

# DRAFT

RFP-AMI

## AGREEMENT FOR CONTRACTOR SERVICES

THIS AGREEMENT, made by and between The City of Independence, Missouri (hereinafter called CITY) and, Elster Solutions, LLC., organized under the laws of Delaware (hereinafter called CONTRACTOR).

### WITNESSETH:

WHEREAS, CITY requires AMI contractor services for Advanced Metering Infrastructure (AMI).  
and,

WHEREAS, CONTRACTOR is prepared to provide said AMI contractor services and shall give consultation and advice to CITY during the performance of said services; and

WHEREAS, the AMI Project (the "Project") will be completed in three phases: the Pilot Project, which will include the infrastructure and installation of approximately 5% of the meters; Year 2 which will include installation of approximately 47.5% of the meters; and Year 3 which will include installation of approximately 47.5% of the meters.

WHEREAS, CONTRACTOR is responsible to provide materials and services outlined in the CITY's Request for Proposal ("RFP") in a manner consistent with CONTRACTOR's proposal and the Scope of Services attached hereto as Exhibit A through its suppliers and subcontractors identified herein; and

WHEREAS, as part of the Advanced Metering Infrastructure System, the City has chosen a hosted system where Software as a Service ("SaaS") will be provided by Elster in a managed services platform more particularly described in Exhibit F attached hereto; and

WHEREAS, the terms and conditions under which the SaaS will be provided are set forth in that certain Smart Grid Solutions (the "SGS Agreement") between the CITY and Elster and attached hereto as Exhibit G; and

WHEREAS, in order for the CITY to receive the benefit of the SaaS services provided by CONTRACTOR, including allowing the CITY to directly access the Elster cloud-based system, it is necessary for the CITY to execute the SGS Agreement directly with Elster; and

WHEREAS, CONTRACTOR will invoice the City for the SaaS fees and for the ongoing managed services fees for years one through ten as specified in ARTICLE 5 – COMPENSATION of the AGREEMENT; and

WHEREAS, in order for the CITY to receive the benefit of the PrePay services provided by CONTRACTOR, it is necessary for the CITY to execute the Prepay Agreement directly with Exceleron; and

WHEREAS, CONTRACTOR will provide meter installation services through its subcontractor, TBD.

NOW THEREFORE, CITY and CONTRACTOR in consideration of the mutual covenants contained in this AGREEMENT, agree as follows:

**ARTICLE 1 – EFFECTIVE DATE**

The effective date of this AGREEMENT shall be the last date the AGREEMENT is executed by a party to the AGREEMENT. This AGREEMENT will terminate upon final completion and acceptance of Year 3 described in Article 3 below.

**ARTICLE 2 – SERVICES TO BE PERFORMED BY CONTRACTOR**

CONTRACTOR shall perform the Services and provide the Materials and Equipment set forth in Exhibit A, Scope of Services.

**ARTICLE 3 – PERIOD OF SERVICE**

The Scope of Service shall be completed in accordance with the following schedule:

The City of Independence shall issue an Ordinance authorizing the start of the Project. The later of the date of execution of this Agreement or the issuance of the Project Ordinance will be considered the Project start date.

Pilot Project: Substantial completion to be achieved within 270 days of the start date specified above. This includes the installation and testing of the Telecommunication system, AMI Head End, MDMS system, Customer ePortal and approximately 5% of the electric meters and 5% of the water meters.

Year 2 (including meters inside of the City of Independence): Substantial completion to be achieved within 630 days of the start date specified above. This includes the installation of approximately 47.5% of the electric meters and 47.5% of the water meters. CONTRACTOR will be authorized to immediately commence Year 2 upon substantial completion of the Pilot Project and acceptance of the Pilot Project by the CITY.

Year 3 (including meters inside and outside of the City of Independence): Substantial completion to be achieved within 990 days of the start date specified above. This includes the installation of the remaining 47.5% of the electric meters and 47.5% of the water meters including meters outside the City Limits. CONTRACTOR will be authorized to immediately commence Year 3 upon substantial completion and acceptance of Year 2 by the CITY.

Installation responsibilities of CONTRACTOR as specified in Article 14 and Exhibit A – Scope of Services will occur within 1080 days of the start date specified. Thereafter, CONTRACTOR will continue to perform the billing and payment services for Elster Solutions, LLC. HEMS Agreement until the conclusion of the initial terms of those agreements.

**ARTICLE 4 – CONTRACT DOCUMENTS AND EXHIBITS**

The Contract Documents consist of this Agreement for Contractor Services, the following Documents Incorporated by Reference and the following Exhibits attached hereto:

Documents Incorporated by Reference: The following documents are incorporated herein by reference as though fully set forth herein:

1. The Request for Proposal for Advanced Metering Infrastructure issued by The City of Independence, Missouri on March 29, 2017.
2. The following Elster Proposal Exhibits:
  - 00 - Table of Contents
  - 01 (a) Proposal Cover Sheet

- 01 (b) Cover Letter
- 02 (a) Attachment 1A – Affidavit on Non- Collusion
- 02 (b) Attachment 1b – Affidavit of Compliance with Immigration Law
- 02 (c) Attachment 1c – Affidavit Contractor preferences and Qualifications
- 02 (d) Attachment 1d – Affidavit of Completion of OSHA Construction Safety Program
- 02 (e) Addendum No. 1 AMI RFP
- 03 – HEMS General Agreement
- 04 – Executive Summary
- 05 – Vendor Background and Relevant Experience
- 06 – Subcontractor Qualifications
- 07 – Response to City’s RFP Requirements
- 08 – Pricing Worksheet and Summary
- 09 – Client References
- 10.A – Diagram and Solution Descriptions
- 10.C – Block Diagram and Description for AMI Management System
- 10.D – Block Diagram and Description for AMI Communication Infrastructure
- 10.E (1) – AMI Communications Coverage Maps
- 10.E (2) - Independence AMI Network Design Summary
- 10.E (3) Independence RF Propagation and Mesh Links
- 10.H – Project Organization
- 10.I – Installation Plan
- Attachment H1 – Vendor Background and Relevant Experience
- Attachment H2 – EA-Gatkeeper Overview
- Attachment H3 – ePortal Response Supplement
- Attachment H6 –MDMS Response Supplement
- Attachment H9a – A3 Alpha Meter and CK FCC Certificate
- Attachment H9b – Rex2 and Repeater FCC Certificate
- Attachment H9c – WWIC FCC Certificate 1
- Attachment H9d - WWIC FCC Certificate 2
- Attachment H10 – EnergyAxis Security by Design

- 3. Attachment 3 – Independence MO-Revised Pricing Sheet
- 4. Attachment 7 – Requirements Document revised \_\_\_\_\_

Exhibits attached hereto:

- A. Scope of Services
- B. Pricing Summary
- C. Certificate of Insurance
- D. Payment, Performance and Maintenance Bond
- E. The City of Independence Warranty and Manufacturer Warranties
- F. Managed Services (Sample; to be finalized after preconstruction meeting)
- G. Smart Grid Solutions Agreement (SGS) Agreement between The City of Independence and Elster Solutions, LLC.
- H. Elster Solutions, LLC. AMI System Acceptance Test – Electric (Sample; to be finalized after preconstruction meeting)
- I. Statement of Work –
- J. List of Abbreviations and Acronyms
- K. Acceptance Certificate

The Contract Documents listed in this Article 4 are attached to this AGREEMENT (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 4.

The Contract Documents may only be amended, modified or supplemented as provided in Article 8 - CHANGES, DELETIONS, OR ADDITIONS TO AGREEMENT.

In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this AGREEMENT; (b), this AGREEMENT; (c) Elster AMI System Acceptance Test –; (d) Statement of Work; (e) Attachment 7- Requirements Document (f) Managed Services(g) Contractors RFP Exhibits Listed above (h) Request for Proposal for Advanced Metering Infrastructure issued by The City of Independence, Missouri on March 29, 2017. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered a conflict or inconsistency.

## **ARTICLE 5 – COMPENSATION**

### Materials and Services:

For services performed, the CITY shall pay the CONTRACTOR for the actual quantity of Services, and Materials and Equipment ordered by the CITY and installed by CONTRACTOR at the unit prices specified in Exhibit B attached hereto.

Monthly invoices shall be submitted by the CONTRACTOR to the CITY for payment of Services performed and Materials and Equipment installed during the preceding month. Invoices shall indicate the quantity of Meters and Equipment installed and Services performed, and a summary of other expenses and charges with supporting documentation. CONTRACTOR will only be authorized to bill the CITY for a meter after installation and validation that the meter is properly communicating.

CONTRACTOR will complete and submit the City’s standard pay application form with each monthly invoice.

Monthly invoices shall also include the submittal of certified payroll records showing the work classification (occupational title), hours worked and rate of pay of each employee performing work on the project site. Applicable Contractor and Sub-Contractor payroll records shall be submitted on Missouri Department of Labor and Industrial Relations form LS-57.

Payment will be made by the CITY for undisputed amounts within thirty (30) days of receipt of the invoice.

In the event of a dispute between the parties regarding CONTRACTOR’s invoice that is not resolved by good faith discussions and negotiations between the parties, the dispute will be resolved according to the dispute resolution provisions of ARTICLE 25 – DISPUTE RESOLUTION herein. The undisputed portion of CONTRACTOR’s invoice will be paid by the CITY pursuant to the payment provisions in this section.

The CITY is exempt from State of Missouri sales and use taxes on purchases made directly for the CITY. CONTRACTOR shall not include any sales or use taxes on transactions between the CONTRACTOR and CITY.

### SaaS Fees:

1. The fees for the SaaS services provided by Sensus, including the annual SaaS hosting fee plus the managed services fees for years 1 through 10 are specified in Exhibit B – Pricing attached hereto.
2. The Sensus SaaS annual billing date will be established as the first date in which a successful billing file is generated from the Harris MeterSense system (the “Harris SaaS Annual Billing Date”). The first Sensus SaaS Annual Billing Date occurs 90-120 days from the project start date.
3. The Sensus managed services billing date will be established as the first date in which the first base station is commissioned (the “Managed Services Annual Billing Date”). The first Sensus Managed Services Annual Billing Date occurs 90-120 days from the project start date.

4. CONTRACTOR will invoice the CITY for years one through ten of the Sensus Annual SaaS Fees and the Sensus Managed Services thirty (30) days prior to each SaaS Annual Billing Date and Managed Services Annual Billing Date. Unless otherwise directed in writing by both Sensus and CONTRACTOR, the CITY will remit its payments directly to CONTRACTOR on or before the SaaS Annual Billing Date or the Managed Services Annual Billing Date.
5. Following the conclusion of year five, if the CITY chooses to terminate the AMI Agreement with Sensus pursuant to the terms of the AMI Agreement, the City may also terminate its payment obligation for Sensus SaaS fees for any reason upon providing CONTRACTOR with written notice 90 days in advance of termination.
6. The fees for the SaaS services provided by Harris for years 1 through 10 are specified in Exhibit B – Pricing attached hereto.
7. The Harris SaaS annual billing date will be established as the first date on which successful integration has occurred allowing the CITY to access the CITY's meter data (the "Harris SaaS Annual Billing Date"). The first Harris SaaS Annual Billing Date occurs 90-150 days from the project start date.
8. CONTRACTOR will invoice the CITY for years one through ten of the Harris Annual SaaS Fees thirty (30) days prior to each Harris SaaS Annual Billing Date. Unless otherwise directed in writing by both Harris and CONTRACTOR, the CITY will remit its payments directly to CONTRACTOR on or before the Harris SaaS Annual Billing Date.

#### **ARTICLE 6 – PERMITS AND LICENSES**

The CONTRACTOR shall procure all necessary local construction permits and licenses and a City of Independence occupation license, unless exempt under state law.

CONTRACTOR will abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this contract is performed, and will require the same of all sub-Contractors.

The CONTRACTOR must furnish and maintain certification of authority to conduct business in the State of Missouri.

#### **ARTICLE 7 – OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

The City hereby acknowledges and agrees that the Software, the applicable Documentation and all patents, copyrights, trade secrets and trademarks related thereto are the exclusive property and Confidential Information of Contractor or its affiliates and their Third Party Software Contractors and that Contractor or its affiliates and their respective Third Party Software Contractors, as applicable, own all rights, title and interest, including, without limitation, all worldwide patent, copyright, trade secret and trademark rights and all goodwill associated therewith, in and to the Software and Third Party Software.

The City shall acquire no right, title or interest of any kind or nature whatsoever in or to the Software or any Third Party Software or any patent, copyright, trade secret or trademark of Contractor, Contractor's affiliates or Contractor's Contractors. The Software is protected under United States and international copyright, trade secret and other intellectual property laws. Without limiting the generality of the foregoing, the parties acknowledge and agree that the source code, binary code and all visual, printed and other outputs of the Software are trade secrets of Contractor and its affiliates and Contractors. the City may not copy, translate, modify, display, patch, alter or otherwise change or make derivative works of the Software, Third Party Software, the applicable Documentation or any individual part thereof. the City shall not alter or remove any copyright notice or any propriety legend contained in or located on any part of the Software, Third Party Software, or the applicable Documentation and shall reproduce and maintain all such copyright notices or proprietary legends in and on any copy of the Software, Third Party Software, or Documentation that the City makes as permitted

The City retains all rights that the City already holds in data and other information that the City or persons acting on the City's behalf input, upload, transfer or make accessible in relation to, or which is collected from

the City or third party devices or equipment by, the Deliverables ("Input Data"). Elster and its Affiliates have the right to retain, transfer, disclose, duplicate, analyze, modify and otherwise use Input Data to provide, protect, improve or develop Elster's products or services. Elster and its Affiliates may also use Input Data for any other purpose provided it is in an anonymized form that does not identify the City. Any the City Personal Data contained within Input Data shall only be used or processed in accordance with the data privacy terms of this Agreement and applicable law. All information, analysis, insights, inventions and algorithms derived from Input Data by Elster and/or its Affiliates (but excluding Input Data itself) and any intellectual property rights related thereto, are owned exclusively and solely by Elster and are Elster's confidential information. This section survives termination of this Agreement.

#### **ARTICLE 8 – CHANGES, DELETIONS, OR ADDITIONS TO AGREEMENT**

Either party may request changes within the general scope of this AGREEMENT. If a requested change causes an increase or decrease in the cost or time required to perform this AGREEMENT, CITY and CONTRACTOR will agree to an equitable adjustment of the AGREEMENT price, period of service, or both, and will reflect such adjustment in a change order or formal modification utilizing the CITY's standard change order form which has been executed by both parties.

#### **ARTICLE 9 – STANDARD OF CARE**

CONTRACTOR shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a peer professional under similar circumstances.

#### **ARTICLE 10 – LIABILITY AND INDEMNIFICATION**

Having considered the potential liabilities that may exist during the performance of this AGREEMENT and the CONTRACTOR'S fee, and in consideration of the mutual covenants contained in the AGREEMENT, CITY and CONTRACTOR agree to allocate and limit such liabilities in accordance with this Article.

Each Party agrees to indemnify and hold the other Party and its agents and employees harmless from all third party claims for bodily injury and property damages to the extent such claims result from or arise under the indemnifying party's negligent actions or willful misconduct hereunder, provided that such indemnity obligation is valid only to the extent (i) the indemnifying party gives the indemnified party immediate notice in writing of any such claims and permits the indemnifying party, through counsel of its choice and the indemnifying party's sole cost and expense, to answer the claims and defend any related suit and (ii) the indemnified party gives the indemnifying party all needed information, assistance and authority, at the indemnifying party's expense, to enable the indemnifying party to defend such suit. The indemnifying party shall not be responsible for any settlement without its written consent. The indemnifying party shall not be liable for loss or damage caused by the negligence of the indemnified party or any other party or such party's employees or agents. This obligation shall survive termination of this Agreement.

OTHER THAN THE EXPRESS WARRANTIES STATED HEREIN, ELSTER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES HEREUNDER OF ANY KIND, EITHER EXPRESS OR IMPLIED, IN RELATION TO THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY AND/OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL Elster BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, SPECULATIVE, REMOTE, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER ARISING OUT OF OR AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, ARISING FROM, RELATING TO, OR CONNECTED WITH THE SERVICES, WEBSITE, MATERIALS, OR ANY GOODS PROVIDED HEREUNDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ELSTER'S TOTAL LIABILITY ARISING OUT OF OR AS A RESULT OF ITS PERFORMANCE UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF THIS AGREEMENT.

#### **ARTICLE 11 – INSURANCE AND BONDS**

The CONTRACTOR shall procure and maintain insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the materials, equipment or supplies provided to the

CITY. The insurer(s) must be licensed for business in the State of Missouri and maintain an A.M. Best rating of no less than A: VII; or an insurer approved by the CITY. Each policy requires a minimum cancellation notification of at least thirty (30) days' advance written notice to the CITY.

(1) General Liability Insurance, with bodily injury and property damage limits of \$500,000 for each occurrence with a \$1,500,000 general aggregate and \$1,500,000 products and completed operations aggregate.

(2) Excess/Umbrella Liability in the amount of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(3) Automobile Liability Insurance, with bodily injury limits of \$1,000,000 for each person and \$1,000,000 for each accident, and with property damage limits of \$1,000,000 for each accident.

The above limits are the minimum acceptable and do not infer or place a limit on the liability of the CONTRACTOR. The CITY is to be named as an additional insured as the CITY's interest may appear for the General Liability and the Automobile Liability Insurance. The CONTRACTOR'S insurance shall be primary and any insurance or self-insurance maintained by the CITY shall be excess for the CITY and not contribute with the coverage maintained by the CONTRACTOR. Insurance to be provided by CONTRACTOR is more particularly described in CONTRACTOR's Memorandum of Insurance attached hereto as Exhibit C.

The CITY shall not obtain worker's compensation insurance on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR shall comply with the worker's compensation law concerning its business and its employees.

CONTRACTOR will provide a Payment, Performance and Maintenance bond in the full amount of the contract price during project installation and for one year from the date of substantial completion.

#### **ARTICLE 12 – WARRANTY**

Water and Electric Meters and Equipment. The warranty provided by CONTRACTOR and the manufacturer on water and electric meters and equipment, and services shall be as set forth in Exhibit E – The City of Independence Warranty and Manufacturer Warranties. Water and electric meters and equipment included in Project Materials and Supplies that CITY purchases from CONTRACTOR are warranted by the manufacturer to be free from Manufacturers' Defects for the period specified in the manufacturer's warranty or one year after the date of substantial completion of installation of water and electric meters, whichever is later. A copy of the present warranty of each manufacturer that will supply water and electric meters and equipment as part of the Project Materials and Supplies is attached hereto in Exhibit E. Upon any breach of the manufacturer's warranty on a water or electric meter or equipment noticed to CONTRACTOR during the applicable Manufacturer's Warranty Period, CONTRACTOR's sole responsibility shall be to cooperate with CITY in arranging for the manufacturer to repair or replace any defective water or electric meter or equipment.

Installation. CONTRACTOR warrants that all installation Work and Services provided by CONTRACTOR shall be performed in a workmanlike manner and in compliance with any specifications set forth in this AGREEMENT, with such warranty to expire one year from the date when such installation Work was performed or such Services were provided.

Managed Services. Managed Services to be provided by CONTRACTOR are more particularly specified in Exhibit F attached hereto. CONTRACTOR warrants that the infrastructure erected by CONTRACTOR, including basestations and antennae, will perform in accordance with the manufacturer's warranties attached hereto, and in accordance with the performance specifications released by the manufacturer. Water and electric meters, endpoints, and installation of same are not included in Managed Services to be provided by CONTRACTOR.

EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, CONTRACTOR DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND.

## **ARTICLE 13 LIMITATION OF LIABILITY**

IN NO EVENT WILL ELSTER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, STATUTORY, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, LOSS OF REVENUES OR LOSS OF USE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM ELSTER'S PERFORMANCE OR FAILURE TO PERFORM UNDER ANY OF THE CONTRACT DOCUMENTS, OR THE FURNISHING, PERFORMANCE, OR USE OF ANY GOODS, SOFTWARE, OR SERVICES SOLD PURSUANT HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, THE NEGLIGENCE OF ELSTER), BY OPERATION OF LAW OR OTHERWISE. THE AGGREGATE LIABILITY OF ELSTER FOR ANY CLAIMS ARISING OUT OF OR RELATED TO ANY OF THE CONTRACT DOCUMENTS WILL IN NO CASE EXCEED THE AMOUNT OF THE PURCHASE PRICE PAID FOR THE SPECIFIC PRODUCT, SOFTWARE, OR SERVICE GIVING RISE TO THE CLAIM. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS IF LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE

## **ARTICLE 14 – SHIPPING, TITLE AND RISK OF LOSS**

All sales and deliveries are F.O.B. CITY. Title and risk of loss for materials and equipment will pass to the CITY upon installation.

## **ARTICLE 15 - INSTALLATION RESPONSIBILITIES OF CONTRACTOR**

Scope of Services. CONTRACTOR is responsible to provide materials and services outlined in the CITY's RFP in a manner consistent with CONTRACTOR's proposed Exhibits identified above the Scope of Services attached hereto as Exhibit A through its suppliers and subcontractors identified herein.

Project Installation. CONTRACTOR agrees to do the Work, provide the Services, and furnish the Project Materials and Supplies in accordance with CITY's specifications that are attached to this Installation Contract during the estimated construction period listed above. CONTRACTOR will be responsible for installing the Project according to manufacturer standards and applicable local standards.

CONTRACTOR will warrant the Project Materials and Supplies, the Work, and any other Services as provided in Exhibit E. CITY may elect to execute a Service Contract with CONTRACTOR for additional maintenance provisions.

Water Shutoffs. CONTRACTOR, its agents and subcontractors, will be responsible for shutting off the water to each meter serviced as well as notifying each customer of the water shutoff pursuant to the provisions of the Customer Engagement as specified in The City of Independence RFP. Some assistance may be required by CITY with the notification of its customers. In the case of large commercial customers such as: schools, hospitals, nursing homes or any other commercial customer, special efforts will be made to ensure minimum disruption to their water needs. In order to prevent any damage from running flush valves or any other plumbing fixtures that are sensitive to water shutoffs, CONTRACTOR will schedule replacements with these commercial customers and will notify the maintenance personnel when turning the water back on at these facilities. The CONTRACTOR shall take all reasonable precautions to avoid damaging fixtures inside buildings.

In the event that the service location lacks a curb stop, or it is defective, CONTRACTOR or its representative will contact the CITY. In this event the CITY will either A) authorize CONTRACTOR to repair the defect at a price to be agreed between the parties prior to CONTRACTOR beginning work or, B) the CITY will repair the defect itself and notify CONTRACTOR that the repair has been made or, C) exclude the meter change out from project, in which event CONTRACTOR will not bill the CITY for that installation work.



Meter Boxes, Vaults, and Roadways. CONTRACTOR is responsible for repairing any damages to meter boxes, vaults, service lines (within 6" of either side of the meter) and roadways that result from the installation of the Project; provided, however, that CONTRACTOR shall not be liable for pre-existing conditions or leaks. CONTRACTOR will install new meter boxes as authorized by the CITY's representative, with appropriate lid selection, mutually agreed upon. If a leak results within 6" of either side of the meter from the actions of the CONTRACTOR, the CONTRACTOR shall be responsible to make the appropriate repairs and restoration of the affected area.

Electric Meter Installations General. Installation contractor shall perform the meter change outs in a safe manner and inspect all installations prior to meter change out. CONTRACTOR will only replace installed meters with new meters of the equivalent form, class and voltage. Any exceptions must be in writing from the CITY to the CONTRACTOR project manager.

Electric Meter Installation Single Phase Residential. CONTRACTOR will attempt to notify each single-phase residential customer prior to meter change out. When contacted, the customer may request a delay in meter change out to allow the shutdown of computers or other equipment at the residence. If customer cannot be notified, i.e. not at home, the installation contractor will leave a door hanger notice at the residence notifying the customer of the meter change out. Installation contractor will then proceed to change out the meter.

For self-contained single-phase electric meter installations, service to the customer will be temporarily interrupted to allow for installation of the new meter. When disconnects are installed either on the line or load side of the electric meter panel, the installation contractor will use the disconnects to remove load at the meter prior to meter installation. When disconnects are not accessible, the installation contractor will evaluate the load on the meter and if safe, proceed to meter change out.

Electric Meter Installation Polyphase C&I Self Contained Installations. Installation contractor will coordinate with the customer with a service interruption date and time for every meter change out of self-contained meters. No meter change outs for polyphase self-contained meters will be performed under load.

Electric Meter Installation Polyphase C&I Transformer Rated Installations. Prior to any transformer rated meter exchange, the installation contractor will shunt the CTs if test switches are installed and accessible. If test switches are not installed, Independence will be notified to coordinate shunting of the CTs prior to meter exchange. Installation contractor will only shunt CTs if test switches are installed and accessible.

Electric Meter Installation K base (bolt in). Installation contractor will coordinate service interruptions for all K base meter exchanges including the adapter installation. This applies to both single phase and polyphase K base installations. The CITY will notify the CONTRACTOR Project Manager of the appropriate K base adapter and S base meter required for each single and polyphase K base meter installation. CTs ratios and CT rating factors will be determined by CITY prior to K base meter exchanges.

Electric Shutoffs. Where necessary, CONTRACTOR will be responsible for notifying each customer of the electrical shutoff during the Engagement and Installation phases as specified in the RFP. In the case of large commercial customers such as: schools, hospitals, nursing homes or any other commercial customer, special efforts will be made to ensure minimum disruption to their electrical needs. In order to prevent any damage from electrical surges to equipment that is sensitive in nature, CONTRACTOR will schedule replacements with these commercial customers and will notify the maintenance personnel when turning the electricity back on at these facilities. The CONTRACTOR is not responsible for the electric socket, the electric meter socket enclosure, or any damage resulting from the condition of the same. The CONTRACTOR shall take all reasonable precautions to avoid damaging fixtures inside or outside buildings.

In the event that the service location lacks an electrical disconnect, or it is defective, CONTRACTOR or its representative will contact the CITY. In this event the CITY will either A) authorize a licensed third party contractor to repair the defect at either the CITY's or the property owner's expense or, B) the CITY will repair the defect itself and notify CONTRACTOR that the repair has been made or, C) exclude the meter change out from the project, in which event CONTRACTOR will not bill the CITY for that installation work.

AMI Infrastructure Work. CONTRACTOR has developed a Scope of Services specific to the design, deployment, and execution of any AMI infrastructure work as per the project needs. This Scope of Services has been tailored to the project, as well as any site-specific conditions and is attached hereto as Exhibit A.

Disposal. The CONTRACTOR will be responsible for the disposal of all waste, debris and materials from the installation of the Project.

Liability.

Water Meter Change out. CONTRACTOR is responsible for any damages that occur within 6” on either side of the water meter resulting from the Project installation. Any damages incurred within this 6” area will be promptly repaired at the expense of CONTRACTOR. CONTRACTOR is not liable for damages outside the 6” zone, either on the water distribution side or on the customer side incurred from the Project installation including shutoff, temporary outage, and restart of water service. CONTRACTOR is not liable for any pre-existing conditions including but not limited to leaks, corrosion, aged or deteriorated service lines, or faulty workmanship and materials from previous projects. Should such conditions occur (i.e., leaks) CONTRACTOR may document them and at CITY’s written request repair them for a negotiated price. If a leak results within 6” of either side of the meter from the actions of the CONTRACTOR, the CONTRACTOR shall be responsible to make the appropriate repairs and restoration of the affected area.

Back-Flow Prevention Devices. Should the CITY elect to have CONTRACTOR install or repair any Back-Flow Prevention Devices, CONTRACTOR assumes no liability or responsibility for the proper functioning of these devices. CONTRACTOR recommends that the CITY notify each customer about the potential impact of thermal expansion, but leaves this decision to the discretion of the CITY.

Non-Covered Work. Contracted meter change outs contemplate a standard meter change out. In the event that locations exist where conditions require nonstandard work (i.e. move a service location etc., move fences or other customer structures & items for access, install systems in heavy traffic locations such as alleys, parking lots etc.), CONTRACTOR and the CITY will discuss pricing and work may proceed from this point or the CITY may elect to excuse this work from the project. In any event where safety concerns would cause undue risk to the work crews, this work shall be considered nonstandard and shall be excused from the project.

Electric Meter Change Out. CONTRACTOR is responsible for direct damages that occur due to negligence during the Project installation. CONTRACTOR is not liable for damages incurred from the Project installation including shutoff, temporary outage, and restart of electrical service. CONTRACTOR is not liable for any pre-existing conditions including but not limited to meters fused to the meter service, damaged or missing sockets, corrosion, or faulty workmanship and materials from previous projects. Should such conditions occur CONTRACTOR may document them and notify the CITY.

Utility Customer Contacts. CONTRACTOR or its installation subcontractor will make a total of three attempts to contact each utility customer for purposes of scheduling and installing water and electric meter change outs. In the event CONTRACTOR or its installation subcontractor is unsuccessful in contacting the utility customer CONTRACTOR will notify the CITY and request the CITY’s assistance in contacting the utility customer. If the CITY is unsuccessful in contacting the utility customer, or if the utility customer refuses access to the utility customer’s property, the utility customer’s water and/or electric accounts will be removed from the project requirements until such time as the CITY provides needed access.

## **ARTICLE 16 - RESPONSIBILITIES OF CITY DURING INSTALLATION**

Agreements. CITY will execute the Smart Grid Solutions Agreement (SGS) Agreement between The City of Independence and Elster. attached hereto as Exhibit G, Elster and the Statement of Work –.

Owner-Furnished Data. CITY shall provide CONTRACTOR all technical data in CITY’s possession, including previous reports, maps, surveys, and all other information in CITY’s possession that CONTRACTOR informs CITY’s representative is necessary as it relates to Project. CITY shall be responsible for identifying the

location of meters. Should CONTRACTOR require assistance in finding the meter location, CITY shall locate the meter within two (2) weeks of CONTRACTOR's request, or in sufficient time to allow CONTRACTOR to complete its work in a given meter route, per the project schedule.

Access to Facilities and Property. CITY shall make its system facilities and properties available and accessible for inspection by CONTRACTOR and affiliates. System facilities and properties will be limited to those CITY controlled sites which CONTRACTOR must access in order to complete its work for this Project as set forth herein.

CITY Cooperation. CITY support will be required during implementation of this Improvement Measure to obtain access to meter boxes/pits, infrastructure sites and to coordinate utility interruptions. CITY will provide notification in its billing to its customers that CONTRACTOR is performing the designated work and that possible service interruption may result.

CITY Electric Meter Socket Review. The CITY through its designated representatives shall review electric meter sockets identified by the install contractor and/or CONTRACTOR project manager as potentially unsafe due to overheating, socket condition or socket installation. The CITY will notify the installation contractor and/or CONTRACTOR project manager in writing of whether or not to proceed with meter exchange.

CITY Review of Equivalent Electric Meter Exchanges. The installation contractor will only replace installed meters with new meters of the equivalent form, class and voltage. Any exceptions must be in writing from the CITY to the installation contractor and/or CONTRACTOR project manager.

CITY Shunting CTs. If test switches are not installed for transformer rated meter installations, CITY will coordinate shunting of the CTs prior to meter exchange. Installation contractor will only shunt CTs if test switches are installed and accessible.

CITY Determination for K base Installations. CITY will notify the CONTRACTOR Project Manager of the appropriate K base adapter and S base meter required for each single and polyphase K base meter installation. CTs ratios and CT rating factors will be determined by the CITY prior to K base meter exchanges.

Timely Review. That CITY through its designated representatives shall examine all invoices, and, if deemed necessary by the CITY, inspect work completed by CONTRACTOR, within sufficient time to permit the CITY to make payment to CONTRACTOR per the terms of this AGREEMENT. In the event that a CITY delay results in the lack of a progress payment disbursement, CONTRACTOR reserves the right to delay further work without penalty until such time as payments are made.

The project will be installed pursuant to the provisions of The City of Independence RFP and in accordance with the SOW. Milestones and the criteria for achieving each milestone will be separately agreed by the parties. Acceptance of each milestone of the project by the CITY, and acceptance of the project upon final completion, will be contingent upon CONTRACTOR completing the installation specified in CONTRACTOR's proposal, the project meeting the milestone criteria agreed by the parties and the Success Criteria specified in the \ System Acceptance Test Plan Exhibits H \.

#### **ARTICLE 17 – DELAY IN PERFORMANCE**

Neither CITY nor CONTRACTOR shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this AGREEMENT, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restrains; embargos, fuel or energy shortage, delays in transportation, inability to obtain necessary labor, materials, or services from usual sources, or from defects or delays in performance of a party's suppliers or subcontractors due to such causes; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either CITY or CONTRACTOR under this AGREEMENT. Should such circumstances occur, the non-performing party shall, within a reasonable time of

being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT.

#### **ARTICLE 18 – TERMINATION**

CITY may terminate or suspend performance of this AGREEMENT for CITY's convenience upon written notice to CONTRACTOR. CONTRACTOR shall terminate or suspend performance of the Services on a schedule acceptable to CITY. If termination or suspension is for CITY's convenience, CITY shall pay CONTRACTOR for all the Services performed and materials ordered through the date of the termination by the CITY or suspension expenses. Upon restart, and equitable adjustment shall be made to CONTRACTOR'S compensation.

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this AGREEMENT. The nonperforming party shall have fifteen calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party. In the event that funding for the contract is discontinued, CITY shall have the right to terminate this contract immediately upon written notice to CONTRACTOR. If termination is due to discontinuation of funding, CITY shall pay CONTRACTOR for all the Services performed and materials ordered through the date of the termination by the CITY.

#### **ARTICLE 19 – WAIVER**

A waiver by either CITY or CONTRACTOR of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

#### **ARTICLE 20 – SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision which is of the essence of this AGREEMENT be determined void.

#### **ARTICLE 21 – SUCCESSORS AND ASSIGNS**

CITY and CONTRACTOR each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to the AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.

#### **ARTICLE 22 – ASSIGNMENT**

Neither CITY nor CONTRACTOR shall assign any rights or duties under this AGREEMENT without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this AGREEMENT.

#### **ARTICLE 23 – THIRD PARTY RIGHTS**

Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than CITY and CONTRACTOR.

#### **ARTICLE 24 – INDEPENDENT CONTRACTORS**

Each party shall perform its activities and duties hereunder only as an independent Contractor. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this AGREEMENT shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This AGREEMENT shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

## **ARTICLE 25 – AUDIT**

CONTRACTOR agrees that the CITY, or a duly authorized representative, shall, until the expiration of three (3) years after final payment under this AGREEMENT upon 7 days written notice, have access to and the right to examine any pertinent books, documents, papers and records of the CONTRACTOR involving transactions related to this AGREEMENT.

## **ARTICLE 26 – DISPUTE RESOLUTION**

(a) The Parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this AGREEMENT. Either Party may initiate negotiations by providing written notice to the other Party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond in writing within three business days from receipt with a statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by these negotiations within 15 business days following the date of the initial written notice, the matter will be submitted to mediation in accordance with Section 25(b) below.

(b) Except as provided herein, no civil action with respect to any dispute, claim, or controversy arising out of or relating to this Agreement may be commenced until the Parties have attempted in good faith to resolve the matter through a mediation proceeding, under the mediation procedure of the CPR Institute for Dispute Resolution (“CPR”), JAMS/Endispute, the American Arbitration Association (“AAA”), or as otherwise agreed upon by the Parties. Either Party may commence mediation by sending a written request for mediation to the other Party, within 45 business days following the expiration of the 15-business day period under subsection (a) above, setting forth the subject of the dispute and the relief requested. Unless the Parties agree otherwise in writing, a single mediator shall conduct the mediation, and the mediator shall be selected from an appropriate CPR, JAMS/Endispute, AAA or other panel as agreed upon by the Parties. The mediation shall be conducted in Jackson County, Missouri. Each Party may seek equitable relief prior to or during the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither Party may commence a civil action with respect to the matters submitted to mediation until after the completion of the internal mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the Parties so desire.

(c) In the event of a breach or threatened breach by either party of this AGREEMENT, the non-defaulting party may, in its sole discretion, in addition to other rights and remedies existing in its favor and without being required to post a bond or other security, apply to any court for specific performance and/or injunctive or other relief in order to enforce, or prevent the violation of, this Agreement. BOTH CITY AND CONTRACTOR HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF THE PARTIES IN THE NEGOTIATIONS, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.

## **ARTICLE 27 – EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this agreement/contract or purchase order, the CONTRACTOR agrees as follows: The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin or any other legally protected category. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, age, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, sex, or national origin.

The CONTRACTOR will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the CONTRACTOR'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his or her books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONTRACTOR'S noncompliance with the non-discrimination clauses of this agreement/contract or purchase order with any of the said rules, regulations, or orders, this agreement/contract or purchase order may be canceled, terminated, or suspended in whole or in part, and the organization may be declared ineligible for any further government agreement/contracts or purchase order or federally assisted agreements/contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-Contractor or vendor. The CONTRACTOR will take such action with respect to any sub-Contractor or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions of noncompliance; provided, however, that in the event an CONTRACTOR becomes involved in, or is threatened with litigation with a sub-Contractor or vendor as a result of such direction by the Department, the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.

#### **ARTICLE 28 – GOVERNING LAW**

This AGREEMENT shall be governed by the laws of the State of Missouri. The CITY and the CONTRACTOR agree that the performance of this AGREEMENT will be deemed to have occurred in the State of Missouri and that CONTRACTOR'S performance under this AGREEMENT will be deemed the transaction of business in Missouri. .

#### **ARTICLE 29 – COMMUNICATIONS**

Any communication required by this AGREEMENT shall be made in writing to the authorized representative at the address specified below:

CONTRACTOR: TBD

CITY: Procurement Manager, 111 E. Maple, Independence, MO 64050

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONTRACTOR and CITY.

#### **ARTICLE 30 – SEPARATE AGREEMENTS**

CITY and CONTRACTOR each reserve the right to, from time to time, enter into other agreements or contracts for specific projects. If such agreements or contracts are separately approved in writing by the parties, the terms and conditions of those agreements or contracts shall prevail for the specific projects set forth therein.

#### **ARTICLE 31 – ENTIRE AGREEMENT**

This AGREEMENT represents the entire agreement between the CITY and CONTRACTOR. All previous or contemporaneous agreements, representations, promises and conditions relating the CONTRACTOR'S services described herein are superseded.

**ARTICLE 32 – SURVIVAL OF TERMS**

The following provisions shall survive the expiration or termination of this AGREEMENT for any reason: if any payment obligations exist, Article 5 – Compensation; Article 6 – Permits and Licenses; Article 10 – Liability and Indemnification; Article 19 – Waiver; Article 20 – Severability; Article 22 – Assignment; Article 24 – Independent Contractors; Article 26 – Dispute Resolution; Article 27 – Governing Law; Article 31 – Entire Agreement; this Article 32 – Survival of Terms; and attachments and Exhibits to this AGREEMENT which by their nature should survive termination.

IN WITNESS WHEREOF, CITY and CONTRACTOR, by and through their authorized officers, have made and executed this AGREEMENT.

**CITY**

**CONTRACTOR**

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

EXHIBIT A  
SCOPE OF SERVICES

This document is designed to assist The City of Independence, MO with the planning and the installation of a AMI System. The following pages provide details pertaining to responsibilities of Elster and The City of Independence during the planning, installation and commissioning of the AMI System.

**Pilot Project:**

The Pilot Project consists of the following:

1. Installation of approximately 5% of the electric meters and 5% of the water meters
2. Installation and testing of the mesh network from the meters and endpoints to the AMI Head End
3. Installation and testing of the AMI Head End hardware and software functionality
4. Setting up and testing of the MDMS hardware and software
5. Installation and testing of the MDMS system integration to CIS Infinity
6. Setting up and testing the Customer ePortal

The Pilot Project will be installed pursuant to the provisions of The City of Independence RFP and in accordance the Elster's SOW. Acceptance of the Pilot Project by the CITY will be contingent upon CONTRACTOR completing the installation specified in the SOW, and the Pilot Project meeting the Success Criteria specified in the mutually agreed on System Acceptance Test Plan attached to the Advanced Metering Infrastructure (AMI) Agreement Exhibits G and H, respectively. Upon acceptance of the Pilot Project as aforesaid by the CITY, CONTRACTOR will be authorized by the CITY to proceed with full deployment.

**General Responsibilities:**

**Elster will:**

1. Provide an approved Project Schedule including the following:
  - a. Initial Design Review Date
  - b. Final Design Data
  - c. System manufacture and integration time frames
  - d. Pre-shipment stating and system integration
  - e. Factory/stating and acceptance test date
  - f. Shipping dates
  - g. Meter and equipment storage at TBD site warehouse location.
  - h. System integration and optimization dates
  - i. Field acceptance test date
  - j. Coverage test dates
  - k. Training
2. Provide a project manager to coordinate all t installation activities with the CITY and be the main contact point between the CITY and Elster during the infrastructure, Water Meter and Module deployment phase, and Electric Meter installation. The project manager will coordinate training activities and all installation activities with Contractor's field engineers and contract installation crews hired by CONTRACTOR.

Project Management will include, but is not limited to:



- a. Weekly written project status reports during the pilot phase; monthly written project status reports thereafter as required by the RFP specifications. Weekly written status reports are available as deemed necessary by the CITY.
  - b. System design and final design review
  - c. Management of all system integration activities
  - d. Installation and optimization
  - e. Acceptance Testing
  - f. Migration and cutover planning
  - g. Maintenance support
  - h. Management of subcontractors and subcontractor deliverables
3. Provide the Project Engineering to complete the installation including:
    - a. Final system design and review
    - b. Coverage prediction
    - c. Acceptance testing
    - d. System configuration
    - e. Implementation support
    - f. Final system documentation
    - g. Resolution of technical problems
  4. Commission the Gatekeeper hardware and software.
  5. Obtain final network acceptance and approval to install meters and endpoint devices.
  6. Schedule training familiarization / operators training for head end software to CITY identified personnel at the CITY's location.
  7. Provide a project manager to coordinate installation of water meters and modules and electric meters with Installation team TBD.
  8. Work with Installation team TBD to provide an Installation Plan acceptable to the CITY.
  9. Provide a sample Operational Performance Test Plan at least 90 days prior to the acceptance test start date.
  10. Provide the CITY with propagation study that determines the locations best suited for installation of the Gatekeepers and to ensure proper communications with end point transmitters.
  11. Work with the CITY during preconstruction meeting to create milestones for completion of Pilot Program detailed in Attachment 2 of the CITY's RFP along with detailed answers included in Attachment 7 as revised by CONTRACTOR on \_\_\_\_\_.

**City of Independence will:**

1. Provide a key point of contact and contact information, for project management activities to work with the CONTRACTOR's project manager to help facilitate a timely installation of the AMI system.
2. The CITY shall provide CONTRACTOR all technical data in CITY's possession, including previous reports, maps, surveys, and all other information in CITY's possession that CONTRACTOR informs CITY's representative is necessary as it relates to Project.
3. The CITY's support will be required during implementation of this Improvement Measure to obtain access to meter boxes/pits, infrastructure sites and to coordinate utility interruptions. During the engagement stage, the CITY will work with installation team to provide notification in its billing to its

customers that CONTRACTOR is performing the designated work and that possible service interruption may result.

### **Infrastructure Site Responsibilities**

#### **Network Equipment:**

#### **Elsterwill:**

1. Instruct the CITY concerning infrastructure site preparation work, and verify work is done correctly.
2. Coordinate the installation and commissioning of Gatekeeper Infrastructure for proper operation.
3. Hire a competent contractor to install the antenna and Gatekeeper and related components.
4. Provide the necessary antennas, mounts, cable and other antenna components for the Gatekeeper. Ancillary installation materials are required to be provided by Independence using it's standards for arial device installation on utility poles.

#### **City of Independence will:**

1. Purchase the required number of Gatekeepers.
2. Be responsible to provide an area at the Gatekeeper site for installation of the Gatekeeper at a CITY provided site.
3. Be responsible to provide a 120 VAC power source to the Gatekeeper. Power supply circuit must be under a 15 amp breaker for the M400B base station. All necessary electric requirements which will include 120 VAC Non GFI receptacles to be at the final location of the Gatekeeper installation. If trenching of the power line is needed, the CITY will be responsible to provide the necessary trenching, conduit, and cabling needed to supply power from the power source outlet to the base station cabinet. All electrical equipment will be installed in accordance with local codes.
4. Be responsible to provide network access at the site where the Gatekeeper is located. The CITY should consult with CONTRACTOR about the available options for network connections for the Gatekeeper
5. Be responsible to provide any conduit and/or trenching required to provide cabling requirements from the tower site to the Gatekeeper installation.
6. Be responsible to provide any conduit or trenching needed to run the data cable to the Gatekeeper. CITY is responsible to assure that data cable is located to final location of the Gatekeeper.
7. Be responsible to provide security at Gatekeeper location.
8. Be responsible to provide a location to mount the Gatekeeper enclosure. The Gatekeeper enclosure has been designed to mount on a pole, post or a panel. Though other configurations are possible, the supporting structure must be designed to support a fully configured enclosure. In addition, the mounting site must be designed and installed in accordance with local building practices and codes.
9. Be responsible for installing grounding material at the location of the Gatekeeper installation. At a minimum, attach a #6 minimum (#2 preferred) stranded or equivalent braided ground conductor using a 3/8" diameter double-hole lug on a 1" inch center with hex bolts which will connect to the Gatekeeper.
10. Be responsible for proper ground field at the Gatekeeper site.
11. Be responsible for getting access/permission to any structure that is not owned by the CITY.
12. Prepare the site for the Gatekeeper by completing the below tasks:

- a. Provide suitable mounting structure such as a tower, monopole, or building that is capable of supporting the weight of the device, cable, mounting hardware and wind loading.
- b. Outdoor site installation single phase 120 VAC 15 amp circuit from transformer to termination point on Gatekeeper. Circuit to include hot leg, neutral and ground conductors.
- c. Indoor site should have adequate environmental control/ventilation.
- d. Site must have all RF, and power connections properly surge arrested to prevent damage in the event of a major lightning strike. A Halo type building ground installation with a tie available to connect to the rack ground bar is recommended

## **Water Meter and Module Installation and Electric Meter Installation Responsibilities**

### **Elster will:**

1. Hire a qualified installation contractor to install all Meters and Endpoints to be used in the AMI System.
2. Be responsible for quality assurance for their personnel and/or an installation contractor as it relates to proper installation of Water Meters and Endpoints and Electric Meters.
3. Visit and troubleshoot Meters and Endpoints that are not reporting into the system. Investigate any non-reporting Meters and Endpoints to ensure that there are no cut wires, improper installations, improper programming and resolve all data entry errors in the system.
4. Assign an internal and/or installation contractor auditor to ensure installation work is correct. CONTRACTOR will engage Elster to train this individual to properly identify and correct any known problems in the field. This individual will be the primary contact to troubleshoot, identify and correct non-reporting Meters and Endpoints and installation errors.
5. Once the installer has completed troubleshooting of installation issues, CONTRACTOR will engage Elster to investigate the remaining Endpoints to identify and fix any coverage issues.
6. Coordinate with Elster to establish the Endpoints installation schedule, shipment quantities, and overall project timeline.

### **City of Independence will:**

1. Purchase Endpoints. "Endpoint", in this Exhibit only, means an Elster meter or a Elster Module installed on a third party meter.

## **Miscellaneous Responsibilities**

### **Elsterwill:**

1. At Minimum, provide the following equipment specific electronic and/or paper manuals:
  - a. System Manuals – Two copies, plus one per site
  - b. Operator Manuals – Two copies, plus one set per site
  - c. Maintenance Manuals – Two copies, plus one per site
2. Shall provide five sets of complete electronic and/or paper system manuals comprised but not limited to:
  - a. System Operation overview
  - b. System interconnection and block diagrams
  - c. Troubleshooting procedures for the system
  - d. As built drawings

### **City of Independence will:**

1. Be responsible for the payment of any taxes, renewal, regulatory or license fees associated with the network hardware and software.

EXHIBIT B  
PRICING SUMMARY

EXHIBIT C  
MEMORANDUM OF INSURANCE

EXHIBIT D  
PAYMENT, PERFORMANCE AND MAINTENANCE BOND

EXHIBIT E  
CITY OF INDEPENDENCE WARRANTY AND MANUFACTURER WARRANTIES



EXHIBIT F  
MANAGED SERVICES  
(Sample; to be finalized after preconstruction meeting)

EXHIBIT G  
Smart Grid Solutions Agreement between  
The City of Independence and Elster Solutions, LLC.

EXHIBIT

EXHIBIT H  
Elster Solutions, LLC AMI SYSTEM ACCEPTANCE TEST – ELECTRIC  
(Sample; to be finalized after preconstruction meeting)

EXHIBIT J  
SOFTWARE AS A SERVICE AGREEMENT TO BE EXECUTED BETWEEN THE CITY OF INDEPENDENCE  
AND Elster Solutions, LLC

EXHIBIT K  
SMARTWORKS STATEMENT OF WORK – METERSENSE METER DATA MANAGEMENT, SMARTWORKS  
COMPAS UTILITY DECISION MANAGEMENT TO BE EXECUTED BETWEEN THE CITY OF  
INDEPENDENCE AND N. HARRIS COMPUTER CORPORATION

EXHIBIT L  
LIST OF ABBREVIATIONS AND ACRONYMS

EXHIBIT M  
ACCEPTANCE CERTIFICATE