) (any such suspension described in subclause (i), (ii), or (iii), a "Service Suspension"). FMX shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer. FMX shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. FMX will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

(g)   Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, FMX may monitor Customer's use of the Services and collect and compile data and information related to such use in an aggregate and anonymized manner. As between FMX and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by FMX. Customer acknowledges that FMX may compile Aggregated Statistics based on Customer Data (as defined herein) input into the Services. Customer agrees that FMX may use Aggregated Statistics to the fullest extent and in the manner permitted under applicable law.

(h)   Reservation of Rights. FMX reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the FMX IP.

4.   Fees and Payment.

(a) Fees. Customer agrees to pay FMX the fees for Services as listed in the Subscription Summary ("Fees"). In the event that either a Service is added to or removed from the Services provided to Customer by mutual agreement of the Parties, or, if applicable, the Parties agree to increase or decrease the number of Authorized Users, the Subscription Summary shall be modified by FMX to reflect the then-current Fees. In the event the Subscription Summary is modified, the applicable Fees for the then current invoice period shall be calculated by FMX in accordance with its then current practices.

(b) Payment Terms. Unless otherwise specified in the Subscription Summary, FMX will invoice Customer periodically. The Customer will pay any undisputed invoice within thirty (30) days of the applicable invoice date, unless otherwise stated in the Subscription Summary. If Customer has a good faith dispute as to any amounts invoiced, Customer shall promptly notify FMX of the grounds for such dispute, pay the undisputed portion of such invoice when due, and engage with FMX in good faith efforts to resolve such dispute promptly. Customer will pay FMX simple interest on all overdue payments at a rate of 10% per year, or the maximum rate allowable by law, if lesser. If any amount is past due, FMX may, without notice, immediately suspend Customer's access to any or all Services until such amounts are paid in full. Customer shall be responsible for all expenses incurred by FMX in the collection of any unpaid invoice, including attorney's fees and costs.

(c) Fees Exclusive of Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on FMX's income.

5. Confidential Information. From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" (collectively, "Confidential Information"). In the case of FMX, the term "Confidential information" includes the Services and the FMX IP. Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain except as a result of a Party's violation of this Agreement; (b) known to the receiving Party on a non-confidential basis at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; (d) Aggregated Statistics; or (e) independently developed by the receiving Party without reference to the other Party's Confidential Information. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. The receiving Party shall be liable for any unauthorized use or disclosure of the disclosing Party's Confidential Information by any of such receiving Party's employees or agents in the same manner as if such use or disclosure was made by the receiving Party itself. Further, the receiving Party shall not use the disclosing Party's

Confidential Information for any purpose except in performance of the receiving Party's duties or the exercise of the disclosing Party's rights under this Agreement. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order, at the request and expense of the other Party; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire two (2) years from the date of termination of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

6.   Intellectual Property Ownership; Feedback.

(a)   FMX IP. Customer acknowledges that, as between Customer and FMX, FMX owns all right, title, and interest, including all intellectual property rights, in and to the FMX IP included within the Services and/or provided to Customer or any Authorized User in connection with the foregoing. For the avoidance of doubt, FMX IP includes Aggregated Statistics and any information, data, or other content derived from FMX's monitoring of Customer's access to or use of the Services, but does not include Customer Data, and, with respect to Third-Party Services, the applicable third-party owns all right, title, and interest, including all intellectual property rights, in and to the Third-Party Services. No ownership rights in the FMX IP are transferred to Customer. Customer acknowledges and agrees that Customer neither has nor at any time shall attempt to claim, any interest in or to any of the FMX IP or the use thereof other than any limited rights of access and use as expressly granted in this Agreement.

(b)   Customer Data. FMX acknowledges that, as between FMX and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Services, other than the Aggregated Statistics. Customer hereby grants to FMX a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for FMX to provide the Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics.

(c)   Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to FMX by mail, email, telephone, orally or otherwise, suggesting or recommending changes to the Services or the FMX IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), FMX is free to use such Feedback without any obligation to Customer or any other person, irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to FMX on Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and FMX is free to use and fully exploit, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although FMX is not required to use any Feedback.

7.   Data Security.

(a)   FMX Obligations. FMX shall not use, disclose or access Customer Data except as authorized by Customer, required to provide and support the Services or to comply with law or as permitted by this Agreement, the Documentation or the Subscription Summary. FMX shall implement commercially reasonable controls and procedures to limit access or use by its employees and contractors to Customer Data except as permitted by the preceding sentence. FMX, however, makes no representations or warranties with regard to Customer or any third party's compliance with standards or use of other data security controls.

(b)   Customer Obligations. Customer represents that Customer has all required rights and permissions to transmit the data through the Services and that Customer's collection, use, processing and disclosure of the Customer Data complies with all applicable laws and governmental and industry regulations. FMX does not review data stored or transmitted through the Services, and FMX shall not be responsible for the legality of any such data or transmissions. Customer agrees to safeguard all usernames and passwords associated with the Services and acknowledges Customer shall be liable for any actions conducted using Customer's username, whether or not authorized by Customer.

(c)   Breaches and Vulnerabilities. FMX shall promptly provide written notice within **SEVENTY-TWO (72)** hours upon becoming aware of any data breach or new vulnerability that may compromise the security or confidentiality of the Customer's Data. The notification shall include detailed information about the nature of the breach or vulnerability, the potential impact on the Customer's data and systems, and any remedial actions being taken or recommend by the FMX to address the situation.

8.   Representations and Warranties; Acknowledgment.

(a)   By Customer. Customer represents and warrants that (a) all Customer Data and other materials and data provided by Customer do not, and will not, infringe any United States patent, copyright, trademark, service mark or other intellectual property right of any third party in the United States; (b) Customer is now in compliance with and during the Term of the Agreement shall continue to remain in compliance with all applicable U.S. and foreign laws and regulations including but not

limited to (i) the International Emergency Economic Powers Act (50 U.S.C. § 1701) and all other laws administered by United States Office of Foreign Assets Control or any other governmental authority imposing economic sanctions and trade embargoes, (ii) U.S. export control laws, including the Export Administration Regulations promulgated under the Export Administration Act of 1979 and the International Traffic in Arms Regulations administered by the U.S. Department of State, and (iii) the Foreign Corrupt Practices Act of 1977, as amended; and (c) each of the Authorized Users shall agree to be bound by and comply with this Agreement.

(b)   Customer Acknowledgment. Customer acknowledges that the proper functioning and availability of the Services is dependent on interface and data exchange with various Customer and third-party platforms and APIs. In the event that changes, or updates are made to such Customer or third-party platforms or APIs, changes or updates may be required to FMX's infrastructure or codebase in order to maintain the functionality of the Services. FMX reserves the right to charge additional fees or increase the Fees to be payable by Customer in order to accommodate such changes or updates.

9.   Limited Warranty; Warranty Disclaimer. FMX will make commercially reasonable efforts to make the Services available in a professional manner substantially consistent with the level of care, skill, practice and judgment exercised by other professionals in developing and providing Services of a similar nature under similar circumstances. EXCEPT FOR THE LIMITED WARRANTY PROVIDED HEREIN, THE SERVICES AND THE FMX IP ARE PROVIDED "AS IS" AND "WHERE IS" AND WITH ALL FAULTS, AND FMX HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. FMX SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. FMX MAKES NO WARRANTY OF ANY KIND THAT THE FMX IP, OR ANY SERVICES OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. IN THE EVENT OF ANY INTERRUPTION NOT PERMITTED BY THIS AGREEMENT, FMX'S SOLE OBLIGATION SHALL BE TO RESTORE ACCESS AS SOON AS REASONABLY POSSIBLE. CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER HAS NOT ENTERED INTO THE AGREEMENT ON THE BASIS OF ANY REPRESENTATIONS OR PROMISES NOT EXPRESSLY CONTAINED HEREIN.

10.   Customer Indemnification. Customer shall indemnify, hold harmless, and, at FMX's option, defend FMX from and against any Third-Party Claim that (a) the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights, privacy rights or other rights, and (b) any Third-Party Claims based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Services in a manner not authorized by this Agreement; (iii) use of the Services in combination with data, software, hardware, equipment, or technology not provided by FMX or authorized by FMX in writing; or (iv) modifications to the Services not made by FMX; provided that Customer may not settle any Third-Party Claim against FMX unless FMX consents in writing to such settlement, and further provided that FMX will have the right, at its option, to defend itself against any such Third-Party Claim or to

participate in the defense thereof by counsel of its own choice.

11.   FMX Indemnification. FMX shall indemnify, defend, and hold harmless Customer from and against any and all Third-Party Claims that the Services, or any use of the Services in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights, provided that Customer promptly notifies FMX in writing of such Third-Party Claim, cooperates with FMX, and allows FMX sole authority to control the defense and settlement of such Third-Party Claim. If a Third Party-Claim is made or appears possible, Customer agrees to permit FMX, at FMX's sole discretion, to (a) modify or replace the Services, or component or part thereof, to make it non-infringing, or (b) obtain the right for Customer to continue use. If FMX determines that neither alternative is reasonably available, either Party may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to the other. This Section will not apply to the extent that the alleged infringement arises from: (a) use of the Services in combination with data, software, hardware, equipment, or technology not provided by FMX; (b) modifications to the Services not made by FMX; or (c) Customer Data.

12.   Limitations of Liability. NOTWITHSTANDING ANY DAMAGES THAT CUSTOMER MIGHT INCUR FOR ANY REASON WHATSOEVER, IN NO EVENT WILL FMX BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER FMX WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL FMX'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE LESSER OF THE ACTUAL, DIRECT DAMAGES INCURRED OR THE AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE INITIAL CLAIM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS PARAGRAPH AND THAT FMX WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THE LIMITATIONS OF LIABILITY SET FORTH HEREIN.

13.   Term and Termination.

        (a)   Term. The term ("Term") of this Agreement shall commence on the Effective Date and shall continue thereafter until the termination or expiration, as applicable, of the term for each Service listed on the Subscription Summary, as may be amended from time to time by the parties, in writing.

        (b)   Renewal. Following the initial Term, the Term of this Agreement shall continue for a subsequent period of time that is equal to the duration of the initial Term (each such period, a "Renewal Term") unless either Party elects to terminate this

Agreement by giving written notice to the other Party of the election to terminate at least thirty (30) days prior to the expiration of the then-current initial Term or Renewal Term. After the initial Term, FMX may, at least thirty (30) days prior to the expiration of the then-current initial Term or Renewal Term, provide written notice to Customer adjusting the Fees and other costs, fees or prices for such Services.

(c)   Termination. In addition to any other express termination right set forth in this Agreement:

(i)   FMX may terminate this Agreement, effective on written notice to Customer, if Customer: (A) fails to pay any amount when due hereunder, and such failure continues more than five (5) days after FMX's delivery of written notice thereof; or (B) breaches any of its obligations under Section 3(c) or Section 8;

(ii)   either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured ten (10) days after the non-breaching Party provides the breaching Party with written notice of such breach; or

(iii)   either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(d)   Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of the Services and, without limiting Customer's obligations under Section 7, Customer shall delete, destroy, or return all copies of FMX's Confidential Information and certify in writing to FMX that the FMX Confidential Information has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund.

(e)   Survival. This Section 13(e) and Sections 4, 5, 6, 8, 9, 10, 11, 13(d) and 14 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

14.   Miscellaneous.

(a)   Publicity. FMX may issue or release announcements, statements, or other publicity or marketing materials relating to this Agreement, or otherwise use the Customer IP, in each case, without the prior written consent of the Customer, but

solely on or in connection with the promotion, advertising, and resale of FMX's services. FMX shall reasonably comply with any policies provided to FMX by Customer related to Customer IP, which may be amended from time to time in Customer's sole discretion.

(b)   Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, any state mandated contract, rule, or regulation; (ii) second, this Agreement; (iii) third, the Subscription Summary applicable to this Agreement; and (iv) fourth, any other documents incorporated herein by reference.

(c)   Notices. Except as otherwise set forth in this Agreement, any and all Digital Notices shall be effective when provided. Notices to Customer shall be sent via Digital Notice to the e-mail address specified in the Subscription Summary, or such other address as Customer may hereafter deliver to FMX by Digital Notice. If Customer is providing Digital Notice to terminate this Agreement as permitted herein, such written notice shall be sent via e-mail to billing@gofmx.com.

(d)   Force Majeure. All other terms of this Agreement notwithstanding, FMX shall not be liable for failure to perform any obligation under this Agreement or the failure of Services if such failure is caused by the occurrence of any contingency beyond the reasonable control of FMX (a "Force Majeure Event"), including but not limited to, fire, flood, strike, power outage, Internet outage, industrial disturbance, disruption, termination, or availability or reduction of services or products provided by third parties, denial of service attack, unavailability of the Internet, war, riot, insurrection, acts of God, epidemics, pandemics, acts of civil or military authority, or changes in third party platforms or APIs with which the Services interface or otherwise operate. In the event of such a Force Majeure Event, time for delivery or other performance under this Agreement shall be as soon as practicable following such Force Majeure Event.

(e)   Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(f)   Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not

affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

(g)   Governing Law; Submission to Jurisdiction. This Agreement shall be construed and interpreted in accordance with and shall be governed by the laws of the State of Florida, without regard to principles of conflict of law and irrespective of the fact that one or more Parties hereto is now or may hereafter be a resident of a different state, jurisdiction or country. The state and federal courts situated in Marion County, Florida shall have exclusive jurisdiction for resolving any dispute arising under or relating to this Agreement. The Parties agree that the United Nations Convention H on Contracts for the International Sale of Goods shall not apply. The parties further expressly exclude the application of the Uniform Computer Information Transactions Act.

(h)   Assignment. Neither Party to this Agreement may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld. Notwithstanding the foregoing, FMX may assign or otherwise transfer any or all of its rights or obligations under this Agreement in the case of a sale or other transfer of all or substantially all of its assets or equity (whether by sale of assets or stock or by merger or other reorganization), without the prior consent of or notice to Customer.

(i)   Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Sections 5, 8 or, in the case of Customer, Section 3(c), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

(j)   Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, electronic signature or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

15. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing herein is intended to waive sovereign immunity by the Customer to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.

16. <u>Public Records</u>. FMX shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, FMX shall:

   i. Keep and maintain public records required by the public agency to perform the service.

   ii. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

   iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if FMX does not transfer the records to the public agency.

   iv. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of FMX or keep and maintain public records required by the public agency to perform the service. If FMX transfers all public records to the public agency upon completion of the contract, FMX shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If FMX keeps and maintains public records upon completion of the contract, FMX shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF FMX HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO FMX'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.gov; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

<u>Modifications to Software as a Service Agreement approved by Facilities Management Express, LLC</u>

Signature: *Jack Haslup*

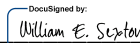Printed Name: Jack Haslup

Title: CFO

Date: 5/15/2025

CITY OF OCALA:

Signature: *Ken Whitehead*

Printed Name: Ken Whitehead

Title: Assistant City Manager

Date: 5/21/2025

Approved as to form and legality:

William E. Sexton

William E. Sexton, Esq.
City Attorney

Certificate Of Completion

Envelope Id: EBBCA7A2-D200-4C6A-9794-DF4B34B7878E
Subject: SIGNATURE: FMX Facilities Management Software Renewal Agreement - FMX (FAC/250530)
Source Envelope:
Document Pages: 16
Certificate Pages: 2
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Signatures: 2
Initials: 0

Status: Completed

Envelope Originator:
April Adolf
110 SE Watula Avenue
City Hall, Third Floor
Ocala, FL 34471
aadolf@ocalafl.gov
IP Address: 216.255.240.104

Record Tracking

Status: Original
          5/19/2025 11:29:46 AM
Security Appliance Status: Connected
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Holder: April Adolf
          aadolf@ocalafl.gov
Pool: StateLocal
Pool: City of Ocala - Procurement & Contracting

Location: DocuSign

Location: Docusign

Signer Events	Signature	Timestamp
William E. Sexton wsexton@ocalafl.org City Attorney City of Ocala Security Level: Email, Account Authentication (None)	DocuSigned by: *William E. Sexton* B07DCFC4E86E429... Signature Adoption: Pre-selected Style Using IP Address: 216.255.240.104	Sent: 5/19/2025 12:06:23 PM Viewed: 5/21/2025 10:41:56 AM Signed: 5/21/2025 10:43:04 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Ken Whitehead kwhitehead@ocalafl.org Assistant City Manager City of Ocala Security Level: Email, Account Authentication (None)	DocuSigned by: *Ken Whitehead* 5677F71E38874F4... Signature Adoption: Pre-selected Style Using IP Address: 216.255.240.104	Sent: 5/21/2025 10:43:05 AM Viewed: 5/21/2025 3:49:09 PM Signed: 5/21/2025 3:51:42 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/19/2025 12:06:23 PM
Certified Delivered	Security Checked	5/21/2025 3:49:09 PM
Signing Complete	Security Checked	5/21/2025 3:51:42 PM
Completed	Security Checked	5/21/2025 3:51:42 PM

Payment Events	Status	Timestamps