



AGREEMENT FOR SERVICES

This Agreement for Services (this "Agreement") dated as of **November 15, 2022** (the "Effective Date") is made by and between Locality Media, Inc dba First Due a Delaware corporation, having offices at 107 7th St, Garden City, NY, 11530 ("Locality Media") and the **Manhattan Beach Fire Department** located at **400 15th St, Manhattan Beach, CA 90266** (the "Customer").

1. Locality Media maintains a website through which Customer members may access Locality Media's **First Due Size-Up™** Community Connect™, Mobile Responder™ and/or other software-as-a-service platforms and solutions identified in Exhibit B (collectively, the "Service") in connection with the performance of their Customer duties. Locality Media agrees to grant the Customer access to the Service pursuant to the terms and conditions set forth below and in Exhibit B, and the Customer agrees to use the Service only in strict conformity with and subject to such terms and conditions.
2. Locality Media may provide the Customer with one or more user ID's, initial passwords, digital certificates and/or other devices (collectively, "Credentials") and/or application programming interfaces ("APIs") to access the Service. The Customer shall access the Service only by using such Credentials and APIs. The Customer authorizes Locality Media to act on any instructions Locality Media receives from users of the Service who present valid Credentials and such individuals shall be deemed authorized to act on behalf of the Customer, including, without limitation, to change such Credentials. It is the Customer's sole responsibility to keep all Credentials and other means of access within the Customer's direct or indirect possession or control both confidential and secure from unauthorized use. The Customer understands the utility of the First Due Size Up Service depends on the availability of data and information relating to Locations and structures in the Customer's jurisdiction, including but not limited to building system and structural information, building inspection codes and incident report data (collectively, "Location Data"). Locality Media also may process and furnish through the Service, in addition to Location Data, other data regarding residents and roadways within the Customer's jurisdiction ("Community Data"). Location Data and Community Data are referred to collectively herein as "Data". Locality Media may acquire Data from third party public and/or private sources in Locality Media's discretion. In addition, the Customer will upload to the Service or otherwise provide to Locality Media in such form and using such methods as Locality Media reasonably may require from time to time, any and all Data from the Customer's records and systems which the parties mutually designate for inclusion in the Service database. The Customer agrees not to filter or alter such records except to conform such Data to the formats reasonably required by Locality Media. Subject to any third-party license restrictions identified expressly in writing by the Customer, the Customer grants to Locality Media a perpetual, non-exclusive, worldwide, royalty-free right and license to process, use and disclose the Data furnished to Locality Media by the Customer in connection with the development, operation and performance of Locality Media's business, including but not limited to the Service.
3. As between the parties, the Customer and its employees, contractors, members, users, agents and representatives (collectively, "Customer Users") are solely responsible for determining whether and how to use Data accessed through the Service. The Customer acknowledges that Locality Media, through the Service, provides an interface for viewing Data compiled from the Customer and other sources over which Locality Media has no control and for which Locality Media assumes no responsibility. Locality Media makes no representations or warranties regarding any Location or structure (including but not limited to a Location's safety, construction, occupancy, materials, hazards, water supply, contents, location, surrounding structures, exposures, size, layout, compliance, condition or history)), residents, roadways, or any actual or expected outcome from use of the Data, nor does Locality Media make any representation or warranty regarding the accuracy or reliability of the Data received by Locality Media. Locality Media provides administrative and information technology services only and does not advise, recommend, or render an opinion with respect to any information communicated through the Service and shall not be responsible for the Customer's or any third party's use of any information obtained through the Service.

4. The Customer shall obtain and maintain, at its own expense, computers, operating systems, Internet browsers, tablets, phones, telecommunications equipment, third-party application services and other equipment and software ("Equipment") required for the Customer to access and use the Service (the Service being accessible to users through standard Internet browsers subject to third party network availability and signal strength). Locality Media shall not be responsible for any problem, error or malfunction relating to the Service resulting from Customer error, data entry errors or malfeasance by the Customer or any third party, or the performance or failure of Equipment or any telecommunications service, cellular or wifi network, Internet connection, Internet service provider, or any other third-party communications provider, or any other failure or problem not attributable to Locality Media ("Technical Problems").
5. This Agreement will be effective for an initial term of **12 months** (the "Initial Term") commencing on the Effective Date. After the Initial Term, this Agreement may be renewed for successive terms of **12 months** each (a "Renewal Term"), subject to the agreement of both parties. Locality Media reserves the right to increase Customer's renewal Service fees by no more than **5%** per annum, applied to the Service fees set forth in the previous term. A renewal estimate will be provided to the Customer no less than 90 days before term expiration. Either party also may terminate this Agreement immediately upon written notice if the other party: (i) becomes insolvent; (ii) becomes the subject of a petition in bankruptcy which is not withdrawn or dismissed within 60 days thereafter; (iii) makes an assignment for the benefit of creditors; or (iv) materially breaches its obligations under this Agreement and fails to cure such breach within 30 days after the non-breaching party provides written notice thereof.
6. Upon termination, the Customer shall cease use of the Service and all Credentials then in the Customer's possession or control. This Section 6 and Sections 8 through 11 and 15 through 25 hereof shall survive any termination or expiration of this Agreement. Locality Media shall return any Customer Data in a format acceptable to Customer within thirty (30) days of termination.
7. The Customer agrees to pay the fees set forth in Exhibit B for use of those Service features described in Exhibit B (as available as of the Effective Date). Locality Media may charge separately for services offered from time to time that are not included in the scope of Exhibit B (such as new Service features, systems integration services and applications of the Service for new purposes), subject to the Customer's acceptance of the terms of use and fees associated with such services. The Customer shall be responsible for the payment of all taxes associated with provision and use of the Service (other than taxes on Locality Media's income). The Customer represents it has not received and agrees that it shall not collect any fee, payment or remuneration of any kind from any Data provider, other municipal agency or other third party in connection with the Customer's purchase or use of the Service under this Agreement.
8. Locality Media owns and shall retain all right, title, and interest in and to the Service, all components thereof, including without limitation all related applications, APIs, user interface designs, software and source code (which shall further include without limitation any and all source code furnished by Locality Media to the Customer in connection with the delivery or performance of any services hereunder) and any and all future enhancements or modifications thereto howsoever made and all intellectual property rights therein but not Data furnished by the Customer. Except as expressly provided in this Agreement or as otherwise authorized in advance in writing by Locality Media, the Customer and Customer Users shall not copy, distribute, license, reproduce, decompile, disassemble, reverse engineer, publish, modify, or create derivative works from, the Service; provided, however, that nothing herein shall restrict the Customer's use of the Data that the Customer has provided or developed from using the Service.
9. "Confidential Information" means any and all information disclosed by either party to the other which is marked "confidential" or "proprietary," including oral information that is designated confidential at the time of disclosure. Confidential Information also includes any information uploaded by Customer residents or businesses. Notwithstanding the foregoing, "Confidential Information" does not include any information that the receiving party can demonstrate (i) was known to it prior to its disclosure hereunder; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) has been rightfully received from a third party authorized to make such disclosure without restriction; (iv) is independently developed by the receiving party, without the use of any Confidential Information of the other party; (v) has been approved for release by the disclosing party's prior written authorization; or (vi) is required to be disclosed by court order or applicable law, provided that the party required to disclose the information provides prompt advance notice thereof to the other party (except to the

extent such notice is prohibited by law). It is understood that Customer is subject to the California Public Records Act (Gov. Code § 6250 et seq.). If a request under the California Public Records Act is made to view Locality Media's Confidential Information, Customer shall notify Locality Media of the request and the date that such records will be released to the requester unless Locality Media obtains a court order enjoining that disclosure. If Locality Media fails to obtain a court order enjoining that disclosure, Customer will release the requested information on the date specified.

10. Each party hereby agrees that it shall not use any Confidential Information belonging to the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. Each party shall use the same degree of care to protect the other party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances with less than reasonable care. Neither party shall disclose the other party's Confidential Information to any person or entity other than its employees, agents or consultants who need access thereto in order to effect the intent of this Agreement and in each case who have been advised of the confidentiality provisions of this Agreement, have been instructed to abide by such confidentiality provisions, entered into written confidentiality agreements consistent with Sections 9-11 or otherwise are bound under substantially similar confidentiality restrictions.
11. Each party acknowledges and agrees that it has been advised that the use or disclosure of the other's Confidential Information inconsistent with this Agreement may cause special, unique, unusual, extraordinary, and irreparable harm to the other party, the extent of which may be difficult to ascertain. Accordingly, each party agrees that, in addition to any other remedies to which the nonbreaching party may be legally entitled, the nonbreaching party shall have the right to seek to obtain immediate injunctive relief, without the necessity of posting a bond, in the event of a breach of Section 9 or 10 by the other party, any of its employees, agents or consultants.
12. Reserved.
13. EXCEPT AS SET FORTH ABOVE IN SECTION 12, LOCALITY MEDIA MAKES AND THE CUSTOMER RECEIVES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SUBJECT MATTER HEREOF. LOCALITY MEDIA SPECIFICALLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO THE SUBJECT MATTER HEREOF, INCLUDING WITHOUT LIMITATION THE SERVICE.
14. The Customer represents and warrants that the Customer is authorized and has all rights necessary to enter into this Agreement, to provide the Data furnished by the Customer to Locality Media, and to use the Service and Data, and Customer will only use the Service and Data, as permitted under this Agreement and in accordance with the laws, regulations and any third-party agreements applicable to the Customer and Customer Users. Without limiting the generality of the foregoing, Customer shall not cause or permit any Data to be uploaded to the Service or used in connection with the Service in any manner that would violate any third-party intellectual property rights or license between Customer and any third party. Customer agrees not to use or permit the use of the Service and Data in connection with any public or private enterprise other than operation and performance of the Customer's functions and services. In addition, the Customer and the Customer Users shall not copy, distribute, license, reproduce, publish, modify or otherwise use any Personally Identifiable Information (PII) contained within the Data accessed through the Service for any purpose other than to lawfully carry out the services and duties of the Customer. The Customer shall remain responsible for the performance, acts and omissions of each Customer User as if such activities had been performed by the Customer.
15. Locality Media will indemnify, defend and hold harmless the Customer including its elected officials, officers, directors, agents, attorneys and employees, from and against any and all damages, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") resulting from any third-party claim, suit, action, investigation or proceeding (each, an "Action") brought against the Customer arising out of or relating to any act, error or omission, gross negligence, or willful misconduct of Locality Media, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement, including, without limitation, the infringement by Locality Media of any third-party issued patent, copyright or registered trademark, except to the extent such Action is based on Data furnished from the Customer, the Customer's breach of any third party agreement, or any combination or integration of the Service with any Customer- or third-party property, method or system.

16. Reserved.
17. Such indemnification under Sections 15 will be provided only on the conditions that: (a) the indemnifying party is given written notice reasonably promptly after the indemnified party receives notice of such Action; (b) the indemnifying party has sole control of the defense and all related settlement negotiations, provided any settlement that would impose any monetary or injunctive obligation upon the indemnified party shall be subject to such party's prior written approval; and (c) the indemnified party provides assistance, information and authority as reasonably required by the indemnifying party.
18. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICES OR DATA, EVEN IF THE CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS IN SECTION 15, AND EXCEPT FOR CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, LOCALITY MEDIA SHALL NOT BE LIABLE TO THE CUSTOMER OR CUSTOMER USERS FOR ANY DAMAGES IN CONNECTION WITH THIS AGREEMENT IN EXCESS OF THE GREATER OF (A) THE AMOUNT OF FEES PAID OR PAYABLE BY THE CUSTOMER TO LOCALITY MEDIA WITHIN THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY, OR (B) \$5,000.
19. All notices, requests, demands or consents under this Agreement must be in writing, and be delivered personally, by email or facsimile followed by written confirmation, or by internationally recognized courier service to the addresses of the parties set forth in this Agreement.
20. Except as otherwise provided below, neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party. Locality Media may assign this Agreement or any rights or obligations hereunder to any Locality Media affiliate or in connection with the merger or acquisition of Locality Media or the sale of all or substantially all of its assets related to this Agreement, without such consent, but shall provide notice to Customer within thirty (30) days of such assignment. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.
21. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
22. Any modification, amendment or waiver to this Agreement shall not be effective unless in writing and signed by the party to be charged. No failure or delay by either party in exercising any right, power, or remedy hereunder shall operate as a waiver of such right, power, or remedy.
23. The parties are independent contractors with respect to each other, and neither shall be deemed an employee, agent, partner or legal representative of the other for any purpose or shall have any authority to create any obligation on behalf of the other. Neither party intends to grant any third-party beneficiary rights as a result of this Agreement.
24. Any delay in or failure of performance by either party under this Agreement will not be considered a breach and will be excused to the extent caused by any event beyond the reasonable control of such party including, but not limited to, acts of God, acts of civil or military authorities, strikes or other labor disputes, fires, interruptions in telecommunications or Internet or network provider services, power outages, and governmental restrictions.
25. This Agreement supersedes all prior agreements, understandings, representations, warranties, requests for proposal and negotiations, if any. Each provision of this Agreement is severable from each other provision for the purpose of determining the enforceability of any specific provision.
26. Unless otherwise approved in writing by Customer's risk manager, Locality Media shall, at its own expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly admitted and qualified in California covering the operations of Locality Media, pursuant to this Agreement: commercial general liability (\$2,000,000 per occurrence, \$2,000,000 aggregate); workers' compensation (statutory limits) and employers' liability (\$1,000,000 per accident); cyber liability (\$2,000,000 per occurrence) providing protection against claims and liabilities arising from: (i) errors and omissions in connection with maintaining security of Customer Data; (ii) data breach including theft, destruction,

and/or unauthorized use of Customer Data; (iii) identity theft; and (iv) violation of privacy rights due to a breach of Customer Data; and professional liability (\$2,000,000 per occurrence, \$2,000,000 aggregate). The Customer and its elected officials, officers, directors, agents, attorneys and employees shall be named as additional insureds in the commercial general, and cyber policies which shall contain standard cross liability clauses. Locality Media shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. The liability policies shall be primary without right of contribution from any Indemnatee, and Locality Media waives all rights of subrogation with respect to said policies. Such policies shall require that Customer be given no less than thirty (30) calendar days prior written notice of any cancellation thereof or material change therein. Customer shall have the right to request an adjustment of the limits of liability for commercial general, cyber, and/or professional liability insurance as Locality Media's exposure to Customer increases. Locality Media shall provide Customer with certificates of insurance and original endorsements, evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide Customer with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) calendar days prior to the effective date of such renewal or substitution.

27. Agreement Billing Information

a. **Accounts Payable Contact**

Name: _____

Email: _____

Phone: _____

b. **Tax Exempt** _____ (Yes/No)

If Yes, please email a copy of the Exempt Certificate to accounting@firstdue.com.

c. **Purchase Order Required** _____ (Yes/No)

If Yes, return a copy of the Purchase Order with the signed agreement or email a copy to accounting@firstdue.com.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,
a California municipal corporation

Consultant:

Locality Media, Inc. dba First Due,
a Delaware corporation

DocuSigned by:
By: Michael Lang, Fire Chief 11/18/2022
1EB84E5D800447B...
Name: Mike Lang
Title: Fire Chief

DocuSigned by:
By: Andreas Huber 11/16/2022
CCCAD7ED06A643A...
Name: Andreas Huber
Title: Chief Executive Officer

ATTEST:

**PROOF OF AUTHORITY TO BIND
CONTRACTING PARTY REQUIRED**

DocuSigned by:
By: Martha Alvarez 11/18/2022
20268AC05BC2425...
for Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

DocuSigned by:
By: Quinn Barrow, City Attorney 11/17/2022
C24C6E263545445...
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:
By: Steve S Charelian, Finance Director
3881E6D7B4124E9...
Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:
By: Michael Lang, Fire Chief 11/17/2022
1EB84E5D800447B...
Name: Mike Lang
Title: Fire Chief



Locality Media, Inc. dba First Due
107 Seventh St, Garden City
New York, 11530, United States
Phone: +1 (516) 874-2258
Website: <https://www.firstdue.com/>

Exhibit A - Statement of Work
For Quote Number: 1545132000069408447

Statement of Work | Manhattan Beach Fire Department

Introduction

The purpose of this Statement of Work (SoW) document is to clearly define the Implementation, Training and Support.

1. Implementation:

First Due works very closely with you to ensure the application is ready for go-live. During the Implementation you will be assigned a Client Success Manager and Implementation Manager who will lead you through the process. Below is a description of each component of our implementation.

- a) **Discovery & Planning:** During a project kick-off meeting we will flesh out the key components of the configuration, customer stakeholders and project timelines. After this stage we will have a clear plan to when and how your agency will be live with First Due.
- b) **Configuration:** First Due is an out-of-the box system but can be configured for your Agency's needs. Our team will work with you to configure all the parts of the application necessary for go-live and beyond. These configuration sessions will generally occur weekly, and also act as administrator training.
- c) **Optimization:** Once the account is configured, we will arrange a small end-user testing group to begin to use the application out-in-the-field. This is an iterative process in which we listen to feedback and make adjustments to the product on the fly.
- d) **Training:** Once we have sign-off the product is ready for go-live we will build the necessary training plan together, which may include train-the-trainer sessions, end user training, custom training videos/content or even onsite sessions. The training section below provides more detail on included training.
- e) **Roll Out:** After training is complete, we are ready to roll-out the platform. We will work closely with you to ensure First Due is rolled out effectively across your agency.
- f) **Support:** Once we achieve sign-off that the system is live and stable, we will transition to support (as described in the support section below). However, you will continue to have a dedicated Client Success Manager moving forward.

2. Training:

Training is an integral part of any successful implementation. First Due is focused on providing your agency adequate training to ensure effective user adoption of the platform. As part of this Statement of Work, the customer will receive training throughout the implementation process as outlined below:

1. Webinar Administrator training during configuration sessions as needed
2. Webinar formal Train-the-Trainer Session(s) during the training phase as needed
3. Access to online training videos, documents, content and interactive knowledgebase

3. Integrations:

Any scoped integrations included in this document will be described below. Any additional integration scoped at a later date will be provided in a separate SoW at that time.

4. Data Migration:

First Due understands the importance of data migration to our customers and has extensive experience working to migrate historical records into the platform. First Due will use best efforts to migrate applicable data from Customer's existing systems utilizing data migration best practices. This includes:

1. Data Migration Planning Session
2. Assistance/Guidance in extracting data from existing system/s
3. Mapping extracted data to First Due import workbooks
4. Importing of Data into First Due

5. Support:

First Due provides Support as part of the base subscription. This includes:

1. Email, Phone, Ticketing System Support Channels and Live Chat during the following hours:
 - a. Email and Ticketing System Support Channels - 24/7/365
 - b. Phone and Live Chat - 6am to 6pm Pacific Time
2. Dedicated Client Success Manager
3. Access to knowledge base including online training videos and FAQs



Locality Media, Inc. dba First Due
 107 Seventh St, Garden City
 New York, 11530, United States
 Phone: +1 (516) 874-2258
 Website: <https://www.firstdue.com/>

Exhibit B - Quote
 Prepared By: Nicholas Dunigan
 Valid Until: December 31, 2022
 Quote Number: 1545132000069408447

BILL TO:

Walberto Martin
 Manhattan Beach Fire Department
 400 15th St
 Manhattan Beach, CA 90266

Account: Manhattan Beach Fire Department
Subscription Start: November 15, 2022
Initial Term: 12 months
Annual Subscription: \$15,300.00

Product Details	Total
Occupancy Management & Pre-Incident Planning	
Manage Occupancies, Hydrants, Pre-Incident Mapping, GIS data, Fire Systems, Hazardous Material, and Contacts.	
Responder	
Web Responder dashboard and Responder iOS/Android App with notifications, statusing and routing.	
Inspections	
Field Inspections, Configurable Checklists, Violation Management, Virtual Inspections, Inspections Scheduler, and Integrated Pre-Incident Planning.	
Invoicing	
Invoice Management, Bulk Mailing, Billing Report and Customizable Fee Schedules.	
Permitting	
Permit Management, Customizable Permit Types, Plan Review and Permit Fees.	
Community Connect	
Online portal for residents and businesses to input critical occupant and property data that can be made available to Emergency Response Agencies during an incident.	
Automated Pre-Plans	
Automated data import from assessor, online building department and GIS address points.	
CAD Integration	
Automated importing of CAD calls via XML, Database Connector or API.	
Implementation and Configuration Services	
Services related to configuring and customizing the First Due Platform as described in the Statement of Work.	

One-Time Fees Subtotal	\$ 1,350.00
Subscription Fees Subtotal	\$ 15,300.00
Grand Total	\$ 16,650.00

Statement of Work

Please see attached Exhibit A - Statement of Work detailing the Implementation, Training and Support for this Exhibit B – Quote.

Terms and Conditions

The above-listed Grand Total will be invoiced on or around the Subscription Start date. For subsequent annual periods, the Service fees are due and payable annually in advance.

Payment Terms: Net 30 days

For electronic ACH payment: JPMorgan Chase Bank | ABA Routing: 021000021 | Account #: 803527972