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TO: HONORABLE CITY COUNCIL

FROM: JAMES KEENE, CITY MANAGER

DATE: DECEMBER 10, 2018

SUBJECT: AGENDA ITEM 4 - Authorize the City Manager to Enter Into the Following Agreements for the City's Fair Value Commuting Project (Partially Funded Through a Federal Transit Administration Grant): 1) an Agreement With RideAmigos in an Amount Not-to-Exceed \$150,620 for a Term of 15 Months, and 2) an Agreement With the San Francisco Bay Area Planning and Urban Research Association (SPUR) in an Amount Not-to-Exceed \$100,000 for a Term of 15 Months

The contract with Right Click Solutions (also known as RideAmigos) has been updated to include two additional exhibits: (1) the City's Information Privacy Policy and (2) the City's Software as a Service Security and Privacy Terms and Conditions. The inclusion of these terms as signed exhibits in contracts is a standard procedure for the City of Palo Alto. These policies help to ensure the security of personal information and city information, as well as ensure the overall security of the City's networks.

Except for the addition stated above, the contract contains no other changes. Neither the scope of work nor the contract dollar amount have changed.

The updated contract is attached.

The contract with SPUR has not changed.


Michelle Poché Flaherty
Deputy City Manager


James Keene
City Manager

**CITY OF PALO ALTO CONTRACT NO. C19173099
GENERAL SERVICES AGREEMENT
BETWEEN THE CITY OF PALO ALTO AND RIGHT CLICK SOLUTIONS, INC.**

THIS AGREEMENT made and entered into on the 26th day of November, 2018, by and between the **CITY OF PALO ALTO**, a California chartered municipal corporation ("**CITY**"), and **RIGHT CLICK SOLUTIONS, INC**, a CALIFORNIA CORPORATION located at 230 PACIFIC STREET, SUITE 202, SANTA MONICA, CA 90405, Telephone Number: 516-864-3189 ("**CONTRACTOR**"). In consideration of their mutual covenants, the parties hereto agree as follows:

1. SERVICES. CONTRACTOR shall provide or furnish the services (the "Services") described in the Scope of Services, attached at Exhibit A.

Optional On-Call Provision (This provision only applies if checked and only applies to on-call agreements.)

Services will be authorized by CITY, as needed, with a Task Order assigned and approved by CITY's Project Manager. Each Task Order shall be in substantially the same form as Exhibit A-1. Each Task Order shall designate a CITY Project Manager and shall contain a specific scope of work, a specific schedule of performance and a specific compensation amount. The total price of all Task Orders issued under this Agreement shall not exceed the amount of Compensation set forth in Section 5 of this Agreement. CONTRACTOR shall only be compensated for work performed under an authorized Task Order and CITY may elect, but is not required, to authorize work up to the maximum compensation amount set forth in Section 5.

2. EXHIBITS. The following exhibits are attached to and made a part of this Agreement:

- "A" - Scope of Services
- "B" - Schedule of Performance
- "C" - Schedule of Fees
- "D" - Insurance Requirements
- "E" - "Amended and Restated Agreement for Services of Independent Contractor" agreement between the Peninsula Traffic Congestion Relief Alliance and Contractor, executed August 15, 2016.
- "F" - FTA REQUIREMENTS
- "G" - SaaS Security and Privacy Terms & Conditions
- "H" - Information Privacy Policy

3. TERM.

The term of this Agreement is from November 1, 2018 to December 31, 2019 inclusive, subject to the provisions of Sections R and W of the General Terms and Conditions.

4. SCHEDULE OF PERFORMANCE. CONTRACTOR shall complete the Services within the term of this Agreement in a reasonably prompt and timely manner based upon the circumstances and direction communicated to CONTRACTOR, and if applicable, in accordance with the schedule set forth in the Schedule of Performance, attached at Exhibit B. Time is of the essence in this Agreement.

5. COMPENSATION FOR ORIGINAL TERM. CITY shall pay and CONTRACTOR agrees to accept as not-to-exceed compensation for the full performance of the Services and reimbursable expenses, if any:

The total maximum lump sum compensation of _____ dollars (\$ _____);
OR

The sum of _____ dollars (\$ _____) per hour, not to exceed a total maximum compensation amount of _____ dollars (\$ _____); **OR**

A sum calculated in accordance with the fee schedule set forth at Exhibit C, not to exceed a total maximum compensation amount of one hundred and four thousand dollars (\$104,000).

CONTRACTOR agrees that it can perform the Services for an amount not to exceed the total maximum compensation set forth above. Any hours worked or services performed by CONTRACTOR for which payment would result in a total exceeding the maximum amount of compensation set forth above for performance of the Services shall be at no cost to CITY.

CITY has set aside the sum of forty-six thousand three hundred fifty dollars (\$46,350) for Additional Services. CONTRACTOR shall provide Additional Services only by advanced, written authorization from the City Manager or designee. CONTRACTOR, at the CITY's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONTRACTOR's proposed maximum compensation, including reimbursable expense, for such services. Compensation shall be based on the hourly rates set forth above or in Exhibit C (whichever is applicable), or if such rates are not applicable, a negotiated lump sum. CITY shall not authorize and CONTRACTOR shall not perform any Additional Services for which payment would exceed the amount set forth above for Additional Services. Payment for Additional

Services is subject to all requirements and restrictions in this Agreement.

6. COMPENSATION DURING ADDITIONAL TERMS.

CONTRACTOR'S compensation rates for each additional term shall be the same as the original term; **OR**

CONTRACTOR's compensation rates shall be adjusted effective on the commencement of each Additional Term. The lump sum compensation amount, hourly rates, or fees, whichever is applicable as set forth in section 5 above, shall be adjusted by a percentage equal to the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland- San Jose area, published by the United States Department of Labor Statistics (CPI) which is published most immediately preceding the commencement of the applicable Additional Term, which shall be compared with the CPI published most immediately preceding the commencement date of the then expiring term. Notwithstanding the foregoing, in no event shall CONTRACTOR's compensation rates be increased by an amount exceeding five percent of the rates effective during the immediately preceding term. Any adjustment to CONTRACTOR's compensation rates shall be reflected in a written amendment to this Agreement.

7. CLAIMS PROCEDURE FOR "9204 PUBLIC WORKS PROJECTS". For purposes of this Section 7, a "9204 Public Works Project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. Public Contract Code Section 9204 mandates certain claims procedures for Public Works Projects, which are set forth in "Appendix __ Claims for Public Contract Code Section 9204 Public Works Projects".

This project is a 9204 Public Works Project and is required to comply with the claims procedures set forth in Appendix __, attached hereto and incorporated herein.

OR

This project is not a 9204 Public Works Project.

8. INVOICING. Send all invoices to CITY, Attention: Project Manager. The Project Manager is: Hillary Rupert, Dept.: CMO, Telephone: 650-776-9208. Invoices shall be submitted in arrears for Services performed. Invoices shall not be submitted more frequently than monthly. Invoices shall provide a detailed statement of

Services performed during the invoice period and are subject to verification by CITY. The CONTRACTOR also agrees to include its in-kind services as part of the regular monthly invoices. CITY shall pay the undisputed amount of invoices within 30 days of receipt.

GENERAL TERMS AND CONDITIONS

- A. ACCEPTANCE.** CONTRACTOR accepts and agrees to all terms and conditions of this Agreement. This Agreement includes and is limited to the terms and conditions set forth in sections 1 through 8 above, these general terms and conditions and the attached exhibits.
- B. QUALIFICATIONS.** CONTRACTOR represents and warrants that it has the expertise and qualifications to complete the services described in Section 1 of this Agreement, entitled "SERVICES," and that every individual charged with the performance of the services under this Agreement has sufficient skill and experience and is duly licensed or certified, to the extent such licensing or certification is required by law, to perform the Services. CITY expressly relies on CONTRACTOR's representations regarding its skills, knowledge, and certifications. CONTRACTOR shall perform all work in accordance with generally accepted business practices and performance standards of the industry, including all federal, state, and local operation and safety regulations.
- C. INDEPENDENT CONTRACTOR.** It is understood and agreed that in the performance of this Agreement, CONTRACTOR and any person employed by CONTRACTOR shall at all times be considered an independent CONTRACTOR and not an agent or employee of CITY. CONTRACTOR shall be responsible for employing or engaging all persons necessary to complete the work required under this Agreement.
- D. SUBCONTRACTORS.** CONTRACTOR may not use subcontractors to perform any Services under this Agreement unless CONTRACTOR obtains prior written consent of CITY. CONTRACTOR shall be solely responsible for directing the work of approved subcontractors and for any compensation due to subcontractors.
- E. TAXES AND CHARGES.** CONTRACTOR shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of CONTRACTOR's business.
- F. COMPLIANCE WITH LAWS.** CONTRACTOR shall in the performance of the Services comply with all applicable federal, state and local laws, ordinances, regulations, and orders.

G. PALO ALTO MINIMUM WAGE ORDINANCE. CONTRACTOR shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as it may be amended from time to time. In particular, for any employee otherwise entitled to the State minimum wage, who performs at least two (2) hours of work in a calendar week within the geographic boundaries of the City, CONTRACTOR shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONTRACTOR shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code section 4.62.060.

J. MONITORING OF SERVICES. CITY may monitor the Services performed under this Agreement to determine whether CONTRACTOR's work is completed in a satisfactory manner and complies with the provisions of this Agreement.

L. AUDITS. CONTRACTOR agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for three (3) years from the date of final payment, CONTRACTOR's records pertaining to matters covered by this Agreement. CONTRACTOR agrees to maintain accurate books and records in accordance with generally accepted accounting principles for at least three (3) following the terms of this Agreement.

M. NO IMPLIED WAIVER. No payment, partial payment, acceptance, or partial acceptance by CITY shall operate as a waiver on the part of CITY of any of its rights under this Agreement.

N. INSURANCE. CONTRACTOR, at its sole cost, shall purchase and maintain in full force during the term of this Agreement, the insurance coverage described at Exhibit D. Insurance must be provided by companies with a Best's Key Rating of A:VII or higher and which are otherwise acceptable to CITY's Risk Manager. The Risk Manager must approve deductibles and self-insured retentions. In addition, all policies, endorsements, certificates and/or binders are subject to approval by the Risk Manager as to form and content. CONTRACTOR shall obtain a policy endorsement naming the City of Palo Alto as an additional insured under any general liability or automobile policy. CONTRACTOR shall obtain an endorsement stating that the insurance is primary coverage and will not be canceled or materially reduced in coverage or limits until after providing 30 days prior written notice of the cancellation or modification to the Risk Manager. CONTRACTOR shall provide certificates of such policies or other evidence of coverage satisfactory to the Risk Manager, together with the required endorsements and evidence of payment of premiums, to CITY concurrently with the execution of this Agreement and shall throughout the term of this Agreement provide current certificates evidencing the required insurance coverages and endorsements to the Risk Manager. CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain and provide to CITY

separate certificates and endorsements for each subcontractor that meet all the requirements of this section. The procuring of such required policies of insurance shall not operate to limit CONTRACTOR's liability or obligation to indemnify CITY under this Agreement.

- O. HOLD HARMLESS.** Each Party shall indemnify and hold harmless to the fullest extent permitted by law the other Party and each of their respective affiliates, owners, lenders, directors, officers, investors, members, managers, employees, attorneys, agents, contractors, sublicensees, affiliates, subsidiaries, successors, and assigns from and against any and all damages, liabilities, costs, expenses, claims, and/or judgments, including, without limitation, reasonable attorney's fees and disbursements that any of them may suffer from or incur and that may directly or indirectly arise and/or result from either Party's gross negligence or willful misconduct. Notwithstanding the foregoing or anything to the contrary contained herein or in any other writing, CONTRACTOR's aggregate indemnification obligations shall be capped at the Aggregate Liability Amount (defined below.)
- P. NON-DISCRIMINATION.** As set forth in Palo Alto Municipal Code section 2.30.510, CONTRACTOR certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONTRACTOR acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.
- Q. WORKERS' COMPENSATION.** CONTRACTOR, by executing this Agreement, certifies that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and certifies that it will comply with such provisions, as applicable, before commencing and during the performance of the Services.
- R. TERMINATION.** The City Manager may terminate this Agreement without cause by giving sixty (60) days' prior written notice thereof to CONTRACTOR. If CONTRACTOR fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the City Manager may terminate this Agreement immediately upon written notice of termination. Upon receipt of such notice of termination, CONTRACTOR shall immediately discontinue performance. CITY shall pay CONTRACTOR for services satisfactorily performed up to the effective date of termination. If the termination is for

cause, CITY may deduct from such payment the amount of actual damage, if any, sustained by CITY due to CONTRACTOR's failure to perform its material obligations under this Agreement. Upon termination, CONTRACTOR shall immediately deliver to the City Manager any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by CONTRACTOR or given to CONTRACTOR, in connection with this Agreement. Such materials shall become the property of CITY.

S. ASSIGNMENTS/CHANGES. This Agreement binds the parties and their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written consent of CITY. No amendments, changes or variations of any kind are authorized without the written consent of CITY.

T. CONFLICT OF INTEREST. In accepting this Agreement, CONTRACTOR covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. CONTRACTOR further covenants that, in the performance of this Agreement, it will not employ any person having such an interest. CONTRACTOR certifies that no CITY officer, employee, or authorized representative has any financial interest in the business of CONTRACTOR and that no person associated with CONTRACTOR has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. CONTRACTOR agrees to advise CITY if any conflict arises.

U. GOVERNING LAW. This Agreement shall be governed and interpreted by the laws of the State of California.

V. ENTIRE AGREEMENT. This Agreement, including all exhibits, represents the entire agreement between the parties with respect to the services that may be the subject of this Agreement. Any variance in the exhibits does not affect the validity of the Agreement and the Agreement itself controls over any conflicting provisions in the exhibits. This Agreement supersedes all prior agreements, representations, statements, negotiations and undertakings whether oral or written.

W. NON-APPROPRIATION. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This Section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

X. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS.

Y. AUTHORITY. The individual(s) executing this Agreement on behalf of the parties represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Z. PREVAILING WAGES

This Project is not subject to prevailing wages. CONTRACTOR is not required to pay prevailing wages in the performance and implementation of the Project in accordance with SB 7, if the Agreement is not a public works contract, if Agreement does not include a public works construction project of more than \$25,000, or the Agreement does not include a public works alteration, demolition, repair, or maintenance (collectively, 'improvement') project of more than \$15,000.

OR

Contractor is required to pay general prevailing wages as defined in Subchapter 3, Title 8 of the California Code of Regulations and Section 16000 et seq. and Section 1773.1 of the California Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute the Agreement for this Project from the Director of the Department of Industrial Relations ("DIR"). Copies of these rates may be obtained at the Purchasing Division's office of the City of Palo Alto. Contractor shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of all sections, including, but not limited to, Sections 1775, 1776, 1777.5, 1782, 1810, and 1813, of the Labor Code pertaining to prevailing wages.

AA.DIR REGISTRATION. In regard to any public work construction, alteration, demolition, repair or maintenance work, CITY will not accept a bid proposal from or enter into this Agreement with CONTRACTOR without proof that CONTRACTOR and its listed subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work, subject to limited exceptions. City requires CONTRACTOR and its listed subcontractors to comply with the requirements of SB 854.

CITY provides notice to CONTRACTOR of the requirements of California Labor Code section 1771.1(a), which reads:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the Agreement is awarded.”

CITY gives notice to CONTRACTOR and its listed subcontractors that CONTRACTOR is required to post all job site notices prescribed by law or regulation and CONTRACTOR is subject to SB 854-compliance monitoring and enforcement by DIR.

CITY requires CONTRACTOR and its listed subcontractors to comply with the requirements of Labor Code section 1776, including:

Keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by, respectively, CONTRACTOR and its listed subcontractors, in connection with the Project.

The payroll records shall be verified as true and correct and shall be certified and made available for inspection at all reasonable hours at the principal office of CONTRACTOR and its listed subcontractors, respectively.

At the request of CITY, acting by its project manager, CONTRACTOR and its listed subcontractors shall make the certified payroll records available for inspection or furnished upon request to the project manager within ten (10) days of receipt of CITY's request.

[For state- and federally-funded projects] CITY requests CONTRACTOR and its listed subcontractors to submit the certified payroll records to the project manager at the end of each week during the Project.

If the certified payroll records are not produced to the project manager within the 10-day period, then CONTRACTOR and its listed subcontractors shall be subject to a penalty of one hundred dollars (\$100.00) per calendar day, or

portion thereof, for each worker, and CITY shall withhold the sum total of penalties from the progress payment(s) then due and payable to CONTRACTOR.

Inform the project manager of the location of CONTRACTOR's and its listed subcontractors' payroll records (street address, city and county) at the commencement of the Project, and also provide notice to the project manager within five (5) business days of any change of location of those payroll records.

BB. CONTRACT TERMS. All unchecked boxes do not apply to this Agreement. In the case of any conflict between the terms of this Agreement and the exhibits hereto or CONTRACTOR's proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONTRACTOR's proposal, the exhibits shall control.

9. INTELLECTUAL PROPERTY. The CONTRACTOR represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party. All developments, inventions, creations, contributions, plans, designs, deliverables (including the Deliverables) and any and all other work product (whether in tangible media, electronic media or otherwise) that CONTRACTOR directly or indirectly develops (whether by itself or with others) in the course of this Agreement, or using Confidential Information (or any portion thereof) in the scope of Services belonging to or directly or indirectly provided by the CITY, or using facilities or other resources of the CITY if related to the CITY's current or future business interests (all of the foregoing work product items collectively are the "work product"), shall be owned exclusively by the CONTRACTOR and shall include all rights, title and interest in and/or to any Deliverables (collectively, the "Deliverables") whether or not created as part of the Services rendered by CONTRACTOR pursuant to this Agreement, and all patent, trademark, copyright and other intellectual property rights thereto. All such work product shall be deemed a "work made for hire" for the CONTRACTOR as author and owner to the fullest extent permitted by applicable law. To the extent that any portions of the work product are not eligible as a work made for hire, CITY hereby assigns and transfers entirely and irrevocably to the CONTRACTOR all rights, title and interest in and to the work product (including without limitation any and all intellectual property rights thereto and all goodwill associated therewith and symbolized thereby), in any and all media now or hereafter known, throughout the world and in perpetuity. CITY shall, in accordance with the terms herein at no out of pocket cost to City, reasonably assist CONTRACTOR with execution of documents and other efforts necessary or helpful for the CONTRACTOR's registration, confirmation, enforcement, defense or maintenance of the CONTRACTOR's intellectual

property rights in and to the work product as contemplated herein. CITY hereby irrevocably waives any and all "moral rights" and similar rights now or hereafter existing in and to all work product developed under this Agreement. In addition, CITY recognizes CONTRACTOR's exclusive right, title, and interest in and to all service marks, trademarks, and trade names and other intellectual property directly or indirectly used by CONTRACTOR and CITY agrees not to directly or indirectly engage in any activities or commit any acts, directly or indirectly, that may contest, dispute, or otherwise impair CONTRACTOR's exclusive right, title, and interest therein, nor shall CITY directly or indirectly cause diminishment of value of said trademarks or trade names or intellectual property through any act or representation. The CITY shall not apply for, use, acquire, or claim any right, title, or interest in or to any CONTRACTOR service marks, trademarks, or trade names, or other intellectual property that may be confusingly similar to any of them, through advertising or otherwise. Notwithstanding the other terms of this Section 9, CONTRACTOR is subject to the intellectual property rights of the United States Federal Transit Administration ("FTA") as promulgated in the FTA's Master Agreement, as amended by the FTA. Should the FTA assert its rights pursuant to the Master Agreement to CONTRACTOR's intellectual property developed under this Agreement, CONTRACTOR shall transfer and/or license intellectual property to the FTA or otherwise comply with the FTA's requirements as detailed in the Master Agreement; provided that the Contractor's platform shall at all times remain the exclusive property of Contractor.

10. **CONFIDENTIAL INFORMATION; NO RESTRICTIONS.** Except as permitted herein and subject to applicable laws, including any disclosure requirements impacting the City, each party agrees to preserve as confidential and hold in trust for the benefit of the other Party all Confidential Information (defined below) learned in connection with or related to this Agreement and/or CONTRACTOR's engagement. Each Party will not directly or indirectly use or disclose Confidential Information outside the scope of Services or the delivery of the Deliverables of the other Party, regardless of why this Agreement ended. "Confidential Information" includes source code, library code, object code, know-how, deliverables, trade secrets, tech pack data and instructions, technical data, processes, designs, collection plans, graphic designs, sourcing, inventions, discoveries, applications, business plans, computer software designs and systems, routines and sub-routines, market studies, processing techniques, personally identifiable information, all intellectual property rights. If either Party requests, the non-requesting Party shall promptly return to the requesting Party or permanently destroy, or irretrievably delete and verify same in writing, as specified by the requesting Party, all of the requesting Party's Confidential Information, together with all copies, extracts, notes or summaries thereof.

11. **MARKETING.** CONTRACTOR may use CITY'S name in CONTRACTOR's marketing materials. CONTRACTOR may also use CITY'S logo (the "Marks") in marketing materials, provided that CONTRACTOR has obtained CITY'S consent in connection with any such marketing materials use. Upon receipt of CITY'S consent in connection with any such marketing materials use, CONTRACTOR may use the Marks only in compliance with this Agreement and only in compliance with CITY's intellectual property policy, provided that a copy of same is timely delivered to CONTRACTOR.

12. **LIMITATION OF LIABILITY.**

- a. **LIMITATION OF LIABILITY OF CITY.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 ("COMPENSATION FOR ORIGINAL TERM") OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.
- b. **LIMITATION OF LIABILITY OF CONTRACTOR.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR ELSEWHERE, IN NO EVENT SHALL CONTRACTOR BE LIABLE TO CITY FOR SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES OR FOR ANY LOSS OF PROFIT OR LOSS OF BUSINESS BY CITY, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH POTENTIAL CLAIM, LOSS OR DAMAGE. EXCEPT AS PROVIDED IN THE IMMEDIATELY FOLLOWING SENTENCE, IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT OF CONTRACTOR TO CITY EXCEED TWO TIMES THE DOLLAR AMOUNT RECEIVED BY CONTRACTOR HEREUNDER FROM THE CITY. CONTRACTOR'S LIABILITY LIMIT SET FORTH HEREIN SHALL NOT APPLY TO (1) DAMAGES CAUSED BY CONTRACTOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (2) CONTRACTOR'S OBLIGATIONS TO INDEMNIFY AND DEFEND CITY PURSUANT TO SECTION O ("HOLD HARMLESS") OF THIS AGREEMENT, (3) LIMIT CLAIMS OR GENERAL DAMAGES THAT FALL WITHIN THE INSURANCE COVERAGE OF THIS AGREEMENT, (4) STATUTORY DAMAGES SPECIFIED IN THIS AGREEMENT, AND (5) WRONGFUL DEATH CAUSED BY CONTRACTOR.

13. **DISCLAIMER.** SUBJECT TO THE WARRANTY PERIOD (DEFINED BELOW), THE SERVICES AND DELIVERABLES ARE DELIVERED "AS IS", WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, INCLUDING

EXPRESSED OR IMPLIED AND/OR ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE.

14. **WARRANTY.** Subject to the terms herein, Contractor warrants that the services contemplated hereunder shall materially perform and shall be free from reasonable defects 30 days from delivery to CITY (the "Warranty Period"). Notwithstanding the foregoing or anything to the contrary contained herein, no warranty or any repair or replacement requirement shall apply or otherwise be available under the Agreement by Contractor and Contractor shall not be obligated to correct or address same if same results or arises from any modification, change and/or revision to the services or any part thereof unless such modifications, changes and/or revisions is made by Contractor or someone authorized by Contractor to perform them.

15. **DATA SECURITY.** Contractor shall follow all data security requirements imposed by the "Amended and Restated Agreement for Services of Independent Contractor" agreement between the Peninsula Traffic Congestion Relief Alliance and Contractor as executed August 15, 2016 (attached as Exhibit E to this Agreement) and as amended. Such requirements include but are not limited to: Section 38 ("Handling of Confidential Information"), Section 43 ("Data Security"), and Section 44 ("Notice of Security Breach").

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

RIGHT CLICK SOLUTIONS, INC.

DocuSigned by:
Soren Eilertsen
4C051CE79F76425
Soren Eilertsen
CEO

Approved as to form:

DocuSigned by:
Jeffery Chernick
4F4D378408E0465
Jeffery Chernick
Co-Founder

EXHIBIT A SCOPE OF SERVICES

A. Enterprise Commute Trip Reduction Core Platform

This Scope of Services reflects the deliverables RideAmigos will provide under the Fair Value Commuting (FVC) grant for the enhanced development of its Enterprise Commute Trip Reduction (ECTR) core platform, RideAmigos Unity. The core platform includes:

- Localized trip planners with complete access to multimodal transportation options, including public transit, ridesharing, vanpooling, walking, cycling and more
- Interactive commuter dashboards that help users track vital information in a single, easily accessible place
- Innovative trip tracking options
- Mobility App data integrations
- Gamification and incentivization campaigns
- Complete survey management, distribution and analytics tools for administrators
- Ridesharing options
- GIS reporting tools

B. Fair Value Commuting Custom Development

Under the FVC grant, the City of Palo Alto has a total development budget of \$104,000 for feature development of the RideAmigos Unity platform, suited to the pilot project goals. Additionally, RideAmigos will be providing an additional 20% engineering & development hours in-kind to the FVC pilot. This contract is a software development agreement for that scope of work. The FVC custom feature development will include:

- Payroll integration: Payroll export focused on meeting the needs of Bay Area pilots
- Parking Cashout/Feebate*: creation of the software feature to support the administration of the incentive program
- Commuter Wallet integration: a documented bi-directional data exchange mechanism (e.g., API) for interacting with the separate Commuter Wallet application, that is focused on exchanging trip tracking and fees/incentives data.
- Customized reporting to support the evaluation of the pilot program

*The feebate pilot program aims to gain insights about the concept efficacy in a variety of organizations. Feebate allows for employers to operate a revenue-neutral incentive program to discourage the use of parking facilities and encourage the use of "alternative" modes of transportation with many potential benefits. The core ECTR RideAmigos platform paired with the FVC custom development will enable the ability to

facilitate the feebate pilots with the pilot participants.

For individual participants, the program will minimally:

- Track the daily use of the parking facilities
- Maintain a ledger with:
 - a. A fee for each day parked
 - b. A credit for each day not parked
- Provide the accounting details for payroll processing

Beyond the minimum requirements, the program should:

- Minimize participation effort/requirements
- Provide regular clear communications
- Measure the impact of behavior change

Implementation

RideAmigos will provide the interface and other supporting technologies to enable program participation, management, and reporting for each of the Pilot employers/worksites.

The feature set rollouts and deliverable dates, as outlined in Exhibit B – Schedule of Performance, will in turn enhance the platform already licensed by San Mateo County (Commute.org) and other existing RideAmigos clients in the Bay Area region. Training, support, and licensing are already included in those contracts. Within the framework of those existing contracts, up to five pilot projects will be launched to test the enhancements funded by the FVC grant under the City of Palo Alto.

Maintenance & Hosting

- Roll-out of small updates often occur daily in the interest of customer requests, language and feature enhancements, and possible bug fixes.
- Updates that will hinder or change our customer's current workflow will not be pushed without making it a customizable feature.
- Release notes detail the new features/fixes, and allow clients to request them to be turned on.
- Continuous monitoring of activity logs and fixes of any errors as they occur.
- Application upgrades and maintenance.
- Hosting on advanced cluster including application servers, database servers, trip planning servers and use of third-party APIs.
- Geo-isolated redundancy.
- Purchase and management of custom SSL certificate for your domain.
- Backup management: Dedicated servers- geo-isolated fail-over/ backup secure data centers.
- 24x7x365 server and support monitoring and maintenance with emergency contact information provided.
- 99.996% uptime SLA

RideAmigos Academy Enrollment

The RideAmigos Academy is a space to collaborate with other transportation professionals to share ideas, solve common problems, and create solutions. It's all the non-software benefits from RideAmigos, made available for the growth and development of your initiatives. Membership Details:

- Collaborate with RideAmigos and our partners to tighten up your programs and strategies
- Connect with other RideAmigos partners trying to solve similar problems
- Access shared materials, resources, and exclusive user-group events/discussions
- Join unlimited Coffee Talks (our webinar series), and create opportunities to present, share, and collaborate
- Receive real-time information, news and updates in the RideAmigos world
- Monthly updates from the Academy highlight new features and partners, announce upcoming events, and recognize the accomplishments of members
- Contribute ideas to the future development of the platform, programs, and opportunities

ADDITIONAL SERVICES

Upon written approval of the City pursuant to the conditions for Additional Services found in Section 5 (Compensation for the Original Term) to this Agreement, RideAmigos shall provide the following Additional Services at the rate listed below. At the time of execution of this Agreement, City authorizes one pilot at the rate of \$15,450. City may, at its sole discretion, authorize up to two additional pilots (for a total of three pilots).

Santa Clara County Pilots - \$15,450/Pilot.

RideAmigos is offering its ECTR core platform plus the FVC custom development for a lump sum fee of \$15,450 per Santa Clara County pilot participant, for the duration of the of the agreement. The fee includes:

- ECTR Core Platform Development & License (refer to Exhibit A-A.)
- On-boarding, Support & Admin Training
- Maintenance & Hosting
- RideAmigos Academy Enrollment
- Fair Value Commuting Custom Development (refer to Exhibit A-B.)
- Fair Value Commuting Custom Development Schedule (refer to Exhibit B)

On-boarding, Support & Admin Training

- Platform upgrades, including most future enhancements of RideAmigos web platform, including minor platform enhancements requested by Client that are completed "on the house" once deemed effective and minimal in scope. Customer support within 48 hours of support ticket submission with mobile access to our team.
- Platform design adjustments including placement of banners, multiple color and/or logo changes, dashboard reorganization.

- Pre-launch support with pilot plan including detailed guidance on strategies for challenges, incentives, recommended prizes/rewards, program structure.
- Monthly check-ins from your RideAmigos Account Manager.

Month	Deliverable	Payment Schedule (Amount of Total)
Phase 1 - Local Information and Pricing Data Collection		
Nov 2018	<ul style="list-style-type: none"> • Complete RideAmigos Pilot Organization • Complete pricing strategy • Update local information with data • Complete software flow for next registration (pilot) 	\$18,000
	Pilot Fee	\$12,000
	Workshop Fee	\$24,000
Dec 1-15 2018	<ul style="list-style-type: none"> • Complete pricing strategy and data • Update local information • Update pricing / communications • Complete program implementation 	\$24,000
	Plan 2 & 3 Fee (SUBJECT TO CITY'S ADDITIONAL AUTHORIZATION PURSUANT TO THE CONDITIONS FOR ADDITIONAL SERVICES FOR HILIN SECTION 5 OF THIS AGREEMENT)	\$20,000
	Workshop Fee	\$24,000
Jan 1st 2019	<ul style="list-style-type: none"> • Complete pricing without fee 	\$12,000
	Workshop Fee	\$24,000
Phase 2 - RideAmigos in Pilot Region		
Feb 1st 2019	RideAmigos in Pilot Region	\$18,000

EXHIBIT B
SCHEDULE OF PERFORMANCE

CONTRACTOR shall perform the Services so as to complete each task within the time period specified below. The time to complete each task may be increased or decreased by mutual written agreement of the project managers for CONTRACTOR and CITY so long as all work is completed within the term of the Agreement. Upon request CONTRACTOR shall provide a detailed schedule of work consistent with the schedule below.

Month	Deliverable	Payment Schedule (Amount of total)
Phase 1 - Initial Onboarding and Baseline Data Collection		
Nov 1st, 2018	Hosted RideAmigos Service for Pilot Organizations <ul style="list-style-type: none"> ● Establish hosted service ● Obtain local transportation mode data ● Configure software to allow for user segmentation (pilot vs non-pilot users) 	\$14,500
	Pilot 1 Fee	\$15,450
	November Invoice	\$29,950
Dec 1st, 2018	Onboard Pilot Organizations and Users <ul style="list-style-type: none"> ● Administrator training ● Rollout marketing / communications ● Baseline program configuration 	\$14,500
	Pilot 2 & 3 Fee (SUBJECT TO CITY'S ADDITIONAL AUTHORIZATION PURSUANT TO THE CONDITIONS FOR ADDITIONAL SERVICES FOUND IN SECTION 5 OF THIS AGREEMENT)	\$30,900
	December Invoice	\$45,400
Jan 1st, 2019	Baseline Data Collection <ul style="list-style-type: none"> ● Commute tracking without Feebate 	\$14,500
	January Invoice	\$14,500
Phase 2 – Feebate Implementation		
Feb 1st, 2019	Feebate Program Implementation	\$14,500

	<ul style="list-style-type: none"> ● Transportation Mode / Parking Tracking ● Customized for each Pilot Organization ● Program management ● Accounting and Audit <ul style="list-style-type: none"> ○ Payroll integrations (as applicable) ○ Manual CSV export/reporting ○ Automatic CSV export/reporting ○ Payroll platform integrations 	
	February Invoice	\$14,500
Mar 1st, 2019	Feebate Program Rollout <ul style="list-style-type: none"> ● Support materials ● End-user training ● Administrator training 	\$14,500
	March Invoice	\$14,500
Phase 3 – Data Collection and Reporting		
Apr 1st, 2019	Feebate Pilot Reporting Support <ul style="list-style-type: none"> ● Custom reporting for pilot program 	\$3,500
	April Invoice	\$3,500
May 1st, 2019	Maintenance/Support/Optimization	\$3,500
	May Invoice	\$3,500
Jun 1st, 2019	Maintenance/Support/Optimization	\$3,500
	June Invoice	\$3,500
Jul 1st, 2019	Maintenance/Support/Optimization	\$3,500
	July Invoice	\$3,500
Aug 1st, 2019	Maintenance/Support/Optimization	\$3,500
	August Invoice	\$3,500
Sept 1st, 2019	Maintenance/Support/Optimization	\$3,500

	September Invoice	\$3,500
Oct 1st, 2019	Maintenance/Support/Optimization	\$3,500
	October Invoice	\$3,500
Nov 1st, 2019	Maintenance/Support/Optimization	\$3,500
	November Invoice	\$3,500
Dec 1st, 2019	Maintenance/Support/Optimization	\$3,500
	December Invoice	\$3,500
	Total Invoiced	\$150,350
<p>Maintenance/Support/Optimization will include general on going minor updates that do not require, included but not limited to new Scope requirements, user support for all items related to this SOW, and continuous improvements to the platform as RA deems necessary for success.</p>		

**EXHIBIT C
SCHEDULE OF FEES**

CITY shall pay CONTRACTOR according to the rate schedule in Exhibit B. The maximum amount of compensation to be paid to CONTRACTOR, including both payment for services and reimbursable expenses, shall not exceed the amounts set forth in Sections 5 and 6 of the Agreement. Any services provided or hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

Category	Rate	Description	Notes
1.0000	\$1,000.00	...	...
2.0000	\$2,000.00	...	...
3.0000	\$3,000.00	...	...
4.0000	\$4,000.00	...	...
5.0000	\$5,000.00	...	...
6.0000	\$6,000.00	...	...
7.0000	\$7,000.00	...	...
8.0000	\$8,000.00	...	...
9.0000	\$9,000.00	...	...
10.0000	\$10,000.00	...	...
11.0000	\$11,000.00	...	...
12.0000	\$12,000.00	...	...
13.0000	\$13,000.00	...	...
14.0000	\$14,000.00	...	...
15.0000	\$15,000.00	...	...
16.0000	\$16,000.00	...	...
17.0000	\$17,000.00	...	...
18.0000	\$18,000.00	...	...
19.0000	\$19,000.00	...	...
20.0000	\$20,000.00	...	...
21.0000	\$21,000.00	...	...
22.0000	\$22,000.00	...	...
23.0000	\$23,000.00	...	...
24.0000	\$24,000.00	...	...
25.0000	\$25,000.00	...	...
26.0000	\$26,000.00	...	...
27.0000	\$27,000.00	...	...
28.0000	\$28,000.00	...	...
29.0000	\$29,000.00	...	...
30.0000	\$30,000.00	...	...

EXHIBIT D INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH AM BEST'S KEY RATING OF A-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRED	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER'S COMPENSATION EMPLOYER'S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
NO	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE			
		ALL DAMAGES	\$1,000,000	
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSUREDS CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

- I. INSURANCE COVERAGE MUST INCLUDE:
 - A. A PROVISION FOR A WRITTEN THIRTY (30) DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND
 - B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.
 - C. DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY'S PRIOR APPROVAL.
- II. CONTACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE AT THE FOLLOWING URL:
<https://www.planetbids.com/portal/portal.cfm?CompanyID=25569>.
- III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSUREDS"

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSUREDS UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSUREDS, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.
2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

|

EXHIBIT E

**“Amended and Restated Agreement for Services of Independent Contractor” agreement
between the Peninsula Traffic Congestion Relief Alliance and Contractor, executed
August 15, 2016.**

**EXHIBIT F
FTA REQUIREMENTS**

CONTRACTOR agrees to follow all federal laws and regulations, including applicable provisions of the Federal Transit Administration's (FTA) Master Agreement, as updated by the FTA from time to time. This includes adhering to those sections of the Master Agreement in which Third Party Participants or Third Party Contracts are required to comply with or contain, respectively. These provisions include, but are not limited to, the following sections of the FTA Master Agreement, dated October 1, 2017, and as may be updated by the FTA, and are made part of this Exhibit by reference:

Section 3.i.(6) Notice to Third Party Participants.

Section 4.a. Standards of Conduct.

Section 4.b. Debarment and Suspension.

Section 4.d. Lobbying Restrictions.

Section 4.g. Trafficking in Persons.

Section 7.b. Eligible Costs.

Section 9.a. Types of Records.

Section 9.c. Access to Recipient and Third Party Participant Records.

Section 9.d. Access to the Sites of Performance.

Section 9.e. Closeout.

Section 12. Civil Rights. (the entire section).

Section 16.d(7). Clean Air Act and the Federal Water Pollution Control Act, as amended.

Section 16.d(9). Byrd Anti-Lobbying Amendment.

Section 16.s. Access to Third Party Contract Records.

Section 18. Rights in Data and Copyrights (the entire section).

Section 24.b. Awards Not Involving Construction (Employee Protections)

Section 24.c. Awards Involving Commerce

Section 26. Environmental Protections (entire section).

Section 35.b. Alcohol Misuse and Prohibited Drug Use.

Section 36. Protection of Sensitive Security and Other Sensitive Information.

Section 38. Freedom of Information.

As of the date of execution of this Agreement, the FTA Master Agreement can be found at:

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/grantee-resources/sample-fta-agreements/114766/fta-master-agreement-fy2018.pdf>



EXHIBIT "G"

SOFTWARE AS A SERVICE SECURITY AND PRIVACY TERMS AND CONDITIONS

This Exhibit shall be made a part of the City of Palo Alto's Professional Services Agreement or any other contract entered into by and between the City of Palo Alto (the "City") and Right Click Solutions, Inc. (the "Consultant") for the provision of Software as a Service to the City (the "Agreement").

In order to assure the privacy and security of the personal information of the City's customers and people who do business with the City, including, without limitation, vendors, utility customers, library patrons and other individuals and businesses, who are required to share such information with the City, as a condition of receiving services from the City or selling goods and services to the City, including, without limitation, the Software as a Service services provider (the "Consultant") and its subcontractors, if any, including, without limitation, any Information Technology ("IT") infrastructure services provider, shall design, install, provide, and maintain a secure IT environment, described below, while it renders and performs the Services and furnishes goods, if any, described in the Statement of Work, Exhibit B, to the extent any scope of work implicates the confidentiality and privacy of the personal information of the City's customers. The Consultant shall fulfill the data and information security requirements (the "Requirements") set forth in Part A below.

A "secure IT environment" includes: (a) the IT infrastructure, by which the Services are provided to the City, including connection to the City's IT systems; (b) the Consultant's operations and maintenance processes needed to support the environment, including disaster recovery and business continuity planning; and (c) the IT infrastructure performance monitoring services to ensure a secure and reliable environment and service availability to the City. "IT infrastructure" refers to the integrated framework, including, without limitation, data centers, computers, and database management devices, upon which digital networks operate.

In the event that, after the Effective Date, the Consultant reasonably determines that it cannot fulfill the Requirements, the Consultant shall promptly inform the City of its determination and submit, in writing, one or more alternate countermeasure options to the Requirements (the "Alternate Requirements" as set forth in Part B), which may be accepted or rejected in the reasonable satisfaction of the Information Security Manager (the "ISM").

Part A. Requirements:

The Consultant shall at all times during the term of any contract between the City and the Consultant:

- (a) Appoint or designate an employee, preferably an executive officer, as the security liaison to



- the City with respect to the Services to be performed under this Agreement.
- (b) Provide a full and complete response to the City's Supplier Security and Privacy Assessment Questionnaire (the "Questionnaire") to the ISM, and also report any major non-conformance to the Requirements, as and when requested. The response shall include a detailed implementation plan of required countermeasures, which the City requires the Consultant to adopt as countermeasures in the performance of the Services. In addition, as of the annual anniversary date of this Agreement the Consultant shall report to the City, in writing, any major changes to the IT infrastructure.
 - (c) Have adopted and implemented information security and privacy policies that are documented, are accessible to the City and conform to ISO 27001/2 – Information Security Management Systems (ISMS) Standards. See the following:
http://www.iso.org/iso/home/store/catalogue_tc/catalogue_detail.htm?csnumber=42103
http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=50297
 - (d) Conduct routine data and information security compliance training of its personnel that is appropriate to their role.
 - (e) Develop and maintain detailed documentation of the IT infrastructure, including software versions and patch levels.
 - (f) Develop an independently verifiable process, consistent with industry standards, for performing professional and criminal background checks of its employees that (1) would permit verification of employees' personal identity and employment status, and (2) would enable the immediate denial of access to the City's confidential data and information by any of its employees who no longer would require access to that information or who are terminated.
 - (g) Provide a list of IT infrastructure components in order to verify whether the Consultant has met or has failed to meet any objective terms and conditions.
 - (h) Implement access accountability (identification and authentication) architecture and support role-base access control ("RBAC") and segregation of duties ("SoD") mechanisms for all personnel, systems and software used to provide the Services. "RBAC" refers to a computer systems security approach to restricting access only to authorized users. "SoD" is an approach that would require more than one individual to complete a security task in order to promote the detection and prevention of fraud and errors.
 - (i) Assist the City in undertaking annually an assessment to assure that: (1) all elements of the Services' environment design and deployment are known to the City, and (2) it has implemented measures in accordance with industry best practices applicable to secure coding and secure IT architecture.
 - (j) Provide and maintain secure intersystem communication paths that would ensure the confidentiality, integrity and availability of the City's information.
 - (k) Deploy and maintain IT system upgrades, patches and configurations conforming to current patch and/or release levels by not later than one (1) week after its date of release. Emergency security patches must be installed within 24 hours after its date of release.
 - (l) Provide for the timely detection of, response to, and the reporting of security incidents, including on-going incident monitoring with logging.
 - (m) Notify the City within one (1) hour of detecting a security incident that results in the unauthorized access to or the misuse of the City's confidential data and information.



- (n) Inform the City that any third party service provider(s) meet(s) all of the Requirements.
- (o) Perform security self-audits on a regular basis and not less frequently than on a quarterly basis, and provide the required summary reports of those self-audits to the ISM on the annual anniversary date or any other date agreed to by the Parties.
- (p) Accommodate, as practicable, and upon reasonable prior notice by the City, the City's performance of random site security audits at the Consultant's site(s), including the site(s) of a third party service provider(s), as applicable. The scope of these audits will extend to the Consultant's and its third party service provider(s)' awareness of security policies and practices, systems configurations, access authentication and authorization, and incident detection and response.
- (q) Cooperate with the City to ensure that to the extent required by applicable laws, rules and regulations, the Confidential Information will be accessible only by the Consultant and any authorized third party service provider's personnel.
- (r) Perform regular, reliable secured backups of all data needed to maximize availability of the Services.
- (s) Maintain records relating to the Services for a period of three (3) years after the expiration or earlier termination of this Agreement and in a mutually agreeable storage medium. Within thirty (30) days after the effective date of expiration or earlier termination of this Agreement, all of those records relating to the performance of the Services shall be provided to the ISM.
- (t) Maintain the Confidential Information in accordance with applicable federal, state and local data and information privacy laws, rules and regulations.
- (u) Encrypt the Confidential Information before delivering the same by electronic mail to the City and or any authorized recipient.
- (v) Unless otherwise addressed in the Agreement, shall not hold the City liable for any direct, indirect or punitive damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the City's IT environment, including, without limitation, IT infrastructure communications.

Part B. Alternate Requirements:



EXHIBIT "H"



Information Privacy Policy (IPP)

Release and Version:	1 st Release, Version 2.2
Release Date:	31 January, 2013
Document Classification:	Need to Know



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DOCUMENT CONTROLS

Document Title	Information Privacy Policy
Location	City of Palo Alto Website and SharePoint
Document Author	Raj Patel
Document Manager	Raj Patel
Contributors	Jonathan Reichental, Shiva Swaminathan, Tom Auzenne, Joe Blackwell, Grant Kolling

CHANGE RECORD

Date	Author	Version	Change Reference
12-Jul-12	Raj Patel	0.01	First draft developed
26-Sep-12	Raj Patel	1.0	First draft released for review
09-Nov-12	Raj Patel	1.5	Updated first draft for review
19-Nov-12	Raj Patel	1.6	Additional updates as identified
22-Nov-12	Raj Patel	1.7	Revised table of content
26-Nov-12	Raj Patel	1.8	Revised followed by review from Jonathan Reichental and Tom Auzenne
6-Dec-12	Raj Patel	1.92	Revised according to comments from Jonathan Reichental
14-Jan-13	Raj Patel	2.0	Revised according to comments from Grant Kolling
31-Jan-13	Raj Patel	2.2	Revised according to recommendations from Information Security Steering Committee

APPROVAL

Date	Name	Role	Comments
06-Dec-12	Raj Patel	Information Security Manager; Information Technology Department	Approved
06-Dec-12	Jonathan Reichental	CIO; Information Technology Department	Approved
06-Dec-12	Tom Auzenne	Assistant Director, Utilities Department	Approved
14-Jan-13	Grant Kolling	Senior Assistant City Attorney; City Attorney's Office	Approved
31-Jan-13	Information Security Steering Committee	Sponsor	Approved

DISTRIBUTION

Name	Location
City of Palo Alto Employees, Service Providers, Residents and Businesses	City of Palo Alto Website and SharePoint



1. Objective

The City of Palo Alto (the "City") strives to promote and sustain a superior quality of life for persons in Palo Alto. In promoting the quality of life of these persons, it is the policy of the City, consistent with the provisions of the California Public Records Act, California Government Code §§ 6250 – 6270, to take appropriate measures to safeguard the security and privacy of the personal (including, without limitation, financial) information of persons, collected in the ordinary course and scope of conducting the City's business as a local government agency. These measures are generally observed by federal, state and local authorities and reflected in federal and California laws, the City's rules and regulations, and industry best practices, including, without limitation, the provisions of California Civil Code §§ 1798.3(a), 1798.24, 1798.79.8(b), 1798.80(e), 1798.81.5, 1798.82(e), 1798.83(e)(7), and 1798.92(c). Though some of these provisions do not apply to local government agencies like the City, the City will conduct business in a manner which promotes the privacy of personal information, as reflected in federal and California laws. The objective of this Policy is to describe the City's data security goals and objectives, to ensure the ongoing protection of the Personal Information, Personally Identifiable Information, Protected Critical Infrastructure Information and Personally Identifying Information of persons doing business with the City and receiving services from the City or a third party under contract to the City to provide services. The terms "Personal Information," "Protected Critical Infrastructure Information", "Personally Identifiable Information" and "Personally Identifying Information" (collectively, the "Information") are defined in the California Civil Code sections, referred to above, and are incorporated in this Policy by reference.

A) INTENT

The City, acting in its governmental and proprietary capacities, collects the Information pertaining to persons who do business with or receive services from the City. The Information is collected by a variety of means, including, without limitation, from persons applying to receive services provided by the City, persons accessing the City's website, and persons who access other information portals maintained by the City's staff and/or authorized third-party contractors. The City is committed to protecting the privacy and security of the Information collected by the City. The City acknowledges federal and California laws, policies, rules, regulations and procedures, and industry best practices are dedicated to ensuring the Information is collected, stored and utilized in compliance with applicable laws.

The goals and objectives of the Policy are: (a) a safe, productive, and inoffensive work environment for all users having access to the City's applications and databases; (b) the appropriate maintenance and security of database information assets owned by, or entrusted to, the City; (c) the controlled access and security of the Information provided to the City's staff and third party contractors; and (d) faithful compliance with legal and regulatory requirements.

B) SCOPE

The Policy will guide the City's staff and, indirectly, third party contractors, which are by contract required to protect the confidentiality and privacy of the Information of the persons whose personal information data are intended to be covered by the Policy and which will be advised by City staff to conform their performances to the Policy should they enjoy conditional access to that information.

C) CONSEQUENCES

The City's employees shall comply with the Policy in the execution of their official duties to the extent their work implicates access to the Information referred to in this Policy. A failure to comply may result in



employment and/or legal consequences.

D) EXCEPTIONS

In the event that a City employee cannot fully comply with one or more element(s) described in this Policy, the employee may request an exception from the application of the Policy. The request form will be developed, reviewed and administered by the City's Information Security Manager (the "ISM"). The employee, with the approval of his or her supervisor, will provide any additional information as may be requested by the ISM. The ISM will conduct a risk assessment of the requested exception in accordance with guidelines approved by the City's Chief Information Officer ("CIO") and approved as to form by the City Attorney. The Policy's guidelines will include at a minimum: purpose, source, collection, storage, access, retention, usage, and protection of the Information identified in the request. The ISM will consult with the CIO to approve or deny the exception request. After due consideration is given to the request, the exception request disposition will be communicated, in writing, to the City employee and his or her supervisor. The approval of any request may be subject to countermeasures established by the CIO, acting by the ISM.

E) MUNICIPAL ORDINANCE

This Policy will supersede any City policy, rule, regulation or procedure regarding information privacy.

2. RESPONSIBILITIES OF CITY STAFF

A) RESPONSIBILITY OF CIO AND ISM

The CIO, acting by the ISM, will establish an information security management framework to initiate and coordinate the implementation of information security measures by the City's government.

The City's employees, in particular, software application users and database users, and, indirectly, third party contractors under contract to the City to provide services, shall be guided by this Policy in the performance of their job responsibilities.

The ISM will be responsible for: (a) developing and updating the Policy, (b) enforcing compliance with and the effectiveness of the Policy; (c) the development of privacy standards that will manifest the Policy in detailed, auditable technical requirements, which will be designed and maintained by the persons responsible for the City's IT environments; (d) assisting the City's staff in evaluating security and privacy incidents that arise in regard to potential violations of the Policy; (e) reviewing and approving department-specific policies and procedures which fall under the purview of this Policy; and (f) reviewing Non-Disclosure Agreements (NDAs) signed by third party contractors, which will provide services, including, without limitation, local or 'cloud-based' software services to the City.

B) RESPONSIBILITY OF INFORMATION SECURITY STEERING COMMITTEE

The Information Security Steering Committee (the "ISSC"), which is comprised of the City's employees, drawn from the various City departments, will provide the primary direction, prioritization and approval for all information security efforts, including key information security and privacy risks, programs, initiatives and activities. The ISSC will provide input to the information security and privacy strategic planning processes to ensure that information security risks are adequately considered, assessed and addressed at the appropriate City department level.

**C) RESPONSIBILITY OF USERS**

All authorized users of the Information will be responsible for complying with information privacy processes and technologies within the scope of responsibility of each user.

D) RESPONSIBILITY OF INFORMATION TECHNOLOGY (IT) MANAGERS

The City's IT Managers, who are responsible for internal, external, direct and indirect connections to the City's networks, will be responsible for configuring, maintaining and securing the City's IT networks in compliance with the City's information security and privacy policies. They are also responsible for timely internal reporting of events that may have compromised network, system or data security.

E) RESPONSIBILITY OF AUTHORIZATION COORDINATION

The ISM will ensure that the City's employees secure the execution of Non-Disclosure Agreements (NDA), whenever access to the Information will be granted to third party contractors, in conjunction with the Software as a Service (SaaS) Security and Privacy Terms and Conditions. An NDA must be executed prior to the sharing of the Information of persons covered by this Policy with third party contractors. The City's approach to managing information security and its implementation (i.e. objectives, policies, processes, and procedures for information security) will be reviewed independently by the ISM at planned intervals, or whenever significant changes to security implementation have occurred.

The CIO, acting by the ISM, will review and recommend changes to the Policy annually, or as appropriate, commencing from the date of its adoption.

3. PRIVACY POLICY**A) OVERVIEW**

The Policy applies to activities that involve the use of the City's information assets, namely, the Information of persons doing business with the City or receiving services from the City, which are owned by, or entrusted to, the City and will be made available to the City's employees and third party contractors under contract to the City to provide Software as a Service consulting services. These activities include, without limitation, accessing the Internet, using e-mail, accessing the City's intranet or other networks, systems, or devices.

The term "information assets" also includes the personal information of the City's employees and any other related organizations while those assets are under the City's control. Security measures will be designed, implemented, and maintained to ensure that only authorized persons will enjoy access to the information assets. The City's staff will act to protect its information assets from theft, damage, loss, compromise, and inappropriate disclosure or alteration. The City will plan, design, implement and maintain information management systems, networks and processes in order to assure the appropriate confidentiality, integrity, and availability of its information assets to the City's employees and authorized third parties.

B) PERSONAL INFORMATION AND CHOICE

Except as permitted or provided by applicable laws, the City will not share the Information of any person doing business with the City, or receiving services from the City, in violation of this Policy, unless that person has consented to the City's sharing of such information during the conduct of the City's business as a local government agency with third parties under contract to the City to provide services.



C) METHODS OF COLLECTION OF PERSONAL INFORMATION

The City may gather the Information from a variety of sources and resources, provided that the collection of such information is both necessary and appropriate in order for the City to conduct business as a local government agency in its governmental and proprietary capacities. That information may be gathered at service windows and contact centers as well as at web sites, by mobile applications, and with other technologies, wherever the City may interact with persons who need to share such formation in order to secure the City's services.

The City's staff will inform the persons whose Information are covered by this Policy that the City's web site may use "cookies" to customize the browsing experience with the City of Palo Alto web site. The City will note that a cookie contains unique information that a web site can use to track, among others, the Internet Protocol address of the computer used to access the City's web sites, the identification of the browser software and operating systems used, the date and time a user accessed the site, and the Internet address of the website from which the user linked to the City's web sites. Cookies created on the user's computer by using the City's web site do not contain the Information, and thus do not compromise the user's privacy or security. Users can refuse the cookies or delete the cookie files from their computers by using any of the widely available methods. If the user chooses not to accept a cookie on his or her computer, it will not prevent or prohibit the user from gaining access to or using the City's sites.

D) UTILITIES SERVICE

In the provision of utility services to persons located within Palo Alto, the City of Palo Alto Utilities Department ("CPAU") will collect the Information in order to initiate and manage utility services to customers. To the extent the management of that information is not specifically addressed in the Utilities Rules and Regulations or other ordinances, rules, regulations or procedures, this Policy will apply; provided, however, any such Rules and Regulations must conform to this Policy, unless otherwise directed or approved by the Council. This includes the sharing of CPAU-collected Information with other City departments except as may be required by law.

Businesses and residents with standard utility meters and/or having non-metered monthly services will have secure access through a CPAU website to their Information, including, without limitation, their monthly utility usage and billing data. In addition to their regular monthly utilities billing, businesses and residents with non-standard or experimental electric, water or natural gas meters may have their usage and/or billing data provided to them through non-City electronic portals at different intervals than with the standard monthly billing.

Businesses and residents with such non-standard or experimental metering will have their Information covered by the same privacy protections and personal information exchange rules applicable to Information under applicable federal and California laws.

E) PUBLIC DISCLOSURE

The Information that is collected by the City in the ordinary course and scope of conducting its business could be incorporated in a public record that may be subject to inspection and copying by the public, unless such information is exempt from disclosure to the public by California law.

F) ACCESS TO PERSONAL INFORMATION

The City will take reasonable steps to verify a person's identity before the City will grant anyone online access to that person's Information. Each City department that collects Information will afford access to affected persons who can review and update that information at reasonable times.



G) SECURITY, CONFIDENTIALITY AND NON-DISCLOSURE

Except as otherwise provided by applicable law or this Policy, the City will treat the Information of persons covered by this Policy as confidential and will not disclose it, or permit it to be disclosed, to third parties without the express written consent of the person affected. The City will develop and maintain reasonable controls that are designed to protect the confidentiality and security of the Information of persons covered by this Policy.

The City may authorize the City's employee and or third party contractors to access and/or use the Information of persons who do business with the City or receive services from the City. In those instances, the City will require the City's employee and/or the third party contractors to agree to use such Information only in furtherance of City-related business and in accordance with the Policy.

If the City becomes aware of a breach, or has reasonable grounds to believe that a security breach has occurred, with respect to the Information of a person, the City will notify the affected person of such breach in accordance with applicable laws. The notice of breach will include the date(s) or estimated date(s) of the known or suspected breach, the nature of the Information that is the subject of the breach, and the proposed action to be taken or the responsive action taken by the City.

H) DATA RETENTION / INFORMATION RETENTION

The City will store and secure all Information for a period of time as may be required by law, or if no period is established by law, for seven (7) years, and thereafter such information will be scheduled for destruction.

I) SOFTWARE AS A SERVICE (SAAS) OVERSIGHT

The City may engage third party contractors and vendors to provide software application and database services, commonly known as Software-as-a-Service (SaaS).

In order to assure the privacy and security of the Information of those who do business with the City and those who received services from the City, as a condition of selling goods and/or services to the City, the SaaS services provider and its subcontractors, if any, including any IT infrastructure services provider, shall design, install, provide, and maintain a secure IT environment, while it performs such services and/or furnishes goods to the City, to the extent any scope of work or services implicates the confidentiality and privacy of the Information.

These requirements include information security directives pertaining to: (a) the IT infrastructure, by which the services are provided to the City, including connection to the City's IT systems; (b) the SaaS services provider's operations and maintenance processes needed to support the IT environment, including disaster recovery and business continuity planning; and (c) the IT infrastructure performance monitoring services to ensure a secure and reliable environment and service availability to the City. The term "IT infrastructure" refers to the integrated framework, including, without limitation, data centers, computers, and database management devices, upon which digital networks operate.

Prior to entering into an agreement to provide services to the City, the City's staff will require the SaaS services provider to complete and submit an Information Security and Privacy Questionnaire. In the event that the SaaS services provider reasonably determines that it cannot fulfill the information security requirements during the course of providing services, the City will require the SaaS services provider to promptly inform the ISM.

J) FAIR AND ACCURATE CREDIT TRANSACTION ACT OF 2003

CPAU will require utility customers to provide their Information in order for the City to initiate and manage utility services to them.



Federal regulations, implementing the Fair and Accurate Credit Transactions Act of 2003 (Public Law 108-159), including the Red Flag Rules, require that CPAU, as a "covered financial institution or creditor" which provides services in advance of payment and which can affect consumer credit, develop and implement procedures for an identity theft program for new and existing accounts to detect, prevent, respond and mitigate potential identity theft of its customers' Information.

CPAU procedures for potential identity theft will be reviewed independently by the ISM annually or whenever significant changes to security implementation have occurred. The ISM will recommend changes to CPAU identity theft procedures, or as appropriate, so as to conform to this Policy.

There are California laws which are applicable to identity theft; they are set forth in California Civil Code § 1798.92.

4. CONTACTS

Information Security Manager: Patel, Raj <Raj.Patel@CityofPaloAlto.org>

Chief Information Officer: Reichental, Jonathan <Jonathan.Reichental@CityofPaloAlto.org>

Utilities Department: Auzenne, Tom <Tom.Auzenne@CityofPaloAlto.org>

City Attorney's Office: Yang, Albert <Albert.Yang@CityofPaloAlto.org>

Certificate Of Completion

Envelope Id: 495665AC601241269D7BABA2D5CB8181	Status: Completed
Subject: Revision to Contract C19173099 Right Click Solutions	
Source Envelope:	
Document Pages: 38	Signatures: 2
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	
Envelopeld Stamping: Enabled	Envelope Originator:
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	Christopher Anastole
	250 Hamilton Ave
	Palo Alto , CA 94301
	chris.anastole@cityofpaloalto.org
	IP Address: 12.220.157.20

Record Tracking

Status: Original	Holder: Christopher Anastole	Location: DocuSign
12/6/2018 7:38:25 AM	chris.anastole@cityofpaloalto.org	
Security Appliance Status: Connected	Pool: City of Palo Alto	
Storage Appliance Status: Connected	Pool: City of Palo Alto	Location: DocuSign

Signer Events

Soren Eilertsen
soren@rideamigos.com
CEO
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:
Soren Eilertsen
4C051CE79F76425
Signature Adoption: Pre-selected Style
Using IP Address: 172.91.69.110

Timestamp

Sent: 12/6/2018 7:54:47 AM
Viewed: 12/6/2018 8:13:19 AM
Signed: 12/6/2018 8:18:53 AM

Electronic Record and Signature Disclosure:
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Jeffery Chernick
jeff@rideamigos.com
Co-Founder
Security Level: Email, Account Authentication (None)

DocuSigned by:
Jeffery Chernick
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Signature Adoption: Pre-selected Style
Using IP Address: 47.151.135.160

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Viewed: 12/7/2018 12:26:03 PM
Signed: 12/7/2018 12:27:03 PM

Electronic Record and Signature Disclosure:
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Hillary Rupert
Hillary.Rupert@CityofPaloAlto.org
Security Level: Email, Account Authentication (None)

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Electronic Record and Signature Disclosure:
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Carbon Copy Events	Status	Timestamp
Rachael Tanner Rachael.Tanner@CityofPaloAlto.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/7/2018 12:27:06 PM

Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	12/7/2018 12:27:06 PM
Certified Delivered	Security Checked	12/7/2018 12:27:06 PM
Signing Complete	Security Checked	12/7/2018 12:27:06 PM
Completed	Security Checked	12/7/2018 12:27:06 PM

Payment Events	Status	Timestamps
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