

**CITY OF PALO ALTO CONTRACT NO. C20174583D**

**AGREEMENT BETWEEN THE CITY OF PALO ALTO AND  
V3iT CONSULTING, INC.**

**FOR PROFESSIONAL SERVICES**

This Agreement is entered into on this 22<sup>ND</sup> of June 2020, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and V3iT CONSULTING, INC., a Delaware corporation, located at 1717 N. Naper Blvd. Suite # 103, Naperville, IL 60563 (“CONSULTANT”).

**RECITALS**

The following recitals are a substantive portion of this Agreement.

- A. CITY intends to upgrade various SAP modules (“Project”) and desires to engage a consultant to provide SAP Support Services on an as-needed, project based, time limited basis 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, on an on-call, as needed basis, as detailed below in this Section 1. The performance of all Services shall be to the reasonable satisfaction of CITY.

Optional On-Call Provision (This provision only applies if checked and only applies to on-call agreements.) CONSULTANT’s provision of Services 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” entitled “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 due to CONSULTANT for all Task Orders issued under this Agreement shall not exceed the amount of Compensation set forth in Section 4 of this Agreement. CONSULTANT shall only be compensated for Services performed under an authorized Task Order and CITY may elect, but is not required, to authorize Services up to the maximum compensation amount set forth in Section 4. Performance of and payment for any on-call 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 June 30, 2025 unless terminated earlier pursuant to Section 19 of this Agreement.

**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 Section 1 and Exhibit “A” of this Agreement shall not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) per contract year, provided, however, CONSULTANT acknowledges that the compensation paid to it likely will be less than \$350,000 per contract year, as CITY has appropriated that amount to payments to be made under six on-call contracts, of which this Agreement is one. The six on-call contracts shall be administered by the Information Technology Department to ensure the total aggregate of compensation paid per contract year for these SAP on-call project support services across all such contracts will not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) per contract year, with a total not to exceed contract amount of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) over the term of the Agreement. The applicable rate schedule by which CONSULTANT will be paid for Services rendered under this Agreement is set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE”. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation as set forth herein shall be at no cost to the CITY.

The CITY is hiring six consultants, none of whom, including the CONSULTANT under this Agreement, is guaranteed or assured of any minimum quantity of work to be performed. If work is performed by any one or more such consultants, CITY will ensure that total compensation to all such consultants will not exceed in the aggregate Three Hundred Fifty Thousand Dollars (\$350,000) per contract year.

**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, if applicable, an identification of personnel who performed the Services, hours worked, hourly rates, and reimbursable expenses), based upon Exhibit “C” or, as applicable, 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 ("Project Management") 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.** CONSULTANT acknowledges and agrees that CONSULTANT or any agent or employee of CONSULTANT shall act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services requested by CITY under this Agreement. CONSULTANT or any agent or employee of CONSULTANT shall not have employee status with CITY, nor be entitled to participate in any plans, arrangements, or distributions by CITY pertaining to or in connection with any retirement, health or other benefits that CITY may offer its employees. CONSULTANT shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers'

compensation, unemployment compensation, insurance, and other similar responsibilities related to CONSULTANT's performance of the Services, or any agent or employee of CONSULTANT providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between CITY and CONSULTANT or any agent or employee of CONSULTANT. Any terms in this Agreement referring to direction from CITY shall be construed as providing for direction as to policy and the result of CONSULTANT's provision of the Services only, and not as to the means by which such a result is obtained. CONSULTANT agrees to maintain and make available to CITY, upon request and during regular business hours, accurate books and accounting records demonstrating CONSULTANT's compliance with this section.

**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 A: No Subcontractor:** CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

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

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

**SECTION 13. PROJECT MANAGEMENT.** CONSULTANT will assign Deepak Padgaonkar as the Engagement Manager to have supervisory responsibility for the performance, progress, and execution of the Services Gopal Mishra as the Account 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 Jitendra Kulkarni, Information Technology Department, Enterprise Services Division, 250 Hamilton Ave, Palo Alto, CA 94303, Telephone: 650-329-2466 The 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. OWNERSHIP OF MATERIALS.** All work product, including without limitation, all writings, drawings, plans, software, programs, records, papers, reports, specifications, calculations, documents, technical information, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees and does hereby grant to and vest in City the entire right, title and interest in and to all the copyright material first produced and composed in course of or pursuant to the performance of CONSULTANT's provisions of the Services to the City, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of services herein.

**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.**

[Option A applies to the following design professionals pursuant to Civil Code Section 2782.8: architects; landscape architects; registered professional engineers and licensed professional land surveyors.] 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") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

[Option B applies to any consultant who does not qualify as a design professional as defined in Civil Code Section 2782.8.] 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.** No waiver of a condition or nonperformance of an obligation is effective unless it is in writing signed by the authorized representatives of the parties hereto and approved as required under the Palo Alto Municipal Code. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

**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". 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, 17, 19.3, 19.4, 19.5, 20, 25, 27 and 28.

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 CCONSULTANT 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.

**OR**

26.1 **CONSULTANT is required to pay general prevailing wages** as defined in Subchapter 3, Title 8 of the California Code of Regulations and Section 16000 et seq. and Section 1773.1 of the California Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute the contract for this Project from the Director of the Department of Industrial Relations ("DIR"). Copies of these rates may be obtained at the Purchasing Division's office of the City of Palo Alto. CONSULTANT shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum. CONSULTANT shall comply with the provisions of all sections, including,

but not limited to, Sections 1775, 1776, 1777.5, 1782, 1810, and 1813, of the Labor Code pertaining to prevailing wages.

26.2 CONSULTANT shall comply with the requirements of Exhibit “E” for any contract for public works construction, alteration, demolition, repair or maintenance.

## **SECTION 27. MISCELLANEOUS PROVISIONS.**

27.1 This Agreement will be governed by California law without regard to 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, including all exhibits, constitutes the entire and integrated agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior agreements, negotiations, representations, statements and undertakings, either oral or written. 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 exhibits, addenda, appendices, attachments, and schedules to this Agreement referred to herein (collectively, “exhibits”) are, by such reference, incorporated into this Agreement in full and deemed 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.

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. In addition, CONSULTANT shall provide the Services in accordance with the provisions of the Information Privacy Policy exhibit.

27.11 The provisions of all checked boxes in this Agreement shall apply to this Agreement; the provisions of any unchecked boxes shall 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.** Each of the following exhibits, if the check box for such exhibit is selected below, is 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
- EXHIBIT B: SCHEDULE OF PERFORMANCE
- EXHIBIT C: COMPENSATION
- EXHIBIT C-1: SCHEDULE OF RATES
- EXHIBIT D: INSURANCE REQUIREMENTS
- EXHIBIT E: INFORMATION PRIVACY POLICY

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

(THE SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)

**CONTRACT No. C20174583D 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**

**V3iT CONSULTING, INC.**

\_\_\_\_\_  
City Manager or designee

**Officer 1**  
Signed by:  
By: *Vandana Padgaonkar*  
D84FB39B44AF466...  
Name: Vandana Padgaonkar  
Title: President

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney or designee  
(Required on Contracts over \$25,000)

**Officer 2** (Required for Corp. or LLC)  
By: *Deepak Padgaonkar*  
9CCDBAFB4DE5482...  
Name: Deepak Padgaonkar  
Title: Executive Vice President, Technology

**Attachments:**

- EXHIBIT "A": SCOPE OF SERVICES
- EXHIBIT "A-1": PROFESSIONAL SERVICES TASK ORDER
- EXHIBIT "B": SCHEDULE OF PERFORMANCE
- EXHIBIT "C": COMPENSATION
- EXHIBIT "C-1": SCHEDULE OF RATES
- EXHIBIT "D": INSURANCE REQUIREMENTS
- EXHIBIT "E": INFORMATION PRIVACY POLICY

## **EXHIBIT “A” SCOPE OF SERVICES**

CONSULTANT shall help with configuration of various SAP modules to enhance the CITY’s business functionality and overall performance, while maintaining a high degree of customer satisfaction. These specialized areas are requested on an ON-CALL, as-needed, time-limited basis, in the following domains:

### **A. SAP ABAP - Technical**

- (1) Demonstrates expert knowledge in development of complex ABAP code.
- (2) Should have strong hands-on knowledge in ABAP technologies viz. Interactive Reporting, Dialog Programming, BAPI, RFC, SAP Scripts, Smart forms, ALE/IDocs, Interface Programming, BDC, Workflow and Data Conversions.
- (3) Ability to help resolve complex technical issues and independently manage critical/complex situations.

### **B. SAP FI, CO, MM**

- (1) Demonstrates expert knowledge/leadership in configuring SAP in the areas of Finance (FI), Controlling (CO), and Materials Management (MM).
- (2) Possesses expertise in leading financial reporting requirements through a variety of SAP and non-SAP systems.
- (3) Exhibits a thorough understanding of finance and controlling processes, concepts and SAP best practices, which includes but is not limited to General Ledger (GL), Accounts Receivable (AR), Accounts Payable (AP), Asset Accounting (AA), Special Purpose Ledger (SL), Controlling Areas (CO), Cost Center Accounting (CCA), Funds Management (FM), Budget Control System (BCS) and Materials Management (MM) which includes managing special stocks such as third party subcontracting.

### **C. SAP HCM**

- (1) Demonstrates expert knowledge/leadership in configuring SAP in the following areas of HCM module:
  - Payroll – US
  - Personnel Management
  - Time Management
  - Organizational Management
  - BSI Tax Factory
  - Ability to analyze problems and provide clear recommendations
- (2) Provides expertise in analyzing the business approval matrix and map the solution to the workflow developed objects.
- (3) Possesses a strong understanding of the configuring of log events, the linking of change documents to events, the definition of reports for workflow, perform work item analysis, and be able to perform configuration relating to workflow outlook box and task analysis.

### **D. Utilities-CRM/IcWeb - Customer Relationship Management**

- (1) Base Customization like Product master, Business Partners, Organizational Mgmt., Lead Mgmt.

- (2) Configuration of IC Web client like Business Roles, Profile setup, Interaction records, Partner determination, broadcast messaging, Transaction launcher, Authorization.

**E. BI - Business Intelligence**

- (1) Develop BI/BW related objects and queries within SAP BI/BW version 7.5 connected to ECC 6.0 [with IS-Utilities].
- (2) Creation of custom reports and workbooks using BEx Analyzer.
- (3) Experience with developing data flows using APD.

**F. ISU/CCS**

Demonstrates expert knowledge/leadership in configuring SAP ISU module specific to following key areas:

- (1) Device Management
  - i. Device Management Configuration
  - ii. Meter reading optimization and fine tuning, including meter reading unit and scheduling, implausible reading results setting, and estimate read activation
- (2) Billing Management
  - i. Create Consolidated Rate structure for Retail Settlement, Distributor and Retailer consolidated Billing for Deregulated transactions
  - ii. Configuration of Billing Schema, Rate Category, Rates and Operands for Industrial
  - iii. Prepare specification for Print workbench requirement for custom specific application form, to display unbundled billing with Power, Water and Sewer contracts and Rate information.
- (3) Finance and Contract Account
  - i. Configure new Dunning Procedures and Dunning Levels with Dunning Activities
  - ii. Create functional specifications for Reset Clearing, Payments, Dunning, Security Deposits, Automatic Clearing, and Clearing rules
- (4) Customer Service
  - i. Configure Owner Allocation, Move-in/Move Out, and Disconnect/Reconnect
- (5) ISU/CCS – WM (Work Management)
  - i. Configure Service Notifications

**G. Utility Customer E-Service System**

- (1) Configure UCES and develop Java programs as required

**H. SAP ERP**

- (1) Demonstrated experience with SAP ERP that involves implementation and upgrade activities by working with various departments in an organization.
- (2) Thorough understanding of SAP change management procedures with regards to program, data dictionary, and SAP configuration.

**I. SAP Basis**

- (1) SAP Solution Manager configuration
- (2) SAP Enterprise portal configuration
- (3) SAP User Administration and Security
- (4) SAP Basis Administration that involves change management, and system monitoring

(5) SAP Performance Tuning and Optimization

**J. SAP, Oracle and HANA Database Administration**

- (1) Perform database restores or re-organization as required
- (2) Create/refresh development/test/QA databases from production data as required
- (3) New database and tool implementation and configuration as required
- (4) Develop database backup scripts and processes as required
- (5) Perform database Initiation Parameter modifications as required
- (6) Perform database upgrades and patches as required
- (7) Data integrity and corrections as required
- (8) Database performance monitoring, analysis, and tuning as required
- (9) Application of schema changes, e.g. creation, alteration, and deletion of tables and indices, compilation and dropping of stored procedures and triggers, etc. as required
- (10) Establishing database configuration and system parameters in a consistent manner across like database environments
- (11) Execution of processes for the proper functioning of databases, e.g. updating table/index statistics, dropping and rebuilding tables/indices, etc.

**SAP APPLICATION IMPLEMENTATION AND ENHANCEMENT PROJECT SUPPORT**

- A. The CONSULTANT shall provide support for implementation and enhancement of SAP functionality and SAP application troubleshooting as requested for the following systems:
  - (1) SAP CRM
  - (2) SAP UCES
  - (3) SAP ECC with ISU
  - (4) SAP ESS/MSS
  - (5) SAP BI/BW
- B. The CONSULTANT shall demonstrate expertise in resolving critical SAP application issues as required. (CITY will be responsible for first level support of the application.)
- C. The CONSULTANT shall maintain information for each service request, including but not limited to, problem description, start and end dates/times, actual or potential root cause(s), corrective action taken, and future action required.
- D. The CONSULTANT shall maintain task details within the application where all the task orders from CITY will be recorded, approved, tracked, and managed throughout the life cycle.
- E. The CONSULTANT shall develop and provide knowledge transfer documentation per request.
- F. The CONSULTANT shall work with CITY IT to provide monthly/weekly status reporting including, but not limited to, work orders analysis, actual hours usage, average cycle time, quality issues, and improvement recommendations during the tenure of an assignment.
- G. To the extent any assigned on-call project requires CONSULTANT availability during CITY business hours, the CONSULTANT shall be available, as needed, between 6:00 a.m. PST to 6:00 p.m. PST weekdays, Monday through Friday, except for CITY holidays.
- H. The CONSULTANT shall provide a problem escalation process to ensure urgent problems are resolved expeditiously, according to the CITY's **Proposed Service Level Agreement Summary** (*see table below*) or CONSULTANT'S proposed service level agreement, as mutually agreed to the in the task order for the project.
- I. The CONSULTANT shall provide a process to record after-hours problems for next day resolution.

- J. The CONSULTANT shall ensure that all software modifications and upgrades are deployed using the configuration management, documentation, and integration, and acceptance testing requirements per the applicable contractual warranty and licensing.
- K. The CONSULTANT shall provide the appropriate technical resources (at agreed upon rates) to modify or enhance applications to ensure that the software continues to support CITY business requirements per the applicable contractual warranty and licensing.
- L. The CONSULTANT shall perform application modification and upgrade activities (at agreed upon rates and travel expenses) assigned by the CITY IT Enterprise Systems Manager unless otherwise agreed to by CITY.
- M. The CONSULTANT shall provide justifiable resource and timeframe estimates for software design, development, testing, and deployment of all application modifications and upgrade requests within the time frames established in the CITY's **Proposed Service Level Agreement Summary (see table below)** or CONSULTANT'S proposed SLA, as mutually agreed to the in the task order for the project.
- N. The CONSULTANT shall begin and end each application modification and upgrade effort within the timeframe established in the CITY's **Proposed Service Level Agreement Summary (see table below)** or CONSULTANT'S proposed SLA, as mutually agreed to the in the task order for the project.
- O. The CONSULTANT shall make software patches found at other clients available to CITY at no charge.
- P. The CONSULTANT shall maintain source code version and release of software versions in accordance with CITY's configuration management standards during the life of the project per applicable contractual warranty and licensing.
- Q. The CONSULTANT shall provide and maintain coding standards and quality control to ensure coding readability, performance, and sustainability.
- R. The CONSULTANT shall make proper resource arrangement to ensure project support continuity during holiday seasons.

#### **WORK MODEL**

- A. Contract engagement with the CONSULTANT is primarily based on labor hours for each approved On-Call task order. Hourly rate is fixed according to rate schedule.
- B. Each task order with CONSULTANT, except urgent system fix, will be reviewed and approved by SAP PMO, providing supporting material such as task scope; objectives, cost estimate, resource planning, and schedule. CONSULTANT's account executive shall collaborate with CITY IT Enterprise Systems Manager and SAP PMO to align and monitor schedule, resources, and cost closely.

#### **DELIVERABLES**

For each on-call task order assigned, CONSULTANT must follow CITY's system design and development standards, to conduct the following tasks and produce deliverables:

- A. Conduct application configuration, enhancement, problem investigation, root cause analysis, and problem resolution on as-needed basis.
- B. Prepare functional specifications, technical specifications, testing plans, and training materials.
- C. Document all configuration, system, process and programming changes and ensure to conduct a knowledge transfer (KT) session with City employee at regular intervals.



**Service Level Agreement Summary:**

Priority	Definition	Response Time After Notification	Provide Solution Time	Target Resolution Time	Escalation Path
Emergency	<ul style="list-style-type: none"> <li>Entire organization is affected.</li> <li>Core business process cannot be carried out.</li> <li>Security violation.</li> </ul>	1 hour	1 day	1 day	Resolution > 2 day Escalation path: tbd
Critical	<ul style="list-style-type: none"> <li>Multiple users or departments are directly affected.</li> <li>Incident has serious impact on critical tasks and no workaround is available</li> <li>Customer affected.</li> </ul>	4 hours	1 day	3 days	Resolution > 2 day Escalation path: tbd
High	<ul style="list-style-type: none"> <li>System cannot function as designed or installed.</li> <li>Small group of users are directly affected.</li> <li>Compliance time line is affected</li> </ul>	1 day	3 days	Requires resource estimation, City's approval, prioritization and scheduling	
Medium	<ul style="list-style-type: none"> <li>Small number of users are affected.</li> <li>Isolated incident.</li> <li>Degraded performance and/or is difficult to use.</li> </ul>	5 days	2-3 weeks	Requires resource estimation, City's approval, prioritization and scheduling	
Low	<ul style="list-style-type: none"> <li>User requests general information, service or consultation.</li> <li>Cosmetic enhancements</li> <li>Report enhancements</li> </ul>	5 days	4-6 weeks	To be prioritized based on resource availability and cost	

## **CONSULTANT QUALIFICATIONS**

CONSULTANT shall assign personnel who have the relevant, demonstrated skills and expertise for the assigned project, including without limitation the following qualifications, at a minimum:

- A. Must have a minimum of 5-8 years of experience configuring the SAP systems with a thorough understanding of the integration required with other relevant areas/modules in SAP or otherwise.
- B. Excellent communication, analytical, facilitation and negotiation skills, data/business process modeling, knowledge of competition, and industry happenings
- C. Ability to be an effective, collaborative participant in a cross functional team
- D. Superior attention to detail, time management, organizational and problem-solving skills with the ability to handle multiple projects and deadlines simultaneously.
- E. Excellent requirements-gathering and quality assurance (QA) testing skills, ensuring business needs are met.
- F. SAP certifications relevant to the project.

In addition, CONSULTANT shall meet the following requirements regarding project staffing:

- A. CONSULTANT must pre-screen all proposed candidates and perform reference checks in advance.
- B. CONSULTANT must perform a technical assessment for all proposed candidates in advance.
- C. CONSULTANT must process all fingerprinting/criminal background check and confirm clearance for all proposed candidates prior to commencing work or performing services for the City of Palo Alto, conducted in compliance with applicable State and Federal laws and regulations. The City may require the CONSULTANT to submit an affidavit.

In addition, for any project that will involve access by Contractor/its personnel to any Palo Alto Police Department facility, system or data, CONSULTANT and CONSULTANT personnel assigned to such a project shall be required by City to undergo and clear higher-level criminal background check requirements administered by the Palo Alto Police Department, and complete any required security trainings and California Department of Justice requirements. CONSULTANT shall comply with all such requirements and ensure that its staff assigned to such projects comply with such requirements.

## **WARRANTY; CHANGE OF PERSONNEL**

- A. CONSULTANT shall correct at no added cost to City all errors, issues, problems found with the services provided during the term of the engagement and any warranty period specified in the task order.
- B. CITY may request a change to the CONSULTANT's assigned personnel and CONSULTANT shall replace the assigned personnel within one week of receiving City's written notification (unless a different time period is agreed to between CONSULTANT and CITY in writing). Change of personnel reasons include but are not limited to:
  - (1) Security violation
  - (2) Communication deficiency
  - (3) Attendance problem
  - (4) Failed to demonstrate professional knowledge
  - (5) CITY's discretion

**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.

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CONTRACT NO.

OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

- 1A. MASTER AGREEMENT NO. (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:
- SERVICES TO BE PROVIDED
  - SCHEDULE OF PERFORMANCE
  - COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
  - DELIVERABLES, as applicable
  - REIMBURSABLE EXPENSES, if any (with "not to exceed" amount)
8. ATTACHMENTS: A: Task Order Scope of Services B (if any): \_\_\_\_\_

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

**APPROVED:**  
CITY OF PALO ALTO

BY: \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

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

**APPROVED:**  
COMPANY NAME: \_\_\_\_\_

BY: \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**EXHIBIT “B”**  
**SCHEDULE OF PERFORMANCE**

CONSULTANT shall perform the Services according to the schedule set forth in each Task Order as provided for in Section 1 (“Scope of Services”) of this Agreement.

**EXHIBIT “C”  
COMPENSATION**

The CITY agrees to compensate the CONSULTANT for on-call, as-needed, time-limited project support Services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule provided in Exhibit C-1 (“Schedule of Rates”) of this Agreement, in accordance with Section 4 of this Agreement.

The compensation to be paid to CONSULTANT under this Agreement for all Services shall not exceed the amount(s) stated in Section 4 of this Agreement.

**EXHIBIT “C-1”  
SCHEDULE OF RATES**

<b>Area of Expertise</b>	<b>Hourly Billing Rate</b>	<b>Offsite Hourly Rate</b>
Financial/accounting analysis skills and expertise	\$150	\$110
General ledger analysis skills and expertise	\$125	\$100
Asset accounting and project systems analysis skills and expertise	\$150	\$110
Human Capital Management analysis skills and expertise	\$130	\$90
Procurement analysis skills and expertise	\$130	\$90
Utility billing analysis skills and expertise	\$150	\$100
CRM analysis skills and expertise	\$150	\$110
Technology solution architecture analysis skills and expertise	\$125	\$90
NetWeaver and HANA administration skills and expertise	\$125	\$90
ABAP development skills and expertise	\$115	\$90
BW development skills and expertise	\$125	\$100
Fiori development skills and expertise	\$115	\$90
Workflow development skills and expertise	\$115	\$90
Security development skills and expertise	\$115	\$90
Database administration skills and expertise	\$115	\$90

**EXHIBIT “D”  
INSURANCE REQUIREMENTS**

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

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

REQUIRED	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER’S COMPENSATION EMPLOYER’S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
YES	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE			
		ALL DAMAGES		\$1,000,000
YES	<b>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED:</b> 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 CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE AT THE FOLLOWING URL: <https://www.planetbids.com/portal/portal.cfm?CompanyID=25569>.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO “ADDITIONAL INSUREDS”

A. PRIMARY COVERAGE

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

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSUREDS UNDER THE POLICY SHALL

NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSUREDS, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

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

**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>**

**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 "E"



## 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.

**POLICY AND PROCEDURES 1-64/IT**

Revised: December 2017

**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.

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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.

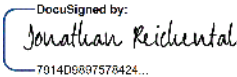
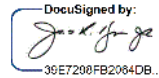
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CPAU procedures for potential identity theft will be reviewed independently by the ISM annually or whenever significant changes to security implementation have occurred. The ISM will recommend changes to CPAU identity theft procedures, or as appropriate, 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:	 7014D6687578424...	12/5/2017
	_____ Director Information Technology/CIO	_____ Date
Approved:	 39E7208FB2084DB...	12/13/2017
	_____ City Manager	_____ Date