



City of Palo Alto

City Council Staff Report

(ID # 10493)

Report Type: Consent Calendar

Meeting Date: 12/2/2019

Summary Title: Award Contract for Tax and Fee Consulting Services & Budget Amendment

Title: Approval of Contract Number C20175534A With MuniServices, LLC for Tax and Fee Consulting Services in a Total Not-to-Exceed Amount of \$700,000 Over a Five-year Term and Approval of a Budget Amendment in the General Fund

From: City Manager

Lead Department: Administrative Services

Recommendation

Staff recommends that the City Council:

1. Approve and authorize the City Manager or his designee to execute the attached contract with MuniServices, LLC (**Attachment A**, Contract No. 20175534A) in an amount not-to-exceed \$700,000 for tax and fee program administration, fee payment collection and reporting services over a five-year term, and
2. Amend the Fiscal Year 2020 Budget Appropriation Ordinance for the General Fund by:
 - a. Increasing the City Auditor's Office expense appropriation for contract services in the amount of \$50,000; and,
 - b. Increasing the Administrative Services Department (ASD) expense appropriation for contract services by \$25,500; and,
 - c. Decreasing the Budget Stabilization Reserve by \$75,500.

Executive Summary

Staff issued a Request for Proposal (RFP) for tax and fee consulting services: sales and use tax analysis and information services, Transient Occupancy Tax (TOT) and Telecommunication Users Tax (also known as TUT or Telephone UUT) administrative and reporting services, property tax analysis and information services, and business fee collection and reporting services for the City's Business Registry Certificate (BRC) and the Business Improvement District (BID) programs. This combined RFP spans bodies of work completed previously by three different work groups including the Administrative Services Department, the City Auditor's Office, and the former Development Services Department. Administrative Services took the lead on issuing and managing this process in coordination with these offices during the past year to ensure continuity of services and coverage considering transitions and staffing

vacancies.

Three proposals were received and evaluated based on criteria outlined in the RFP and staff recommends awarding services to two of the three consulting firms that submitted proposals. Based on the evaluation criteria, staff recommends awarding sales and use tax analysis and information services, TOT and TUT administrative and reporting services, and business fee collection and reporting services to MuniServices, LLC. Staff intends to award property tax analysis and information services to HdL Coren & Cone (HdL CC); however, this contract is within the approval levels of the City Manager and therefore no Council action is necessary. Ultimately, as a result of changes in service delivery and updated pricing, amendments to the fiscal year (FY) 2020 budget are recommended to both Administrative Services and the City Auditor's Office in the total amount of \$75,500.

Background

The City engages with MuniServices for sales and use tax audit and information services (historically managed by the City Auditor's Office), business fee collection services for the BRC and BID programs (historically managed by the former Development Services Department), and property tax information services (managed by the Administrative Services Department). TOT and Telephone UUT collection and administrative functions are currently performed internally as collateral duties by staff in the Administrative Services Department (ASD) as well.

The City Auditor's Office has historically both managed the contract with MuniServices for sales and use tax reporting and audit and discovery work, while staff also worked on audit and discovery work in tandem. Sales and use tax reports (quarterly) from MuniServices are a valuable tool in the City's sales and use tax revenue projections and are utilized in regular revenue monitoring, the City's Long Range Financial Forecast (LRFF), and in the City's annual budget process. Briefings and analysis from MuniServices include information from the California Department of Tax and Fee Administration (CDTFA), the state agency that administers sales and use tax, of sales and use tax revenue performance; top revenue producers by economic segment and/or geographical area; trend analysis; revenue projections; identification of major businesses that influence change in the City's tax revenue; and an analysis of potential growth or decline shifts in local, state, and national economy; and legislature related to sales and use tax. In addition, the City Auditor's Office works closely with MuniServices on sales and use tax audit and discovery efforts as both staff and MuniServices have performed these services in tandem.

The BRC program was launched in 2015 and fee administration and collection transitioned from the former Developer Services Department to ASD in July 2019 as approved by the City Council in the FY 2020 adopted budget and realignment of Planning and Development Services Department. In early 2018, the City entered into a two-year agreement with MuniServices to administer fee collection and provide customer support, while staff manages the contract and serves as a liaison between the City, MuniServices, and the business community as required. In 2019, the City amended the contract scope with MuniServices to include fee administration and

collection for the Downtown BID, with the intent that the business community would effectively report and pay for business fees in the same portal.

Property tax information services are requested on an ad hoc basis and are needed to supplement limited data available from the County of Santa Clara. Information and reporting frequency may vary and is used for parcel tax or general obligation (GO) bond modeling; LRFF development; the annual budget process; and other special projects in the Treasury, Debt and Investments Division.

Discussion

The existing contract with MuniServices for sales and use tax expired August 31, 2019. Staff issued a combined Request for Proposal (RFP), which spans bodies of work completed previously by three different work groups including the Administrative Services Department, the City Auditor's Office, and the former Development Services Department. Administrative Services took the lead on issuing and managing this process in coordination with these offices during the past year to ensure continuity of services and coverage considering transitions and staffing vacancies. Below are the components of the tax and fee consulting services RFP, the workgroup that has historically overseen them, and recommended contract and services award.

Sales and Use Tax analysis and information services: The City Auditor's Office manages the sales and use tax contract so that staff in the City Auditor's Office can work in tandem with MuniServices on sales tax audit and discovery efforts. Due to recent staff vacancies, the Administrative Services Department stepped in to complete this RFP. It is expected that the City Auditor's Office will not be performing audit and discovery services due to staff vacancies and that work is expected to be performed by solely by MuniServices for the remainder of the fiscal year. Staff therefore request a budget increase to the City Auditor's Office budget of \$50,000 to support this service until the City Auditor's Office staffing and management is steadied.

Various Tax Collection and Information Services for TOT, Telecommunication Users Tax (also known as TUT or Telephone Utility Users Tax UUT), and Property Taxes: were added to the RFP scope, allowing the City to leverage the economies of scale of a full suite of services and streamline the administration and collection of taxes and assessment fees. Both BRC and BID reporting and payments are done online through the City's website and the addition of these services would allow for online TOT and Telephone UUT collection so that the City's business community can report data and remit payment from one online portal. The one-time set up fee for TOT and Telephone UUT is \$3,500 and will be absorbed in ASD, however, an ongoing budget increase to fund the annual filing fees, totaling \$15,500, is recommended. This is typically a collateral duty assigned to the Treasury Division. In addition, this contract includes audit and discovery services in future years to achieve improved assurance that TOT and TUT revenues are accurate and complete. The scope, work plan, and fees for these services can be found in the attached draft contract and funding for these services is subject to request, approval and appropriation of funds during the annual budget process.

Property tax information services are currently being performed on an ad hoc basis by MuniServices. The data is used to supplement property information from the County of Santa Clara. As a result of the RFP, staff recommends awarding this service to HdL CC for a three-year term at an annual cost of \$20,000 per year, for a total not to exceed \$60,000. The total contract amount for HdL CC is within the City Manager’s contract authority and therefore not included in this report. Although more costly, this more accessible online platform allows for customer driven customization of data requests and after review of the data needs for more robust reporting and ad hoc modeling analysis, staff recommends contracting with HdL CC’s pending the appropriation of additional funds. An ongoing \$10,000 appropriation increase to fund the difference in annual fees from the prior costs is recommended.

City’s Business Registry Certificate (BRC) and the Business Improvement District (BID) programs business fee collection and reporting services: The contract for business fee collection (to support the BRC program and BID program) expired on September 30, 2019 and was previously managed by the former Development Services Department. The contract was extended through March 31, 2020 to ensure continuity of service. The FY 2020 Adopted Budget merged the Planning and Community Environment Department and the Development Services Department and, the collection, administration, and financial management of the BRC and BID programs was reassigned to ASD. The FY 2020 Adopted Budget includes \$50,000 in consultant funding for this contract.

Procurement Process

An RFP was issued on May 13, 2019 for tax and fee consulting services and was structured to allow award to multiple firms. Proposals were due by June 11, 2019 and the City received three proposals. Based on criteria outlined in the RFP, MuniServices was selected to perform sales and use tax analysis and information services, TOT and Telephone UUT administrative and reporting services, and business fee collection services for the BRC and BID programs. The existing contracts with MuniServices include all but two of these services (TOT and Telephone UUT administrative and reporting services).

SUMMARY OF REQUEST FOR PROPOSAL PROCESS

PROPOSAL TITLE & NUMBER	Tax and Fee Consulting Services – RFP 175534
PROPOSED LENGTH OF PROJECT	5 years
NUMBER OF BID PACKAGES DOWNLOADED	13
TOTAL DAYS TO RESPOND TO PROPOSAL	21 calendar days
NUMBER OF PROPOSALS RECEIVED	3

LINK TO PLANET BIDS:

WWW.PLANETBIDS.COM/PORTAL/PORTAL.CFM?COMPANYID=25569&BIDID=62512

The City received three proposals from the leading firms in the industry for these services. The table below outlines the fees for the previous contract with MuniServices, the new proposed fees for MuniServices, fees proposed by HdL, and fees proposed by HdL CC. HdL and HdL CC are legally separate companies where HdL provides services for sales and use tax reporting and

compliance and collection, administration and compliance for TOT, TUT, BRC, and BID; while HdL CC only provides property tax information services and compliance. Fees for the selected consulting firms (MuniServices and HdL CC) are noted in bold/italic lettering below. In limited areas, an increase in budgeted funding is recommended and is noted in the resource impact portion of the chart below.

TAX AREA	SERVICE	MUNISERVICES (PREVIOUS)	MUNISERVICES (NEW)	HDL & HDL CC*
SALES & USE TAX	Reporting Services	\$8,000 annually	<i>\$4,000 annually</i>	\$10,200 annually
	Audit & Discovery	20% contingency	<i>15% contingency</i>	15% contingency
TOT	Collection & Administration	N/A	<i>\$150/lodging property annually; \$2,500 one-time set up fee</i>	\$750 per lodging property annually; no set up fee
	Compliance	N/A	<i>Analysis phases total \$54,000; 30% contingency fee, with on-site auditing services</i>	As requested, based on hourly rate
TUT	Collection & Administration	N/A	<i>\$2.95 filing per transaction; \$1,000 one-time set up</i>	\$14 per filing transaction; no set up fee
	Compliance	N/A	<i>30% contingency fee</i>	\$170 per hour, as requested
BUSINESS FEES: BRC & BID	Collection & Administration	\$12/initial registry, not to exceed \$36,000; \$15,000 one-time set up fee	<i>\$12/initial registry; \$3.75 filing per transaction</i>	\$14 per processed account
	Compliance	35% contingency, not to exceed \$20,000	<i>35% contingency; if City decides to waive collection, MuniServices shall be entitled to ½ of the fee for the waived portion of the deficiency.</i>	35% contingency
PROPERTY TAX	Reporting & Information Services	\$10,000 annually	<i>\$7,500 annually</i>	<i>HdL CC: \$20,000 annually that includes reporting services, online portal, and compliance services</i>
	Compliance	N/A	<i>25% contingency</i>	

Overall, fees for services provided by MuniServices are lower compared to HdL and the previous MuniServices contract. TOT and TUT audit and compliance services are not currently performed by the City; the contract with MuniServices for BRC and BID has an audit and compliance component. Compliance services for TOT, TUT, BRC and BID can be done in a

variety of ways and is structured so that analysis and communication with the City is first performed before reaching out to the business for a site visit. For TOT compliance, the fee for the analysis phase of the process assumes that all lodging properties will be reviewed at least one during the five-year term of the contract.

The City recommends HdL CC as its property tax consultant and, as noted earlier in this report, the total contract amount for HdL CC is within the City Manager's contract authority and therefore not included in this report. The evaluation panel found that HdL CC, although more costly, has a more accessible online platform that would allow staff to customize data inquiries and independently review data for modeling and reporting. Staff recommends contracting with HdL CCs, pending the appropriation of additional funds.

Resource Impact

As discussed in this report, the contract with MuniServices is funded partially in the City Auditor's Office and ASD FY 2020 Adopted Budget including sales and use tax reporting services, partial audit and discovery and the BRC and BID collection, administration, and compliance. Staff requests a net \$75,500 General Fund appropriation increase in FY 2020 to fully fund the first year of the contracts with MuniServices and HdL CC. Specifically, the net increase reflects the following adjustments: 1) Increase of \$50,000 in the City Auditor's Office Budget to account for the change in administration of sales tax audit and discovery services (one-time). With vacancies in the Auditor's Office, it is expected that all audit and discovery services will be performed by MuniServices, whereas, previously this was split between Muni Services and audit staff. 2) Increase of \$15,500 for TOT and Telephone UUT administration and collection services (ongoing). Audit and discovery services will be reviewed during the budget process and is subject to the annual appropriations of funds. 3) Increase of \$10,000 for Property Tax information services (ongoing) for more robust and independently accessible online platform for more robust reporting and ad hoc modeling analysis.

In future years, MuniServices reporting and information services for sales and use tax will be \$4,000; sales and use tax compliance service fees will vary based on the amount collected by the consultant. Tax and fee collection and administration for TOT, TUT, BRC and BID will vary between \$80,000 to \$90,000 per year, depending on number of re-filings and/or new filings. TOT and TUT audit and compliance services will be done once over the five-year term of the contract and total \$105,000. BRC and BID compliance review total \$20,000 annually. The annual cost of property information services (by HdL CC) is \$20,000.

Stakeholder Outreach

Staff worked closely with the three proposers, the City Auditor's Office, and former Development Services staff on this RFP, evaluation, and recommended contract award for these services.

Timeline

Staff expects to transition TOT and Telephone UUT collection services during FY 2020. The remaining awarded services are currently performed by MuniServices.

Environmental Review

The approval of an agreement for tax and fee consulting services is not an action subject to environmental review under the California Environmental Quality Act.

Attachments:

- Attachment A: C20175534A MUNISERVICES (partially executed)

CITY OF PALO ALTO CONTRACT NO. C20175534A

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND MUNISERVICES, LLC.

FOR PROFESSIONAL SERVICES

This Agreement is entered into as of the 2nd day of December, 2019, (“Agreement”) by and between the **CITY OF PALO ALTO**, a California chartered municipal corporation (“CITY”), and **MUNISERVICES, LLC**, a Delaware Limited Liability Company, located at 7625 N. Palm Avenue, Suite 108, Fresno, CA 93711 (“CONSULTANT”).

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to perform sales and use tax analytics, reporting and audits; transient occupancy (TOT), telecommunication users tax (TUT), business registry certificate (BRC), and business improvement district (BID) program administrative, payment collection, and reporting services (“Project”) and desires to engage a consultant to provide such in connection with the Project (“Services”).

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described at Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY, in accordance with the requirements of the Scope of Services as described in EXHIBIT A.

Optional Additional Services (This provision only applies if checked and only applies to Agreements that specify an amount for Additional Services under Section 4 and Exhibit “C”).

Additional Services (as defined in Section 4, “Not to Exceed Compensation”) will be authorized by CITY, as needed, with a Task Order assigned and approved by CITY’s Project Manager, as identified in Section 13 (“Project Management”). Each Task Order shall be in substantially the same form as Exhibit A-1 (“Professional Services Task Order”). Each Task Order shall contain a specific proposed scope of services, schedule of performance and compensation amount, in

accordance with the provisions of this Agreement. To accept a Task Order, CONSULTANT shall sign the Task Order and return it to the Project Manager within the time specified by the Project Manager, and upon acceptance by CITY, the signed Task Order shall become part of this Agreement. The cumulative total compensation to CONSULTANT for all Task Orders issued under this Agreement shall not exceed the amount of compensation set forth for Additional Services in Section 4 of this Agreement. CONSULTANT shall only be compensated for Additional Services performed under an authorized Task Order and CITY may elect to, but is not required to, authorize Additional Services work up to the maximum compensation amount set forth for such services in Section 4. Performance of and payment for any Additional Services are subject to all requirements and restrictions in this Agreement.

SECTION 2. TERM. The term of this Agreement shall be from the date of its full execution through December 2, 2024 unless terminated earlier pursuant to Section 19 of this Agreement. The City shall have the option to renew this Agreement for an additional three (3) years, to be exercised at the City's sole and absolute discretion, by written notice to the Contractor and, if so exercised, Contractor shall execute with the City a modification of this Agreement, as provided in Section 27.4, to effectuate such renewal option. The cost of such renewal option, if exercised, is not included in the not-to-exceed compensation of this Agreement and will be negotiated by the parties in executing the modification of this Agreement to effectuate the City's exercise of its option to renew under this Section.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit "B", attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY's agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit "A" (also referred to herein as the "Basic Services"), and any specified reimbursable expenses, shall not exceed Six Hundred Eighty Five Thousand Dollars (\$685,000), as detailed in Exhibit "C". CONSULTANT agrees to complete all Basic Services, including any specified reimbursable expenses, within this amount, as detailed in Exhibit "C". In the event Additional Services (defined below) are authorized, the total compensation for such Additional Services shall not exceed Fifteen Thousand Dollars (\$15,000), and the total compensation for Basic Services, Additional Services and any specified reimbursable expenses shall not exceed Seven Hundred Thousand Dollars (\$700,000). The applicable rates and schedule of payment are set out at Exhibit "C-1", entitled "SCHEDULE OF RATES." Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation set forth herein shall be at no cost to the CITY.

Additional Services (defined below), if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C" and Section 1 ("Scope of Services") of this Agreement.

CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY as detailed in Section 1. "Additional Services" shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit "A".

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including, as applicable, an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), as detailed in Exhibit "C" and/or, as applicable, based upon the CONSULTANT's billing rates set forth in Exhibit "C-1". If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT's payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City's project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT's supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by CONSULTANT's errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of CITY's stated construction budget, CONSULTANT shall make recommendations to CITY for aligning the PROJECT design with the budget, incorporate CITY approved

recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT's obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

Option B: Subcontracts Authorized: Notwithstanding Section 11 above, CITY agrees that subconsultants may be used to complete the Services. The subconsultants/subcontractors authorized by CITY to perform work on this Project are:

Amazon Web Services ("AWS")

CONSULTANT shall be responsible for directing the work of any subconsultants/subcontractors and for any compensation due to subconsultants/subcontractors. CITY assumes no responsibility whatsoever concerning compensation of such subconsultants/subcontractors. CONSULTANT shall be fully responsible to CITY for all acts and omissions of any CONSULTANT subconsultant/subcontractors. CONSULTANT shall change or add subconsultants/ subcontractors only with the prior written approval of the City Manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Douglas Jensen as the executive contact to have supervisory responsibility for the performance, progress, and execution of the Services and Thomas Adams as the project client services manager to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY's project manager. CONSULTANT, at CITY's request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property.

CITY's project manager is Tarun Narayan, Administrative Services Department, Treasury, Debt, and Investments Division, 250 Hamilton Avenue, Palo Alto, CA 94303, Telephone:(650) 329-2362. The CITY's project manager will be CONSULTANT's point of contact with respect to performance, progress and execution of the Services. CITY may designate an alternate project manager from time to time.

SECTION 14. INTELLECTUAL PROPERTY; DATA. Upon delivery, all work product,

including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement as unique to this engagement with CITY shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

14.1 Intellectual Property Rights in the SaaS. CONSULTANT retains all right, title, and interest in and to the software-as-a-service (“SaaS”), defined as the online-hosted SaaS to be provided by CONSULTANT to CITY and its Authorized Users pursuant to this Agreement, as detailed in Exhibit A (“Scope of Services”), including without limitation all Software (defined below) used to provide the SaaS and all graphics, user interfaces, logos, and trademarks reproduced through the SaaS. This Agreement does not grant CITY any intellectual property license or rights in or to the SaaS or any of its components or any Documentation (defined below) except those expressly granted herein. CITY recognizes that the SaaS and its components and the Documentation are protected by copyright and other laws. “Software” means the online-hosted computer software application(s) residing on CONSULTANT-provided servers that CONSULTANT uses to provide to CITY the Services detailed in this Agreement, and that CONSULTANT makes digitally accessible to the CITY and its Authorized Users (defined below) via the internet. “Documentation” means the technical publications relating to the use of the SaaS, such as reference, installation, administrative and programmer or user manuals, made available by Contractor to CITY.

14.2 Grant of License to the SaaS. CONSULTANT hereby grants to CITY a limited, non-exclusive, non-transferable term license to use, access and benefit from the SaaS in fulfilling the CITY’s public mission during the term of this Agreement. The license granted to CITY hereunder includes the right to provide to the CITY’s Authorized Users access to the SaaS in accordance with this Agreement, including the CMS and other administrative, non-public facing portions of the SaaS as well as the public-facing portions of the SaaS. “Authorized User” means all persons holding a valid ID and password issued by the CITY pursuant to this Agreement. The parties understand and agree that pursuant to this Agreement, members of the public will access the public-facing portions of the SaaS.

14.3 Ownership of Data; Grant of License to City Data. The parties acknowledge and agree that CITY owns the City data, content, documents, materials and other information, in any format or media, collected, stored, imported or inputted into, or gathered by, the SaaS, including without limitation data from third parties (“City Data”); that the CITY has a right to control, access and retrieve City Data at any time during the term of the Agreement, in computer-readable format. The CITY hereby grants to CONSULTANT and its subcontractors, if any, the limited, non-exclusive, non-transferable, revocable rights to access and use City Data during the term of this Agreement solely for the purposes of performing CONSULTANT’s obligations to CITY hereunder and supporting CITY’s use of the SaaS hereunder, and as is otherwise expressly permitted under this Agreement. This Agreement does not grant CONSULTANT or its subcontractors any intellectual property license or rights in or to the City Data except those expressly granted herein. Upon termination or expiration, if CITY will leave the SaaS, CONSULTANT and CITY shall work together to provide CITY with a copy of City Data in mutually-agreed computer-readable format(s). CITY shall have the option to choose from one of

several methods to obtain a copy of City Data. Once such data has been provided to CITY, CONSULTANT shall use industry-standard secure means of destruction or erasure of any City Data remaining in its possession and, at the CITY's request, certify the same.

14.4 Payment Card Industry ("PCI") Requirements. Pursuant to this Agreement, CONSULTANT's provision of Services that handle, transmit or store Payment Card Industry ("PCI") cardholder data, are subject to the following requirements:

14.4.1. All CONSULTANT-provided online-hosted software applications used in the performance of this Agreement shall be compliant with the Payment Application Data Security Standard (PA-DSS) and validated by a Payment Application Qualified Security Assessor (PA-QSA). A CONSULTANT whose application has achieved PA-DSS certification must then be listed on the PCI Councils list of PA-DSS approved and validated payment applications.

14.4.2. Gateway providers shall have appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as service providers (<https://www.pcisecuritystandards.org/index.shtml>). Compliance with the PCI DSS shall be achieved through a third-party audit process. The CONSULTANT shall comply with Visa Cardholder Information Security Program (CISP) and MasterCard Site Data Protection (SDP) programs.

14.4.3. For any CONSULTANT that processes PIN Debit Cards, payment card devices supplied by CONSULTANT shall be validated against the PCI Council PIN Transaction Security (PTS) program.

14.4.4. For items 14.4.1 to 14.4.3 above, CONSULTANT shall provide a letter from its qualified security assessor (QSA) affirming its compliance and current PCI or PTS compliance certificate.

14.4.5. CONSULTANT shall be responsible for furnishing CITY with an updated PCI compliance certificate 30 calendar days prior to such certificate's expiration.

14.4.6. Bank Accounts. Collections that represent funds belonging to the CITY shall be deposited, without detour to a third-party's bank account, into a CITY bank account designated by the CITY in writing.

14.4.7. CONSULTANT shall comply with all applicable security provisions of the Payment Card Industry (PCI) Data Security Standard (PCI DSS) including the PCI DSS Cloud Computing Guidelines.

14.5 Other Security Requirements. CONSULTANT's provision of Services and the SaaS shall also comply with the following requirements:

14.5.1. CONSULTANT shall provide Network Layer IP filtering solution to allow access only from the CITY's IP address to the CONSULTANT'S online SaaS environment (especially hosted for the CITY).

14.5.2. Any and all the access to the CONSULTANT's environment shall be equipped with Multifactor Authentication.

14.5.3. Any data transfer between the CITY and the CONSULTANT's online SaaS environment shall securely be transferred/processed through SITE-TO-SITE VPN

communication. The site-to-site VPN shall include Multi-Factor Authentication (MFA).

14.5.4. The CITY's data, during the operational processes, hosted at rest, and the backup stage, shall be encrypted securely at the CONSULTANT' environment (including any CONSULTANT subcontracting organization's environment including without limitation AWS).

14.5.5. As the CONSULTANT is processing, storing and backing up Personal Information and Personally Identifiable Information, the CONSULTANT's infrastructure hosting environment shall offer a secured logically separated IT environment with their hosting services.

14.5.6. The minimum 3 (three) authorized personnel from the CITY shall have superuser/ super admin access to the CONSULTANT's environment and AWS hosted environment with MFA authentication.

14.5.7. The authentication and authorization from the CITY's environment to the CONSULTANT's environment and from CONSULTANT's environment to the AWS hosted environment shall include SSO and MFA.

14.5.8. CONSULTANT shall provide IP filtering for all applications and database access to the CONSULTANT's environment and to the AWS environment.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT's records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an "Indemnified Party") from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements ("Claims") resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT's services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions,

ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit “D” (“Insurance Requirements”). CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best’s Key Rating Guide ratings of A-:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days’ notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT’s receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event

of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, 25 and 27.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In executing this Agreement, CONSULTANT 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 the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance

with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person’s race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. CONSULTANT 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.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, incorporated by reference and may be amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, CONSULTANT shall comply with the following zero waste requirements:

- (a) All printed materials provided by CONSULTANT to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable-based inks.
- (b) Goods purchased by CONSULTANT on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.
- (c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE. CONSULTANT 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, CONSULTANT 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, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code section 4.62.060.

SECTION 25. NON-APPROPRIATION

25.1. 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.

SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS

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

SECTION 27. MISCELLANEOUS PROVISIONS.

27.1 This Agreement will be governed by California law, without regard to its conflict of law provisions.

27.2 In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

27.3 The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

27.4 This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This Agreement may be amended only by a written instrument, which is signed by the authorized representatives of the parties and approved as required under Palo Alto Municipal Code.

27.5 The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

27.6 If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the unaffected provisions of this Agreement will remain in full force and effect.

27.7 All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement referred to herein are, by such reference, incorporated into this Agreement in full and will be deemed to be a part of this Agreement.

27.8 In the event of a conflict between the terms of this Agreement and the exhibits hereto or CONSULTANT's proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONSULTANT's proposal (if any), the exhibits shall control.

27.9 If, pursuant to this Agreement with CONSULTANT, CITY shares with CONSULTANT any personal information as defined in California Civil Code section 1798.81.5(d) about a California resident ("Personal Information"), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City's express written consent. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

27.10 CONSULTANT understands and agrees that, in connection with this Agreement, the CONSULTANT may have access to proprietary and/or confidential information which may be owned or controlled by the CITY, the disclosure of which to third parties may be damaging to the CITY, its employees or customers/residents. CONSULTANT also understands and agrees that the disclosure of such information may violate state and/or federal law and may subject the CONSULTANT to civil liability. Consequently, CONSULTANT agrees that all information disclosed by the CITY to the CONSULTANT shall only be used in the performance of this Agreement, unless disclosure is required by law or court order. CONSULTANT shall exercise the same standard of care to protect such information as is used to protect its own proprietary and/or confidential information and in no case less than a reasonable standard of care. If selected in Section 28 ("Exhibits"), Contractor shall provide the Services in compliance with the Information Privacy Policy exhibit and the Vendor Cybersecurity Terms and Conditions exhibit. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

27.11 All unchecked boxes do not apply to this Agreement.

27.12 The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

27.13 This Agreement may be signed in multiple counterparts, which, when executed by all the parties, shall together constitute a single binding agreement.

SECTION 28. EXHIBITS. The following exhibits, if the check box is selected below, are hereby attached and incorporated into this Agreement by reference as though fully set forth herein:

- EXHIBIT "A": SCOPE OF SERVICES
- EXHIBIT "A-1" PROFESSIONAL SERVICES TASK ORDER (*Optional*)
- EXHIBIT "B": SCHEDULE OF PERFORMANCE
- EXHIBIT "C": COMPENSATION
- EXHIBIT "C-1": SCHEDULE OF RATES
- EXHIBIT "D": INSURANCE REQUIREMENTS
- EXHIBIT "E": DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS
- EXHIBIT "F": INFORMATION PRIVACY POLICY
- EXHIBIT "G": VENDOR CYBERSECURITY TERMS AND CONDITIONS

THIS AGREEMENT IS NOT COMPLETE UNLESS ALL SELECTED EXHIBITS ARE ATTACHED.

CONTRACT No. C20175534A SIGNATURE PAGE


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

CITY OF PALO ALTO

**CONSULTANT
MUNISERVICES, LLC.**

City Manager

Officer 1

By: 
Name: Paul Colangelo

APPROVED AS TO FORM:

Title: CEO

City Attorney or designee

Officer 2 (Required for Corp. or LLC)

By: 
Name: Mike Melka

Title: CFO

EXHIBIT "A" **SCOPE OF SERVICES**

CONSULTANT will provide the following Services to the CITY under this Agreement:

Sales and Use Tax Audit and Information Services

CONSULTANT will provide sales and use tax audit and information services. This will include identifying and ensuring City receipt of misallocated or underreported tax revenues. Revenue reporting services will include written reports and periodic briefings concerning revenue performance, trend analysis, gains and declines, revenue projections, enhanced recovery options, and, if appropriate, an analysis of present and future issues related to revenue recovery.

Requirements

- 1) Verify California Department of Tax and Fee Administration (CDTFA) quarterly sales and use tax allocations to the City.
- 2) Track and report on misallocations that have been corrected as a result of CONSULTANT's efforts and remitted to the City by the CDTFA.
- 3) Provide sales and use tax reporting services that include detail and summary information for:
 - a) Quarterly sales and use tax analysis reports that are benchmarked to previous years. Analysis should include information on the top revenue producers, indication of revenue changes by business and economic category, identification of the major businesses that influenced change in the City's tax revenue, analysis of key businesses that grew or declined during the reporting period, identification of the top revenue generators in the City, and an analysis of their potential to grow or decline.
 - b) Reports by geographical area (for example, shopping centers, business districts, commercial districts, redevelopment area, governmental, residential, etc.).
 - c) Revenue forecasting reports.
 - d) Other sales and use tax summary reports.
- 4) The ability to provide at least four quarters of historical data and continuity of reporting during transition is critical.
- 5) Ability to provide sales and use tax data for City use that can be downloaded standard file format (e.g., comma-delimited text, Excel, MS Access) or access to a web-based application to view or download data.
- 6) Ability and commitment to tailor reports to the City's reporting needs in a mutually agreed format.
- 7) Attend quarterly meetings to discuss analytical reports for sales and use tax. Provide charts and graphs as supporting documentation. Assign staff such that the City has a consistent point of contact in these discussions.
- 8) Meet with designated City staff as necessary to support the City in recovering and preventing tax deficiencies.
- 9) Define methodology for identifying potential misallocations and underreported sales and use tax.

- 10) Provide ongoing communication to the City on revenue recovery work in progress. This requirement will include:
 - a) Providing a quarterly report of all inquiries filed on behalf of the City and the status of outstanding past inquiries filed with the CDTFA;
 - b) Notifying the City's Project Manager of all oral communication with the CDTFA regarding the City; and
 - c) Providing the City's Project Manager with a copy of all written communication (e.g. correspondence and email) with the CDTFA regarding the City.
- 11) Prepare short forms or other appropriate documentation to facilitate the recovery of revenue due the City from prior reporting periods (plus applicable interest and penalties, if appropriate).
- 12) Provide a detailed listing of all misallocations and underreported sales and use tax detected by the firm. Information shall include the company name, account number, value of the detection, correction status, payment amount received by the City, payment amount due, reporting period for which the payment is related, and any additional information deemed necessary by the firm.
- 13) Provide support for the development of a point-of-sale attraction and retention strategy. This includes, but is not limited to:
 - a) Yearly: A complete list of businesses by North American Industry Classification System (NAICS) codes, in excel format, including geographic area (e.g., Downtown, Midtown).
 - b) Quarterly: List of all new businesses in Palo Alto by size, location, etc., including an estimate of revenue potential for the City.
 - c) Quarterly: List of businesses looking to expand in the region, with appropriate contact information.
 - d) Quarterly: Newsletter customized for Palo Alto public consumption, in PDF form.
 - e) Quarterly: Track and report sales tax data for the following cities in Santa Clara County and others as agreed by City and CONSULTANT.
 - f) Yearly: Training on software, customization of reports, and all available tools.
 - g) Relevant Strategic Plans from other similar cities.
 - h) A list of interesting incentive programs from other California cities.
- 14) Obtain advanced, written authorization from City Staff to perform work beyond the filing of a short form to recover funds on behalf of the City, such as a decision appeal, in instances where the CDTFA has an earlier date of knowledge than the firm. The firm will not be eligible to earn compensation for work performed unless such authorization is obtained.

Transient Occupancy Tax (TOT) Administrative and Reporting Services

CONSULTANT will ensure compliance with the City's TOT regulations and filing procedures. The City's TOT regulations can be found in Title 2, Chapter 2.33 of the Palo Alto Municipal Code (PAMC). The PAMC requires that the City assess a 15.5 percent TOT on its approximately 30 plus hotels, inns, and various lodging houses and on-line platforms (e.g. AirBnB, Expedia, Inc. Aboda, Inc., etc.) that are intended or designed for occupancy by transients for dwelling. At a minimum, the following capabilities are required: tax return processing and posting; reporting of tax assessment, including relevant statistical data for analytical purposes; compliance monitoring; and customer support services for lodging providers.

Requirements

- 1) Payment processing – process all payments made by new and existing lodging providers, using the CONSULTANT-provided secure online-hosted filing and payment website. The website and database will be hosted, administered, supported, updated and maintained by the CONSULTANT. TOT filings will be processed within three (3) business days of submission.
- 2) Database management – maintain and update the tax registration database for new TOT registrations for lodging, including newly opened establishments, business name changes, and/or changes in business owners. Registration of lodging businesses the database accessible by City staff.
- 3) Customer support for lodging businesses – provide multiple customer support options for businesses on how to register, file, make payment, and answer general inquiries regarding the TOT tax and filing process. Provide a response to the business within one (1) business day.
- 4) Compliance monitoring – review filings to ensure accuracy and the correct TOT amount has been remitted to the City. Conduct compliance audits as mutually agreed to by the City and the CONSULTANT.
- 5) Prepare, or make data available online for City staff review, reports that summarize activity and statistics on a monthly, quarterly, and annual basis. Types of information include total occupancy revenue, TOT payments, number of rooms, occupied (rental) days, available (rental) days, exemptions, amounts, etc.
- 6) Provide monthly reports, on or before the 10th of every month, that summarize collected tax, less proposed fees, along with remittance of TOT revenue collected for the preceding month.

Implementation of TOT Administrative Cycle

CONSULTANT will be responsible for the following tasks related to the Implementation of TOT collection and administration:

- 1) Convert and load all taxpayer records (provided by the City) to the CONSULTANT's online-hosted Revenue Administration SaaS software system.
- 2) Verify with the City all taxpayer letters, forms, notices and any other taxpayer correspondence that are in use for the collection and administration of the tax.
- 3) Configure secure web filing and payment portal for use by the City's taxpayers.
- 4) Contact all taxpayers a) by mail, including introductory letter with new filing address, telephone contact for taxpayer support, and web filing instructions; and then b) by telephone follow-up.
- 5) Cutover from City to CONSULTANT to the CONSULTANT-provided online-hosted SaaS Administration system according to schedule to be developed with the City.

Ongoing Tax Administration Cycle

- 1) Beginning on the scheduled date, CONSULTANT will receive filings and payments by mail and online.
- 2) All paper filings checks and correspondence will be opened and batched in our secure facility.
- 3) Paper filings will be reconciled with payments and any errors, omissions or balance discrepancies logged for follow-up. Web filings are reconciled daily. CONSULTANT also handles NSF check processing, returns and refunds.

- 4) CONSULTANT will generate and send invoices for balances due to any taxpayer underpayments or late payments.
- 5) Payments received will be deposited and disbursed to the City 10 – 12 times per month.
- 6) CONSULTANT Tax Specialists will contact the taxpayer by phone to resolve any filing errors, omissions, or discrepancies.
- 7) Each month, the CONSULTANT Administration System will flag any missed filings for follow-up. Taxpayers will receive a courtesy phone call and a late notice to let them know a filing has not been received as of the due date. The CONSULTANT will continue to follow-up with the taxpayer until payments are received and taxpayer complies.
- 8) Monthly, CONSULTANT Tax Specialists will analyze the month's receipts and flag significant variations for follow-up with the taxpayer and possible auditor review.
- 9) CONSULTANT will provide complete taxpayer support via toll-free number and e-mail to taxpayers requiring assistance with filing or payment, mailing address or contact changes, and any other related issues they may have.
- 10) CONSULTANT will register new taxpayers and assist them with all materials needed to begin and maintain filing.

TOT Compliance Services

In addition to TOT administrative services, the goal of the TOT compliance services program is to ensure successful, long-term compliance for lodging establishments that operate in the City. The TOT inventory and compliance services cover traditional lodging properties (hotels, motels, inns) and it does not cover online short-term rentals (such as Air BnB, VRBO, etc.). Should the City seek inventory and compliance services for online short-term rental properties, there will need to be an amendment to this contract pursuant to Section 27.4. This amendment would be at the City's sole and absolute discretion and the pricing, services, and terms of such an amendment will be negotiated at a future date.

The TOT Compliance Services workplan and project schedule for the program are outlined below:

Analysis - Phase 1

- 1) Inventory. Establish a comprehensive inventory of all lodging properties subject to taxation by the City and the database elements (public and private databases) needed to facilitate further analysis to identify and locate lodging providers not properly registered with the City and not appearing on the City rolls as TOT remitters.
- 2) Analysis. Analyze lodging provider "return information" to identify unusual or suspicious reporting and/or activities that warrant further review.
- 3) Data collection. Conduct unobtrusive collection of information on each property, including number of rooms, occupancy rate, transient and non-transient guests, exemptions, property's condition, business dynamics, etc.
- 4) Reporting. Provide a detailed analysis report to the City identifying lodging providers who might require additional investigation or review to determine their compliance with the City's TOT ordinance and coordinate with the City to review the analysis report.
- 5) Identify Phase 2 reviews. Work with the City to develop a list of lodging providers subject to a compliance review of lodging and tax records.
- 6) Deliverables. CONSULTANT will provide the City with a detailed analysis report identifying lodging providers who might require additional investigation or review to

determine their compliance with the City's TOT ordinance.

Audit and Compliance Review - Phase 2

- 1) Records. Provide the City with a detailed list of all records required from lodging providers, together with a draft engagement announcement letter to be sent to each lodging provider.
- 2) Examine & Verify. Review records pertaining to TOT for each lodging provider selected for a compliance review and verify the accuracy of filed TOT returns with daily and monthly activity summaries.
 - a) Review a random sample of the daily and monthly summaries to determine if the daily summaries reconcile to the monthly summaries.
 - b) If CONSULTANT believes such a review is necessary, review secondary and tertiary documentation such as bank statements to verify that deposits reconcile with the reported revenue on the TOT returns or other tax filings.
 - c) Review exempted revenue for proper supporting documentation.
- 3) Compliance Report. Submit and review with the City a compliance review report that includes:
 - a) All review findings;
 - b) Documentation for each error/omission identified and confirmed by CONSULTANT that is necessary to facilitate recovery of revenue due from lodging providers for prior periods.
 - c) Draft notices of deficiency determination, commendation and warning letters as applicable.
- 4) Findings. Assist the City in reviewing any matters submitted in extenuation and mitigation by lodging providers in contesting a deficiency determination. Prepare and document any changes to the compliance review findings and provide revised tax, interest or penalty amounts due the City.
- 5) Consulting. During the term of this Agreement, provide up to ten (10) hours of additional consulting time to assist the City in evaluating or implementing any of the proposed actions suggested by the above report.
- 6) Deliverables. CONSULTANT will provide City staff with a detailed list of all records required to be made available by lodging providers for the reviews, together with a draft engagement announcement letter to be sent to each lodging provider. This Phase will include:
 - a) Review findings
 - b) For each identified and confirmed error/omission, CONSULTANT will request accompanying documentation that CONSULTANT believes is necessary to facilitate recovery of revenue due from lodging providers for prior periods;
 - c) Draft notices of deficiency determination, commendation and warning letters as applicable, and recommendations.

Within 30 days of completing all audit reviews, CONSULTANT will provide a summary report of all findings to the City.

Legislative analysis, economic impact reporting on measures, consulting and policy updates are provided timely, regularly and year-round, and are included as part of the overall Compliance services.

TOT Project Schedule

- 1) Start-up of TOT Audit Process (within first 30-60 days)
 - a) Procedural meeting with the City
 - b) Request Documentation from City
 - i) 48 Months of Returns for all properties (or properties City selected)
 - ii) Current TOT Ordinance and any related information
- 2) Property Review and Hotels Selected for Audits (within 90 days)
 - a) When the CONSULTANT receives the returns, the CONSULTANT enters the data into worksheets to develop trends, property comparison, exempt rent to gross rent variation, etc. The CONSULTANT will research the statistics on the City and properties. Based on this data, the CONSULTANT selects specific properties for audit (if the City hasn't requested specific properties).
 - b) The CONSULTANT will submit to the City an Audit Report identifying the properties and reasons they were selected.
 - c) Once the City approves the hotels selected for audits, the CONSULTANT will forward the City Announcement Letters that need to be mailed to the properties on City letterhead. Once the City sends out the letters to the properties, CONSULTANT requests City send CONSULTANT a copy of the signed letters.
- 3) Start-up of TOT Audits (30 days later)
 - a) Auditors will contact the City for a brief conference call to discuss the audit timeline.
 - b) Once the timeline has been approved, CONSULTANT issues an Appointment Letter with a list of required information.
 - c) The date for the on-site review will allow the property a minimum of 30 days of preparation time.
- 4) Desk Audits and Field Audits (8 weeks later)
 - a) Conduct a review search on specifics of hotels to determine/confirm number of rooms, any special requirements and any other charges to which guests may be charged.
 - b) One week after the Appointment Letters are mailed, contact hotel operator to confirm date and time of audit, explain procedures, and request data for sample months selected (such as Property Management System, Month End Reports, Profit & Loss Statements, Exemption Reports, etc.).
 - c) Conduct on-site review.
- 5) Provide Final Audit Report to the City (30 days following completion of audit program)
 - a) Auditors will submit (via email) all the Commendation/Deficiency Letters that need to be submitted to the hoteliers by the City.
 - b) City will receive an electronic copy of the Final Audit Report.

Telecommunications Users Tax (TUT) Administrative and Reporting Services

The City assesses a TUT (see Title 2, 2.35.090) upon every person in the City using telephone communication services in the City at a rate of 4.75 percent of the charges made to service the user. Tax returns are due from each service supplier at the end of the month for activity and taxes collected for the preceding month. CONSULTANT will provide the following:

Requirements

- 1) Payment processing – process all payments made by every service supplier that is operating in the City. TUT filings will be processed within three (3) business days of submission.
- 2) Database management – update and maintain the tax registration database for all TUT payors.
- 3) Customer support for TUT payors – provide multiple customer support options for businesses on how to register, file, make payment, and answer general inquiries regarding the TUT tax and filing process. CONSULTANT shall provide a response to the business within one (1) business day.
- 4) Compliance monitoring – review filings to ensure accuracy and the correct TUT amount has been remitted to the City. Conduct compliance audits as mutually agreed to by the City and the CONSULTANT.
- 5) Prepare, or make data available online for City staff review, reports that summarize activity and statistics on a monthly, quarterly, and annual basis.
- 6) Provide monthly reports, on or before the 10th of every month, that summarize collected tax, less proposed fees, along with remittance of TUT revenue collected for the preceding month.

Implementation

- 1) Convert and load all TUT taxpayer records (provided by the City) to CONSULTANT's online-hosted SaaS Revenue Administration system.
- 2) Verify with the City all TUT taxpayer letters, forms, notices and any other taxpayer correspondence to be used.
- 3) Configure secure web filing and payment portal for use by the CITY'S TUT taxpayers.
- 4) Contact all TUT taxpayers a) by mail, including introductory letter with new Filing address, telephone contact for taxpayer support, and web filing instructions; and then b) by telephone follow-up.
- 5) Cutover from City to CONSULTANT online-hosted SaaS Administration system according to schedule to be developed with the City.

Ongoing Tax Administration Cycle

- 1) Beginning as of the scheduled date, CONSULTANT will receive filings and payments by mail and online.
- 2) All paper filings checks and correspondence will be opened and batched in our secure facility.
- 3) Paper filings will be reconciled with payments and any errors, omissions or balance discrepancies logged for follow-up. Web filings are reconciled daily. CONSULTANT also handles NSF check processing, returns and refunds.
- 4) CONSULTANT will generate and send invoices for balances due to any TUT taxpayer under-payments or late payments.
- 5) Payments received will be deposited and disbursed to the City 10 – 12 times per month.
- 6) CONSULTANT' TUT Tax Specialists will contact the taxpayer by phone to resolve any filing errors, omissions, or discrepancies.
- 7) Each month, the CONSULTANT TUT online-hosted SaaS Administration system will flag any missed filings for follow-up. Taxpayers will receive a courtesy phone call and a late notice to let them know a filing has not been received as of the due date.

CONSULTANT will continue to follow-up with the taxpayer until payments are received and taxpayer complies.

- 8) Monthly, CONSULTANT TUT Tax Specialists will analyze the month's receipts and flag significant variations for follow-up with the taxpayer and possible auditor review.
- 9) CONSULTANT will provide complete TUT taxpayer support via toll-free number and e-mail to taxpayers requiring assistance with filing or payment, mailing address or contact changes, and any other related issues they may have.
- 10) CONSULTANT will register new TUT taxpayers and assist them with all materials needed to begin and maintain TUT filing.

TUT Compliance Program Objectives and Scope

The CONSULTANT will provide the following Compliance Activities:

- 1) **Optional City Specific Compliance Reviews.** At City's option, CONSULTANT will offer "City-Specific" reviews on a performance fee or other negotiated basis, if the above activities or other factors (e.g., non-response by utility provider) would suggest that there is a reasonable need to do so. If City elects to have CONSULTANT conduct such optional reviews, assignment and authorization of such services may be approached as Additional Services pursuant to Section 1 ("Scope of Services") and Section 4 ("Not to exceed Compensation") provided that the amount set aside for Additional Services is not exceeded. Otherwise, if the City elects to have CONSULTANT conduct such optional reviews, the parties may execute an amendment to this Agreement pursuant to Section 27.4.

Administrative and Reporting Activities

- 1) **UUT Payment History.** CONSULTANT will provide the City, on a monthly or otherwise mutually agreed upon basis, with a spreadsheet reflecting the City's TUT payments by provider and utility category (based on remittance data provided by City to CONSULTANT).

Revenue Protection and Enhancement Activities

- 1) **Legislative Review Services.** CONSULTANT will monitor proposed state and federal legislation to identify issues affecting the City's TUT or utility franchise revenues and, make recommendations to client cities, their lobbyists, and other potential stakeholders or municipal advocates and otherwise assist in developing effective consensus positions and coordinated advocacy.
- 2) **Technology and Marketing Analysis.** CONSULTANT will identify, monitor and anticipate changes in technology, services, or marketing of services, which may have an impact on future TUT revenues.

Business Fee and Collection Services

CONSULTANT will provide fee collection services for the Business Registry Certificate and Business Improvement District programs. CONSULTANT will conduct research and ensure the City's database of business is accurate and reliable. In addition, the CONSULTANT will communicate directly with business on behalf of the City and provide the City additional support, program customization and consulting services if requested to do so by the City.

Requirements

- 1) Database verification and management
 - a) Review the CITY's existing database of businesses processes and update using external sources such as but not limited to CONSULTANT's proprietary database sources, the State of California Sales Tax data, Santa Clara County Real Property data, Dun & Bradstreet, and InfoUSA.
 - b) CITY will provide CONSULTANT the database in various formats and CONSULTANT will standardize the data for use for in administration and collections of fees.
 - c) Cross reference data and check for duplicates possibly due name used, DBA and or address. CITY may require data to include Federal Employer Identification Number (FEIN) and NAICS code to be collected.
 - d) Ensure all application data fields completed correctly prior to data transfer to the CITY in an acceptable data format.
- 2) Administration & Collections
 - a) Have experience and capabilities to process new business payments, renewals, delinquent payments and ongoing monitoring and administration of CITY's fees as described in the CITY's municipal code, ordinances, policies and program procedure manuals.
 - b) Provide businesses with ability to pay online or by mail.
 - c) Draft correspondences for mailings and maintain website portal for payments. Collections will occur annually and begin by March 1.
 - d) Hold funds, make monthly ACH transfer to the CITY and provide transfer logs with details of payment by business.
- 3) Customer Service
 - a) Lead communication with businesses through phone and email and manage all account communications including general questions, account inquiries, application questions and issue resolutions.
 - b) Be available through a toll-free telephone line Monday through Friday, 8:00AM to 5:00PM Pacific Time.
 - c) Respond to business correspondence via return phone call or written correspondence within 24 hours.
 - d) Standard correspondence templates will be drafted by the CONSULTANT and must be approved by the CITY.
 - e) Maintain communications with CITY staff to communicate project activity and any issues.
 - f) Promptly respond to CITY staff regarding any questions or issues within 24 hours.
- 4) Data Analytics
 - a) Maintain and update an online portal with lookup tools so that CITY staff can review business information and revenue data.
 - b) Database shall have capabilities to generate reports for analysis and ability for CONSULTANT and/or CITY to create custom reports as described by the CITY and provide within three business days.

Business Registry Certificate (BRC) / Business Improvement District (BID) Discovery Services

- 1) Preparation. CONSULTANT'S initial steps are to understand City's processes and requirements, obtain data from both City and external sources, and standardize the data for use in CONSULTANT'S proprietary database. The standardization process shall be completed by

trained professionals who merge City provided and external source data. The data shall be cross referenced and checked for duplicates possibly due name used, DBA and or address. CONSULTANT shall also integrate the data, generate correspondence and forms, and modify CONSULTANT's online-hosted SaaS Compliance Administration system to calculate delinquent fees. The result shall be an inventory of the compliant and non-compliant entities operating in City. The City shall provide CONSULTANT with the following information to begin Discovery:

- a) City's BRC and BID account data in electronic format along with the payment history of all registered businesses
 - b) Database files such as commercial utility billing records and a copy of City-preferred vendors
 - c) The business fee and business and occupation application forms
 - d) Other documentation required as a prerequisite to the issuing of a certificate
- 2) Testing. To test CONSULTANT'S processes developed during preparation, CONSULTANT shall begin with mailing a sample of business accounts to ensure addresses, recipients and other data points are accurate prior to bulk notifications. CONSULTANT will submit sample account statements, so City can validate fee calculations and classifications prior to sending out invoices. CONSULTANT shall also validate the payment posting and application processing procedures.
- 3) Execution. CONSULTANT shall notify and register non-compliant businesses through bulk mailings, and CONSULTANT shall modify the timing as new milestones are added.

Business Registry Certificate (BRC) and Business Improvement District (BID) Fee Administration
CONSULTANT shall provide City with a full-service turnkey BRC and BID Fee program related to the City's business payment processing, renewals, collections, and ongoing monitoring and administration of City's fees and follow City's municipal code, ordinances, policies and program procedure manuals. The service will be performed utilizing CONSULTANT'S internal programs and processes.

At a minimum, the service will include the following which are described more fully in the sections below:

- New application processing – including review and verification of applications and application data, establishing processes for established departmental prerequisites to licensure;
- Annual renewal application processing – including mailing of renewal applications and processing of completed renewal applications; and generating BRC certificates;
- Business Improvement District fee processing – as City's direction is to now collect this fee at the same time of the Business Registration fee, CONSULTANT will include the fee processing in with those registrants who need to complete both payments;
- Business account follow-up – for businesses that do not return their annual renewal application, CONSULTANT will send two additional notices and make one follow up phone call. To the extent these efforts do not result in compliance, the account will be handled under CONSULTANT'S Discovery Service.

New Account Processing

The new application processing will include a review and verification of applications and application data, establishing processes for established departmental prerequisites for a certificate to be issued. Included in the administration project setup will be review of City's current new application process for mutually agreed upon liaisons and modification if necessary.

Renewal Processing

CONSULTANT shall provide a service customization to assist with new business and renewal "walk-ins".

The annual renewal application processing will include mailing of renewal applications and processing of completed renewal applications; and generating BRC.

As a follow up for accounts that do not return their annual renewal application, CONSULTANT shall send two additional notices and make one follow up phone call. Any accounts who do not remit payment by this point will be referred to CONSULTANT'S Discovery Services to ensure they are indeed still in business and follow up with additional notices if applicable. If collection attempts are still not successful at this point, the remaining list will be turned over to City for final enforcement authority by City determined processes.

Collecting, Posting and Processing Payments

- Collection of BRC/BID fees: For both new and renewals with timely remittance or deposit on behalf of City;
- Monthly detail reporting of payments received: Including monthly reconciliation of payments received to payments remitted or deposited on behalf of City. Credit Card payment processing will be accepted pursuant to City approval. CONSULTANT and City will work together to determine the best method for processing credit card payments;
- Business compliance: For businesses who do not remit payment with their application or whose check is not honored by the bank (NSF check), CONSULTANT will send additional notices and follow up phone calls.

Business Community and City Staff Communications

Communications with Business Accounts

CONSULTANT will handle all account communications including general questions, account inquiries, BRC/BID application questions and issue resolution. CONSULTANT'S National Call Center will be available through a toll-free telephone line Monday through Friday, 7:00AM to 5:00PM Pacific Time. CONSULTANT will respond to business correspondence via return phone call or written correspondence. All standard correspondence templates will be subject to CITY approval.

Client Communications

CONSULTANT will maintain regular and close communications with City staff to communicate project activity and any issues. CONSULTANT will provide prompt responses to City staff regarding any questions or issues.

City will have the right, at City's option, to elect not to proceed with recovery of any identified deficiencies. Deficiencies which are uncollectible due to insolvency or dissolution of the entity

liable, or for deficiencies which are otherwise incapable of collection (e.g. statute of limitations expiration or other legal defense) will not be considered an “election” by City for the purposes of the Agreement. For deficiencies otherwise collectable but for which City elects not to collect, City will notify CONSULTANT of its election not to pursue (“waive”) collection of said deficiencies. CONSULTANT will be entitled to one-half (½) of the fee CONSULTANT would have been entitled to for the waived portion of the deficiency.

Online-hosted SaaS Filing and Payment Processing

CONSULTANT has successfully implemented and continues to support CONSULTANT’S online file-and-pay option for over 135 of CONSULTANT’S clients and have found that online BRC filing, and payment is the most convenient option for most businesses, and results in expedited filing and payment throughput for CONSULTANT’S clients.

CONSULTANT’S online-hosted SaaS system seamlessly handles the basic processing steps in the filing process:

- Applicants’ filings and payments are entered using secure website.
- Online payments are recorded in CONSULTANT’S online-hosted SaaS system.
- Automatic reconciliation between payment and application.

Typically, the process takes most applicants no more than five minutes from start to finish. The same portal enables businesses to update their account information, correspond with CONSULTANT specialists, view their previously filed returns that were submitted through the online filing website and receive assistance for their BRC/BID questions. CONSULTANT shall encourage businesses to utilize CONSULTANT’S online file-and-pay option by providing 24/7 access to a secure web-based portal.

Reporting

While CONSULTANT administers the collection of revenue, the City shall never be far from the information. CONSULTANT’S online-hosted SaaS reporting system shall allow City to access reports and business information whenever City shall require it.

Here is a sample list of the reports available online:

- New Account Listing
- Transfer and Distribution Report
- Daily, Weekly and Monthly Reconciliation Reports
- Detailed Payment History Reports
- Top Remitters Reports
- BRC Issued Report
- BRC Certificates on Hold Report
- Business Search Tool

In addition to the collection of reports and business lookup tool available online, CONSULTANT shall have a large collection of reports available for electronic transfer. These reports originated from internal analysis or clients suggesting new analysis formats. CITY will have access to any new reports or features on the online system as soon as they are implemented. All of CONSULTANT’S clients benefit from the ideas and suggestions of CONSULTANT’S other

clients.

Supporting Services

Government Relations/Legislative and Policy Updates/Advocacy. CONSULTANT’S product and service offerings are complemented by a dedicated Government Relations team that provides local government advocacy, policy, regulatory and legislative consulting support and expertise. CONSULTANT has a proven track record of surfacing and successfully resolving numerous issues that have resulted in the preservation and expansion of the tax base for its clients. CONSULTANT’S Government Relations Team is located in the League of California Cities building in Sacramento which provides opportunities for firsthand collaboration on a daily basis with the advocacy groups that support California cities. CONSULTANT’S overall Government Relations program brings tremendous value to the client and is a natural progression in the successful determination of revenue preservation and enhancement; and for which no consulting fee is charged to CITY for the associated policy, regulatory, and legislative support.

Industry Partner. CONSULTANT is a proud partner and supporter of industry organizations dedicated to local government. CONSULTANT’S firm is a long-standing associate member and local government business partner for industry organizations including the League of California Cities, the California Municipal Revenue Tax Association and California Society of Municipal Finance Officers. CONSULTANT is the sole Business Council Member of the United States Conference of Mayors (USCM) that provides local government revenue enhancement, information and consulting services. CONSULTANT’S Business Tax Compliance and Discovery Program was featured in the USCM’s 2016 Mayors Business Council Best Practices. Each member of CONSULTANT’S team shares the common goal with these organizations – strengthening local government. CONSULTANT’S team members are invested in their communities and in local government. CONSULTANT makes the necessary investment into its team to ensure active involvement with industry organizations throughout the country. CONSULTANT’S experts regularly present as conference speakers, participate as exhibitors and sponsors, and participate in policy development.

The Services, where provided by CONSULTANT’S online-hosted SaaS, include all related services and support necessary to implement the Services detailed in this Scope of Services, including, for example and without limitation, data/content migration, software licensing, online-hosting, maintenance, updates, upgrades, security, and technical and user support as detailed in this Scope of Services and elsewhere in this Agreement, in CONSULTANT’S proposal, and in the Documentation.

Additional Customization & Consulting Services (Not Included in Scope of Services)

CITY may request CONSULTANT provide Additional Services, as detailed in Section 4 (“Not to Exceed Compensation”) of this Agreement, including but not limited to enhanced customization to its online filing website, reports, or Client Reporting Portal beyond the customization outlined in this Agreement. In such a situation, CITY and CONSULTANT may identify CITY’S desired scope and reasonable and customary fees (a cost proposal) for the desired scope, pursuant to a Task Order as detailed in Section 1 (“Scope of Services”) herein. Before making any such enhanced customizations, such Additional Services shall be authorized and executed as provided in Section 1 and in accordance with Section 4.

EXHIBIT "A-1"
PROFESSIONAL SERVICES TASK ORDER

Consultant shall perform the services detailed below in accordance with all the terms and conditions of the Agreement referenced in Item 1A below. All exhibits referenced in Item 8 are incorporated into this Task Order by this reference. The Consultant shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

CONTRACT NO. _____ ISSUE DATE _____
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE) _____

- 1A. MASTER AGREEMENT NUMBER (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE): _____
 - 1B. TASK ORDER NO.: _____
 - 2. CONSULTANT NAME: _____
 - 3. PERIOD OF PERFORMANCE: START: _____ COMPLETION: _____
 - 4. TOTAL TASK ORDER PRICE: \$ _____
BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT \$ _____
 - 5. BUDGET CODE _____
COST CENTER _____
COST ELEMENT _____
WBS/CIP _____
PHASE _____
 - 6. CITY PROJECT MANAGER'S NAME & DEPARTMENT: _____
 - 7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
MUST INCLUDE:
 - WORK TO BE PERFORMED
 - SCHEDULE OF PERFORMANCE
 - COMPENSATION AMOUNT AND RATE SCHEDULE (AS APPLICABLE)
 - DELIVERABLES
 - REIMBURSABLE EXPENSES, if any (with "not to exceed" amount)
 - 8. ATTACHMENTS: A: Task Order Scope of Services B (if any): _____
-

I hereby authorize the performance of the work described in this Task Order.

I hereby acknowledge receipt and acceptance of this Task Order and warrant that I have authority to sign on behalf of Consultant.

APPROVED:
CITY OF PALO ALTO

APPROVED:
COMPANY NAME: _____

BY: _____
Name _____
Title _____
Date _____

BY: _____
Name _____
Title _____
Date _____

EXHIBIT "B"
SCHEDULE OF PERFORMANCE

CONSULTANT shall perform the Services so as to complete each milestone within the number of days/weeks specified below. The time to complete each milestone may be increased or decreased by mutual written agreement of the project managers for CONSULTANT and CITY so long as all work is completed within the term of the Agreement. CONSULTANT shall provide a detailed schedule of work consistent with the schedule below within 2 weeks of receipt of the notice to proceed (“NTP”).

TASK	SCHEDULE
Sales & Use Tax Audit and Information Services	
Task 1: Delivery of reports specified in Exhibit A – Scope of Work, including report of all inquiries filed on behalf of the CITY and the status of outstanding pas inquiries filed with the CDTFB; update to Clearview database of sales and use ta data for the most recent quarter; and meeting with designated CITY staff. Complete list of businesses by NAICS codes (when available), in Excel format, including geographic area (e.g. Downtown, Midtown, etc.)	Quarterly by middle of the first month of each quarter in January, April, July, and October
Task 2: Training on Clearview software, customization of reports, and all available tools	Annually or as needed
Task 3: Sales and use tax audit and recovery	Ongoing
Task 4: Additional Customization & Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Task 5: Additional Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Transient Occupancy Tax Administrative and Reporting Services	
Task 1: Convert and load all taxpayer records (provided by the CITY) to CONSULTANT Revenue Administration system.	October 2019
Task 2: Verify with the CITY all taxpayer letters, forms, notices and any other taxpayer correspondence that are in use for the collection and administration of the tax.	November 2019
Task 3: Configure secure web filing and payment portal for use by the CITY’S taxpayers.	October 2019

TASK	SCHEDULE
Task 4: Contact all taxpayers a) by mail, including introductory letter with new filing address, telephone contact for taxpayer support, and web filing instructions; and then b) by telephone follow-up.	December 2019
Task 5: Cutover from CITY to CONSULTANT Administration system according to schedule to be developed with the CITY.	February 2020
Task 6: Ongoing TOT Administrative and Reporting Services as described in Exhibit A – Scope of Work	Ongoing
Task 7: Phase 1 – TOT Compliance Services as described in Exhibit A – Scope of Work	TBD
Task 8: Phase 2 – TOT Compliance Services as described in Exhibit A – Scope of Work	TBD
Task 9: Additional Customization & Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Task 10: Additional Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Telecommunications Users Tax Administrative and Reporting Services	
Task 1: Convert and load all taxpayer records (provided by the CITY) to CONSULTANT Revenue Administration system.	October 2019
Task 2: Verify with the CITY all taxpayer letters, forms, notices and any other taxpayer correspondence that are in use for the collection and administration of the tax.	November 2019
Task 3: Configure secure web filing and payment portal for use by the CITY'S taxpayers.	October 2019
Task 4: Contact all taxpayers a) by mail, including introductory letter with new filing address, telephone contact for taxpayer support, and web filing instructions; and then b) by telephone follow-up.	December 2019
Task 5: Cutover from CITY to CONSULTANT Administration system according to schedule to be developed with the CITY.	February 2020
Task 6: Ongoing TUT Administrative and Reporting Services as described in Exhibit A – Scope of Work	Ongoing

TASK	SCHEDULE
Task 7: Ongoing TUT Compliance Activities as described in Exhibit A – Scope of Work	Ongoing
Task 8: Ongoing – TUT Revenue Protection and Enhancement, Ordinance Advisory Services, and Legislative and Regulatory Review Services as described in Exhibit A – Scope of Work	Ongoing
Task 9: Additional Customization & Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Task 10: Additional Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Business Fee Collection Services for the Business Registration Certificate and Business Improvement District Programs	
Task 1: Business Registry Certificate / Business Improvement District (BID) Discovery Services	November and December of respective year; prior to launch of annual cycle; and ongoing throughout year.
Task 2: Business Registry Certificate and Business Improvement District (BID) Fee Administration	Ongoing annually with annual cycle launch occurring January to March of respective year.
Task 3: Business Community and City Staff Communications	Ongoing
Task 4: Supporting Services	Ongoing
Task 5: Additional Customization & Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any
Task 6: Additional Consulting Services (if executed per Sections 1 and 4, or per Section 27.4)	TBD, if any

**EXHIBIT “C”
COMPENSATION**

The CITY agrees to compensate the CONSULTANT for the performance of this Agreement as described by each service below:

Sales and Use Tax Audit and Information Services

The Sales and Use Tax Audit (SUTA) services will be provided for a fifteen percent (15%) contingency fee for the tax revenues identified by the CONSULTANT and corrected by the California Department of Tax and Fee Administration (CDTFA). The Sales Tax Analysis and Reporting Service (STARS) will be provided at an annual fixed fee of \$4,000 paid \$1,000 per quarter. The Annual Fee will be adjusted at the beginning of each calendar year by the percentage change in the Consumer Price Index – West Urban (CPI-WU) as reported by the Bureau of Labor Statistics. The initial Consumer Price Index used for the first CPI adjustment will be the CPI-WU for the month in which the agreement is fully signed with the first adjustment to occur at the beginning of the Calendar year following the first full calendar year of service.

The CONSULTANT compensation for the Sales and Use Tax Audit Service will be a 15% contingency fee. This fee applies to four (4) quarters after the Date of Correction and all eligible prior quarters back to and including the three (3) quarters prior to the Date of Knowledge quarter with a maximum of ten total quarters. As used herein, the Date of Knowledge is the quarter during which the CONSULTANT notifies the CDTFA of the existence of a misallocation. As used herein, the Date of Correction refers to the quarter in which the taxpayer has correctly reported the local tax and the CDTFA distributes the local tax properly to City based on the taxpayer's reporting, together with any prior period reallocations. For QDR Misallocations detected and corrected, the CONSULTANT’S compensation will only include the quarters in which the misallocation actually occurred.

For clarification and to encourage communication and collaboration between the CONSULTANT and the CITY, the CONSULTANT shall be entitled to full payment of all compensation as provided herein even if any one or more of City, its personnel, agents, or representatives, or any third party or parties provide(s) information to the CONSULTANT that assists or is used by the CONSULTANT in the identification, detection, and correction of point-of-sale distribution errors or the reporting and/or misallocation of revenue.

In the event that the City identifies, documents, and notifies the CDTFA of a point-of-sale distribution error, reporting error or misallocation as those terms are used herein, the City agrees to notify the CONSULTANT of the City’s discovery no later than ten (10) days after the Date of Knowledge as defined in Title 18 of the California Code of Regulations, Regulation 1807 (“Date of Knowledge”). The City also agrees to notify the CONSULTANT promptly if it is working on a local tax misallocation issue independently of the CONSULTANT and to maintain and promptly make available to the CONSULTANT on request contemporaneous documentation of such work and its timing so that the duplication of work can be avoided. If the City fails to so notify the CONSULTANT as provided above and the CONSULTANT later detects, documents, and reports the misallocation or reporting error to the CDTFA, or if the CONSULTANT has established a Date of Knowledge with the CDTFA prior to notification to the CDTFA by the CITY, then the

CONSULTANT is entitled to full compensation for the affected account as provided herein.

Completion of Services

Because the services performed by the CONSULTANT results in corrections of misallocations and other revenue after cessation of services performed by the CONSULTANT for the City, the City agrees that with regards to misallocations identified to the CDTFA whose Date of Knowledge occurred during the CONSULTANT performance of services for the City or for other revenue resulting from the CONSULTANT'S actions taken during the term of the Agreement, that the City's obligation to pay the CONSULTANT in accordance with the compensation language of the Agreement will survive expiration or termination of the Agreement for any reason. Additionally, notwithstanding any other provision of the Agreement, if the Agreement is terminated or expires, the CONSULTANT will continue to pursue corrections of accounts identified during the term of the Agreement that have not been corrected by the CDTFA as of the effective date of termination or expiration. The period after termination during which the CONSULTANT is pursuing correction of accounts identified before termination is referred to as the "completion period." The City will compensate the CONSULTANT in accordance with the compensation language of the Agreement for corrected misallocations that result from the CONSULTANT efforts during the completion period. The City will also take all necessary steps to allow the CONSULTANT to continue to receive the required information from the SBE during this completion period.

Method of Payment

The Sales and Use Tax Audit Service is self-funding and entirely predicated and contingent upon the CONSULTANT'S audit service producing new sales/use tax revenue that would not otherwise have been realized by the City. The sales/use tax audit shall be paid by quarterly invoice, after the City has received the revenue from the correction and the quarterly distribution report has verified this receipt. Each invoice will include the business name, permit number, local allocation amount received by the City, and amount due to the CONSULTANT. Invoices shall be due and payable upon receipt.

Transient Occupancy Tax (TOT) Administration and Reporting Services

Administration Services

Transient Occupancy Tax administration services are available to the CITY for a one-time setup fee of \$2,500, plus an annual cost of \$150 per lodging property. The annual cost of \$150 applies regardless of whether the lodging property is hotel or a short-term rental. The TOT Administration Service will be invoiced to the City at the beginning of each contract year based on the number of properties registered to report occupancy tax. Should new short-term rental properties be added to the administration program during the year, these new properties will be billed on a pro-rated annual basis from the time they join the program.

TOT Audit and Compliance Services

TOT audits are provided for hotel and lodging properties on a fixed fee basis. Our TOT audit services consist of two inter-related audit phases. The Phase 1 review must be done first, and it must include all traditional (hotels, motels, inns) lodging properties within the City. This service does not include TOT audit and compliance services for online short-term rentals (Air Bnb, VRBO, etc.), as detailed in the "TOT Compliance Services" section of Exhibit A ("Scope of Services") of this Agreement. Phase 2 cannot proceed without a Phase 1 review first being

completed. The City can determine the number of Phase 2 audits that they wish for the CONSULTANT to complete (typically CONSULTANT recommends roughly 33% of lodging properties for Phase 2 audit but it is up to the City to determine the number).

Phase 1: Analysis

The City will pay the CONSULTANT a fixed fee of \$800 per lodging property. This fee applies to all lodging properties located in the City limits. The CONSULTANT will invoice this upon delivery of the analysis report.

Phase 2: Audit and Compliance Review

The City will pay the CONSULTANT a fixed fee of \$1,200 per lodging property reviewed unless the City does not approve the list of lodging properties for Compliance Review within 90 days of submission, in which the cost will increase to \$1,400 per lodging property reviewed. The CONSULTANT will invoice this upon delivery of the compliance report with payment to be made within thirty-days (30) of receipt of invoice.

Based on our experiences, through review of lodging properties in the initial Discovery and Audit Phase (Phase 1), our staff typically recommends approximately 33% of the lodging providers for the Phase 2 Compliance Review.

Reimbursement of Travel Costs for Audit Services (Visits to City)

For the Transient Occupancy Tax services the CONSULTANT will also charge the City out-of-pocket expenses for travel costs related to the performance of the audits in accordance with the City of Palo Alto's policy for reimbursement of travel and meal expenses. Travel costs will not exceed \$2,500 per visit. If CONSULTANT expect to spend more than \$2,500 per visit, CONSULTANT will get prior approval from the City for any amounts over the allotted \$2,500, executed in writing per Section 27.4 of this Agreement. The travel costs will be invoiced to the City upon delivery of the final report to the City.

Typically for years two and three there will not be a need to audit every property within the statute. The CONSULTANT will continue to monitor the lodging properties reporting and notify the City of any anomaly and then charge \$500 per property for any of those that require further compliance review.

Should the City elect the full Phase 1 and 2 service for years two and three, the travel costs reimbursement provisions above will apply, to be executed in writing per Section 27.4 of this Agreement.

Telecommunications Users Tax (TUT) Administrative and Reporting Services

Administration Services

Telecommunications Users Tax (TUT) administration services are available to the City for a one-time setup fee of \$1,000, plus a monthly administration fee equal to \$2.95 per filing transaction (typically one transaction per UUT taxpayer per month). The Administration Service will be invoiced to the City on a monthly basis and be based on the number of returns filed in the month.

Utility User Tax City-Specific Compliance Review Audit

Upon mutual agreement of a suitable telecommunications utility for compliance review, the City shall pay the CONSULTANT thirty percent (30%) of the additional revenues, including interest and penalties, that has resulted from its City-specific compliance review activities. The CONSULTANT will seek to recover or assist the City in recovering all revenue due the City from prior periods, if any, and the CONSULTANT will receive 30% of any retroactive recovery. Said 30% also applies to the additional revenue received by the City for the first three years following the correction of the error/omission. As used in this subsection, the term “additional revenues” includes the value of any other services, credits, property of every kind or nature, or other consideration received by the City in lieu of monetary payment.

Compensation is due and payable within thirty (30) days of the City’s receipt of the invoice. Any amounts which remain unpaid after thirty (30) days shall accrue interest at a rate of one and one-half percent (1.5%) per month, or the maximum amount permitted by law.

Business Fee and Collection Services

Business Registry/Business Improvement District (BID) Discovery

Compensation for providing Discovery Services shall be a contingency fee of thirty five percent (35%) of the additional revenue received by the City from the services. The contingency fee shall apply to the current registry year, all eligible prior period revenues, and any applicable penalties, interest, and late charges. The contingency fee only applies to revenue received by the City. The term “current registry year” shall mean the most recent Business Registry Certificate/BID cycle for which fees are due and payable to the City, and in which the CONSULTANT has identified deficiencies.

Business Registry and Business Improvement District Fee Administration

The fee for the Administration is determined by how many registry certificates the City has and what the City ordinance is for administrative fees. compensation for providing the standard Administration Services shall be:

- If there are no changes to the Business Registry/BID fee program, then no setup fee costs.
- \$12.00 per initial registry payment processed per registry period.
- For a customization beyond the standard offering and current processes, a mutually agreed upon one- time set up fee may apply or a slightly higher per registry fee may apply. This will be determined through more in-depth needs gathering from the City.

The per-registry fee is adjusted at the beginning of each calendar year by the percentage change in the Consumer Price Index that pertains to the City’s geographic area as reported by the Bureau of Labor Statistics. The initial CPI used for the first CPI adjustment will be the CPI for the month in which the agreement is fully signed. The adjustments thereafter will be based on the CPI from December of the prior calendar year. Each annual adjustment will not be less than two percent (2%) or greater than ten percent (10%).

Included in the above compensation for Administration Services are:

- Incorporation/Merging of the BID fee database and the Business Registry
- Printing and Mailing costs (for notifications, registry issuance, etc.)
- Ongoing database management and back-up (business applicant information)

- Forms processing and funds disbursement (secure lockbox operation)
- Development and support of an on-line business registry filing and payment application.

Should the City decide to change to a Business License program, then a one-time fee for standard setup will apply, not to exceed \$15,000; and \$12.00 per initial registry application processed per account/per license period. For a customization beyond the standard offering, a one-time set up fee may apply or a slightly higher per registry fee may apply. This will be determined in more in-depth needs gathering from the City.

Cost for Sending the Original Registry/Application to the City

The CONSULTANT archives all original registry certificate/applications. If the City wants a copy of the original registry/application, a fee of \$3.75 per business registry/application for the mailing or faxing.

Delinquencies

Should the usual process of notifying businesses (2 additional notices and a follow-up phone call) result in the non-payment of a business listed on the CONSULTANT'S online-hosted SaaS system or the data sent to the CONSULTANT from the City, the account will then be considered a delinquency. Delinquency processing involves another strongly worded notice and additional phone calls. The account is then subject to the same fees as the LTC Discovery services listed below.

Non-Sufficient Funds (NSF) and Associated Penalties

If a business pays its Business Registry fee by check without sufficient funds, then a \$25 NSF will be charged to the business. If the NSF payment causes the Business Registry/BID payments to be late, then the associated late penalties and interest will apply.

The CONSULTANT offers a variety of payment option to businesses seeking a Business Registry Certificate. Some of these options incur additional fees and costs. The CONSULTANT understands it is customary and reasonable for certain fees and charges to be absorbed by the issuing party and others to be charged to the business applicant/remitter. The CONSULTANT will follow existing City policy in charging any applicable fees and charges to either the business applicant/remitter or continue to allow the City to absorb those fees and charges.

Credit Card Processing Fee

If the City opts to absorb the credit card processing fees charged by the credit card companies, the CONSULTANT will withhold the exact processing fees charged by the credit card companies when the CONSULTANT remits Business Registry/BID revenue to the City. If the City opts-out of absorbing this cost, a standard 3% processing fee will be directly paid by businesses that choose this payment option and added to the business licensing fees at the time of payment.

Remitters' Payments and Invoice Process

The following section describes how applicant/remitters' payments are handled by the CONSULTANT and invoices the City for its fees.

Payments received by the CONSULTANT shall be deposited into a general non-interest bearing, collateral trust account maintained by the CONSUTLANT. The business applicants/remitters' payments deposited into the escrow account shall be remitted to the City on a bi-weekly basis

(typically on the 15th and by the last business day of each month) net of the CONSULTANT'S fees.

Should there be any disputed payments; the CONSULTANT shall work with City to mutually resolve these issues. If the resolution results in City's favor, the CONSULTANT shall refund the applicable portion of the fee to City within 10 days of resolution.

Completion of Services

The CONSULTANT'S service may result in collection of deficiencies after termination of the Agreement, the City's obligation to collect fees and notify the CONSULTANT, and the CONSULTANT'S right to continue to receive contingency fees, shall survive termination of the Agreement.

The City shall have the right, at the City's option, to elect not to proceed with recovery of any identified deficiencies. Deficiencies which are uncollectible due to insolvency or dissolution of the entity liable, or for deficiencies which are otherwise incapable of collection (e.g. statute of limitations expiration or other legal defense) shall not be considered an "election" by the City for the purposes of this Agreement. For deficiencies otherwise collectable but for which the City elects not to collect, the City shall notify the CONSULTANT of its election not to pursue ("waive") collection of said deficiencies. The CONSULTANT shall be entitled to one-half (1/2) of the fee the CONSULTANT would have been entitled to for the waived portion of the deficiency.

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, telecommunications, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are as detailed below, not to exceed \$2,500 per visit (per the "Reimbursement of Travel Costs for Audit Services (Visits to City)" section above):

- 1) Travel related to discovery and/or audits as authorized in writing by the City's Project Manager, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto's policy for reimbursement of travel and meal expenses.

All requests for payment of expenses shall be accompanied by appropriate backup information.

ADDITIONAL SERVICES

The CONSULTANT shall provide Additional Services, as detailed in Section 4 of this Agreement, only by advanced, written authorization from the CITY as detailed in Section 1 of this Agreement.

**EXHIBIT “C-1”
SCHEDULE OF RATES**

Additional Consulting Services (“Additional Services”)

Should the City desire Additional Services, per Section 4 and Exhibit “C” of this Agreement, the City may request that the CONSULTANT provide Additional Services at any time during term of the Agreement. CONSULTANT shall provide such services on a Time and Materials basis and based on the hourly rate schedule below.

Position	Hourly Rate
Principal	\$200
Project Manager/Director	\$175
Client Services Executive	\$150
Senior Analyst	\$125
Information Technology	\$175
Analyst	\$100
Administrative	\$75

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	WORKER’S COMPENSATION	STATUTORY		
YES	EMPLOYER’S LIABILITY	STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, PRODUCTS/COMPLETED OPERATIONS AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$2,000,000
		PROPERTY DAMAGE	\$1,000,000	\$2,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$2,000,000
YES	<p>TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE. THE POLICY SHALL AT A MINIMUM COVER PROFESSIONAL MISCONDUCT OR LACK OF REQUISITE SKILL FOR THE PERFORMANCE OF SERVICES DEFINED IN THE CONTRACT AND SHALL ALSO PROVIDE COVERAGE FOR THE FOLLOWING RISKS:</p> <p>(i) NETWORK SECURITY LIABILITY ARISING FROM UNAUTHORIZED ACCESS TO, USE OF, OR TAMPERING WITH COMPUTERS OR COMPUTER SYSTEMS, INCLUDING HACKERS, EXTORTION, AND</p> <p>(ii) LIABILITY ARISING FROM INTRODUCTION OF ANY FORM OF MALICIOUS SOFTWARE INCLUDING COMPUTER VIRUSES INTO, OR OTHERWISE CAUSING DAMAGE TO THE CITY’S OR THIRD PERSON’S COMPUTER, COMPUTER SYSTEM, NETWORK, OR SIMILAR COMPUTER RELATED PROPERTY AND THE DATA, SOFTWARE AND PROGRAMS THEREON.</p> <p>CONTRACTOR SHALL MAINTAIN IN FORCE DURING THE FULL LIFE OF THE CONTRACT.</p> <p>THE POLICY SHALL PROVIDE COVERAGE FOR BREACH RESPONSE COSTS AS WELL AS REGULATORY FINES AND PENALTIES AS WELL AS CREDIT MONITORING EXPENSES WITH LIMITS SUFFICIENT TO RESPOND TO THESE OBLIGATIONS.</p>	ALL DAMAGES	\$3,000,000	\$3,000,000

YES	CYBER AND PRIVACY INSURANCE. SUCH INSURANCE SHALL INCLUDE COVERAGE FOR LIABILITY ARISING FROM COVERAGE IN AN AMOUNT SUFFICIENT TO COVER THE FULL REPLACEMENT VALUE OF DAMAGE TO, ALTERATION OF, LOSS OF, THEFT, DISSEMINATION OR DESTRUCTION OF ELECTRONIC DATA AND/OR USE OF CONFIDENTIAL INFORMATION, "PROPERTY" OF THE CITY OF PALO ALTO THAT WILL BE IN THE CARE, CUSTODY, OR CONTROL OF VENDOR, INFORMATION INCLUDING BUT NOT LIMITED TO, BANK AND CREDIT CARD ACCOUNT INFORMATION OR PERSONAL INFORMATION, SUCH AS NAME, ADDRESS, SOCIAL SECURITY NUMBERS, PROTECTED HEALTH INFORMATION OR OTHER PERSONAL IDENTIFICATION INFORMATION, STORED OR TRANSMITTED IN ELECTRONIC FORM.	ALL DAMAGES	\$3,000,000	\$3,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY - EACH PERSON - EACH OCCURRENCE PROPERTY DAMAGE BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000	\$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000
YES	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 CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.

II. CONTACTOR MUST SUBMIT CERTIFICATE(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.

**VENDORS ARE REQUIRED TO FILE THEIR EVIDENCE OF INSURANCE
AND ANY OTHER RELATED NOTICES WITH THE CITY OF PALO ALTO
AT THE FOLLOWING URL:**

[HTTPS://WWW.PLANETBIDS.COM/PORTAL/PORTAL.CFM?COMPANYID=25569](https://www.planetbids.com/portal/portal.cfm?companyid=25569)

OR

[HTTP://WWW.CITYOFPALOALTO.ORG/GOV/DEPTS/ASD/PLANET_BIDS_HOW_TO.ASP](http://www.cityofpaloalto.org/gov/depts/asd/planet_bids_how_to.asp)

EXHIBIT F
INFORMATION PRIVACY POLICY

Exhibit F, entitled “Information Privacy Policy,” is hereby attached, totaling 8 pages.

EXHIBIT F
INFORMATION PRIVACY POLICY

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017



INFORMATION PRIVACY POLICY

POLICY STATEMENT

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.

PURPOSE

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.

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017

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.

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.

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.

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 by submitting Security Exception Request. The exception request will be 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.

MUNICIPAL ORDINANCE

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

RESPONSIBILITIES OF CITY STAFF

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017

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.

GENERAL PROCEDURE FOR INFORMATION PRIVACY

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.

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017

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

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017

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.

POLICY AND PROCEDURES 1-64/IT

Revised: December 2017

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.

NOTE: Questions regarding this policy should be referred to the Information Technology Department, as appropriate.

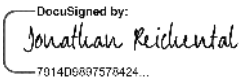
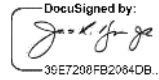
Recommended:	 7014D6697579424...	12/5/2017
	_____ Director Information Technology/CIO	_____ Date
Approved:	 39E7208FB2084DB...	12/13/2017
	_____ City Manager	_____ Date

EXHIBIT G
VENDOR CYBER SECURITY TERMS AND CONDITIONS

Exhibit G, entitled “Vendor Cyber Security Terms and Conditions,” is hereby attached, totaling 3 pages.



EXHIBIT G

VENDOR CYBERSECURITY 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 OpenCities, Inc. (the “Consultant”) for the provision of Software as a Service services 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) Comply with the City’s Information Privacy Policy:



- (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-based 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 the 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: Not Applicable