

**City of San Mateo
AGREEMENT WITH GRANICUS, LLC
FOR
MASTER TECHNOLOGY-RELATED SOFTWARE AS A SERVICE**

This Software as a Service Agreement (hereinafter “Agreement”), made as of this day of _____, is entered into by and between Granicus, LLC, (hereinafter referred to as “VENDOR”), a Minnesota Limited Liability Company, and the City of San Mateo (hereinafter referred to as “CUSTOMER”), a municipal corporation in the State of California.

RECITALS:

A. CUSTOMER desires certain equipment, software, maintenance and support services hereinafter described.

B. CUSTOMER desires to engage VENDOR to provide these Products and Services by reason of its qualifications and experience for performing such services and VENDOR has offered to provide the required services on the terms and in the manner set forth herein.

NOW, THEREFORE, IT IS AGREED as follows:

SECTION 1 - DEFINITIONS

- 1.1 “Acceptance”** means that upon delivery of each milestone set forth in the applicable SOW or project schedule, CUSTOMER will have ten (10) business days (“Acceptance Period”) to test such milestone to ensure that it complies with all material specifications as set forth in the SOW or any applicable design documentation. Should such deliverable not comply with the specifications within the Acceptance Period, CUSTOMER will issue written notice of non-compliance to Vendor with reasonable description of such non-compliance (“Notice of Rejection”). Vendor will have thirty (30) days or such other time period as agreed to by the parties to remedy the non-compliance and resubmit the deliverable for acceptance testing. Resubmitted deliverables will be subject to an additional Acceptance Period. Should Vendor fail to deliver a deliverable that complies with the applicable contractual specifications after two attempts, CUSTOMER may terminate this Agreement and receive a refund of the fees associated with the failed deliverable. Failure of CUSTOMER to issue a Notice of Rejection during the Acceptance Period constitutes acceptance.
- 1.2 “Applicable Specifications”** means the functional, operational and other characteristics of the Products and Services or deliverables, timeline, milestones, assumptions, testing and validation criteria, and other specifications as described in the Statement of Work or Change Order.
- 1.3 “Change Order”** is a mutual agreement in writing by both Parties changing the scope of the project. The Change Order will include information such as but not limited to the date executed, due date, scope of work, assumptions, agreed upon cost, hours and rates, job responsibilities, deliverables, verification and acceptance testing payment terms, requestor, and approving parties).
- 1.4 “Customization”** means but is not limited to all code, software modifications or computer

programming to the licensed Software developed or modified under the terms of this Agreement or related Change Order or Statement of Work.

- 1.5 “Commentary”** means any communications clarifying system functionality such as but not limited to presentations, whitepapers, and clarification emails and can be in various formats such as verbal communications, CD, DVD, paper copy, electronic file and PDF file.
- 1.6 “Confidential Information” or “Proprietary Information”** means all (i) non-public information if it is clearly and conspicuously marked as “confidential” or with a similar designation at the time of disclosure; (ii) non-public information of a Party if it is identified as confidential or proprietary before, during, or promptly after presentation and (iii) any information that should be reasonably understood to be confidential or proprietary to a Party, given the nature of the information and the context in which disclosed. The following shall not be considered Confidential or Proprietary Information: (i) any information in the public domain at the time of its communication thereof to either party by the other party; (ii) any information which enters the public domain, through no fault of the receiving party subsequent to the time of its communication to the receiving party; (iii) any information which is obtained in good faith by either party from a third party, provided such third party is not bound by a confidentiality agreement with Vendor or Customer, as applicable; (iv) information that was already known to that party prior to the date of disclosure to that party; (v) information which the receiving party establishes was developed independently of confidential or proprietary information furnished to it; and (vi) information that is required to be disclosed to any court, government authority or regulatory authority or pursuant to requirement of law (vii) information that is a public record as defined by the California Public Records Act (Government Code 6250 et seq.) and any amendments thereto.
- 1.7 “Defect”** means (i) an omission in software code causing the software or integration links to operate such that it is not in compliance with the Applicable Specifications or (ii) the media on which the product(s) is delivered is damaged or corrupted such that the software does not load properly, (iii) the documentation contains gaps and/or erroneous information with regard to the deliverables, (iv) the services delivered did not meet the Applicable Specifications or were not performed in a professional manner consistent with experts and professionals in the industry, or (v) errors, problems or other irregularities in the deliverables.
- 1.8 “Effective Date”** means the date that this Agreement takes effect, which unless otherwise stated, will be the date set forth on Page One of this Agreement upon being signed by duly authorized representatives of VENDOR and CUSTOMER.
- 1.9 “Products”** means the Vendor’s computer software programs (“Software”) identified in the Product Schedule, and related Documentation, manuals, utilities and other related items and information. Product shall also include each and every Release (as defined below), patch, upgrade, version or Product correction available from Vendor during the term of each Maintenance and Support Period.
- 1.10 “Release”** means a new Product distribution, version, update or upgrade intended to correct errors or Defects, make incremental improvements in the functionality of the Product, provide significant improvements in the functionality or performance of the Product, and to allow

Customer to enjoy full and productive use of the Product.

- 1.11 “Services”** means the consulting, integration, installation, and/or implementation services to be performed by Vendor as described in the SOW.
- 1.12 “Software”** means the Vendor’s computer software program(s) licensed by CUSTOMER and identified in the software license agreement.
- 1.13 “Source Code”** means all of the computer language instructions, in both printed and machine-readable format, needed to compile, link and execute any or all of the Software or Customizations provided by Vendor under the terms of this Agreement. Source Code includes, but is not limited to all of the libraries, compilers, and other utilities to take the raw computer language instructions and convert them into usable, executable Object Code on the hardware environment(s) at Customer’s sites. Source Code also includes all related Supporting Documentation (as defined below) and technical specifications required to allow a reasonably trained and knowledgeable technician to assume on-going support of the Software and Customizations provided by Vendor.
- 1.14 “Statement of Work”** means a document mutually developed and agreed upon by both parties which describes in detail the services to be provided by Vendor, implementation schedule and phases, responsibilities of Customer and Vendor, description and schedule of training, detailed list of professional services fees and expenses by major work task, acceptance plans, assumptions, risks, training schedule and description, etc.
- 1.15 “Supporting Documentation”** means all materials, in print or electronic form, related to the Software and Customizations which shall include technical specifications, technical manuals, user manuals, user guides, abbreviated user guides, system administrator manuals, and all other training, reference, or support materials for Products, hardware, and Third Party Software provided under the terms of this Agreement.
- 1.16 “User”** means any Customer employees, contractors, agents, assigns, member of the City Council and other parties affiliated with Customer who have the right to use and have access to the Product either on site or remotely to support Customer’s full, productive and lawful use of the Product or to access Customer’s information, transactions, and reports, consistent with that User’s role, responsibility or function.

SECTION 2 – SCOPE OF SERVICES

2.1 CUSTOMER hereby engages Vendor, subject to the terms and conditions set forth in this Agreement as described in the Statement of Work in Exhibit A of this Agreement, to provide the Product in accordance with the terms and conditions of this Agreement.

2.2 Performance of Vendor. Vendor accepts the relationship of trust and confidence established between Customer and Vendor by the terms of this Agreement. Vendor covenants with Customer to furnish its best skill, judgment, and efforts, and to cooperate with Customer and any other consultants or contractors engaged by Customer in the implementation and use of Product. Vendor covenants to

use its best efforts to perform its duties and obligations under this Agreement in an efficient, expeditious, and economical manner, consistent with the best interests of Customer.

2.3 Customer's Rights to Engage Other Consultants. CUSTOMER reserves the right to engage other consultants in connection with this Agreement. Any third party receiving confidential information or trade secrets under this paragraph must agree to the same prohibition against disclosure as CUSTOMER and VENDOR may require that any such third party execute a non-disclosure agreement which includes widely accepted and reasonable non-disclosure terms.

2.4 Progress. VENDOR shall keep the Project Manager and/or his/her duly authorized designee informed on a regular basis regarding the status and progress of the Products and Services, activities performed and planned hereunder, and any meetings that have been scheduled or are desired relative to the Products and Services relative to this Agreement.

2.5 Scheduling. VENDOR shall generally have no obligation to work any particular schedule, unless otherwise provided in this Agreement or in the Statement of Work. VENDOR shall coordinate the provision of the Products and Services with CUSTOMER in such a fashion and schedule so as to achieve the results sought under the terms of this Agreement.

2.6 Statement of Work. The Products and Services, such as but not limited to training, software implementation, software development and customization, consulting, and interface development, will be performed pursuant to and in accordance with the Statement of Work attached hereto as Exhibit A of this Agreement.

2.7 Change Orders. Change Orders applicable to the Statement of Work shall be negotiated and implemented as described in the Statement of Work or as otherwise agreed to by the duly authorized representatives of both parties. VENDOR shall use its best efforts to provide all costs, Third Party Software, additional platform and infrastructure requirements, additional training requirements, and any other additional component or services within fifteen (15) business days of receipt of a Change Order.

SECTION 3 - DUTIES OF VENDOR

3.1 Vendor Responsibilities. VENDOR warrants that it has all requisite power and authority to conduct its business and to execute and deliver, and to perform all of its obligations under this Agreement.

VENDOR warrants that the individual who has signed this Agreement representing VENDOR has the legal power, right and authority to enter into this Agreement so as to bind VENDOR to perform the conditions contemplated herein.

VENDOR shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by VENDOR under this Agreement. VENDOR shall, without additional compensation, correct or revise any errors or deficiencies in its work.

VENDOR represents that it is qualified to furnish the Products and Services described under this Agreement.

VENDOR shall be responsible for employing or engaging all persons necessary to provide the Products and perform the Services of VENDOR.

VENDOR agrees to comply with the City's minimum wage ordinance as codified in Municipal Code Chapter 5.92, which differs from the state minimum wage and includes a Consumer Price Index escalator.

3.2 Vendor's Responsibilities for Costs and Expenses. VENDOR shall be responsible for all costs and expenses incurred by VENDOR, personnel of VENDOR, and subcontractors of VENDOR, in connection with this Agreement and performance of the Services, including, without limitation, payment of salaries, fringe benefit contributions, payroll taxes, withholding taxes and other taxes or levies and all other amounts due to its personnel and subcontractors, office overhead expenses, travel expenses except as otherwise agreed, telephone and other telecommunications expenses, and document reproduction expenses.

3.3 Travel Expenses. Travel and related expenses shall be necessary, reasonable and consistent with CUSTOMER's travel policies, and shall be mutually agreed upon in advance. CUSTOMER shall not be responsible for any VENDOR travel time.

3.4 Vendor Personnel and Professional Services Warranty. The Services shall be performed by VENDOR or under its supervision, and VENDOR shall be responsible for all actions and work product(s) of the personnel working on behalf of VENDOR in the performance of this Agreement.

VENDOR represents that it possesses the professional and technical personnel required to provide the Products and Services for this Agreement and as defined in the Statement of Work. VENDOR warrants that all Products and Services will be performed diligently and in a timely, professional and workmanlike manner by experienced and competent personnel with the care and skill ordinarily exercised by members of the profession practicing under similar conditions using all common and widely accepted practices and professional standards for Products and Services such as but not limited to installing, implementing, deploying, and maintaining the Product.

VENDOR represents and warrants that (i) none of the Products or Services or any part of this Agreement is or will be inconsistent with any obligation VENDOR may have to others; (ii) as of the date of this Agreement, the Products, Services, deliverables or work products as they are delivered to CUSTOMER do not infringe, misappropriate or violate any intellectual property or other right of any person or entity; and (iii) VENDOR has the full right to provide CUSTOMER with the assignments and rights provided herein (including without limitation, through execution of appropriate written agreements with its employees, agents and subcontractors).

Vendor warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Vendor products and services; however, the Vendor products and services are provided "AS IS" and as available. EXCEPT AS PROVIDED ABOVE, EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES

OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. VENDOR DOES NOT WARRANT THAT VENDOR PRODUCTS AND SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

- 3.5 Remedies for Non-Performance of Services.** If any element of the Products or Services does not conform to the warranty on the Products or Services, then CUSTOMER shall notify VENDOR in writing of such nonconformance. VENDOR shall timely re-perform such element in a manner that does conform, provided, however, that if such re-performance is impracticable, VENDOR shall timely refund the fees allocable to such nonconforming element. At its sole discretion, CUSTOMER may withhold payment for non-conformance to professional standards, excessive or unauthorized costs, or defects in deliverables until remedied, and no interest, penalties or late fees shall apply to such withholdings.
- 3.6 Cooperation with Customer's Project Manager.** As required herein or in the Statement of Work, CUSTOMER shall designate a Project Manager for the project effort to implement the Product. VENDOR shall work closely and cooperate fully with CUSTOMER's designated Project Manager, and any other agencies which may have jurisdiction over or interest in the Software and related Products and Services. The Project Manager will administer this Agreement on behalf of CUSTOMER. The Project Manager, or his/her designee, shall be the principal officer of CUSTOMER for liaison with VENDOR, and shall review and give approval to the details of the Scope of Work and Products and Services as described in the Statement of Work and any Change Orders or Amendments to this Agreement. The Project Manager shall be specified in the Statement of Work which is mutually agreed to between CUSTOMER and VENDOR. CUSTOMER reserves the right to change its Project Manager.
- 3.7 Vendor Marketing.** No news releases, including photographs, public announcements, or confirmations of the same, relating to any part of the subject matter of this Agreement or any phase of providing the Products and Services shall be made without prior written consent of CUSTOMER. The information which VENDOR acquires related to its performance of the Products and Services shall be kept confidential unless the release of information is authorized in writing by CUSTOMER.
- 3.8 Electronic Format for Supporting Documentation.** All VENDOR and Third Party Supporting Documentation provided electronically shall be provided in a form and format that does not require CUSTOMER to purchase additional Third Party Software to view and print the Supporting Documentation.
- 3.9 Virus Free.** VENDOR warrants that to the best of its knowledge there are no viruses, backdoor entries, time bombs, unauthorized programming, lockout devices or other disruptive technologies being shipped with deliverables, products or software in this Agreement. CUSTOMER will notify VENDOR in writing if it detects such disruptive technologies and will provide any information that it may have regarding the nature of such non-conformance. VENDOR will correct such non-conformance in a timely manner and at no cost to CUSTOMER.

SECTION 4 – GRANT OF LICENSE

4.1 License. Vendor products and services are purchased by CUSTOMER as subscriptions. Vendor hereby grants and CUSTOMER hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the Vendor products and services during the term of this Agreement. Vendor reserves all right, title and interest in the Vendor products and services, the documentation and resulting product including all related intellectual property rights. No implied licenses are granted to CUSTOMER. The Vendor name, logo, and the product names are trademarks of Vendor, and no right or license is granted to use them. CUSTOMER assigns to Vendor any suggestion, enhancement, request, recommendation, correction or other feedback provided by CUSTOMER relating to the use of the Vendor products and services. CUSTOMER shall not: (i) Misuse any Vendor resources or cause any disruption, including but not limited to, the display of adult content, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted; (ii) Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of third parties; (iii) Use the Vendor products and services in a manner in which system or network resources are unreasonably denied to third parties; (iv) Use the products and services as a door or signpost to another server; (v) Access or use any portion of Vendor products and services except as expressly allowed by this Agreement; (vi) Disassemble, decompile, or otherwise reverse engineer all or any portion of the Vendor products and services; (vii) Use the Vendor products and services for any unlawful purposes; (viii) Export or allow access to the Vendor products and services in violation of U.S. laws or regulations; (ix) subcontract, disclose, rent, or lease the Vendor products and services, or any portion thereof, for third party use; or (x) Modify, adapt, or use the Vendor products and services to develop any software application intended for resale which uses the Vendor products and services in whole or in part.

4.2 License for Use of Supporting Documentation. Customer is granted a perpetual license to use, reproduce and distribute to its employees, agents, contractors, and members of its elected council, all Supporting Documentation and Derivative Works which Customer may create for purposes of training, managing, operating (including for emergency back-up and disaster recovery purposes), and supporting the licensed Product(s) and their systems environment.

4.3 Source Code. No license to Source Code is provided, expressly or otherwise, by this license except as provided for in Paragraph 4.9. Customer has no rights to any and all human readable programs, data, know-how, techniques, methods, programming practices, structures, utilities, and other materials and information which are used to create or are essential to the creation of the executable versions of Product. Customer recognizes and acknowledges that Source Code represents a valuable trade secret of Vendor and is a copyrighted work of Vendor. Customer further represents and acknowledges that all methods, know-how, programming practices, structures, techniques and other information, procedures or methodologies embodied in Source Code are proprietary to and represent valuable trade secrets of Vendor.

4.4 Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns.

SECTION 4 – DUTIES OF CUSTOMER

CUSTOMER shall provide pertinent information regarding its requirements for the project.

CUSTOMER shall examine documents submitted by VENDOR and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of VENDOR'S work.

SECTION 5 - TERM

The Products and Services to be provided under this Agreement shall commence on December 28, 2024 and continue through December 27, 2027.

SECTION 6 – Payment

Payment shall be billed as agreed upon by both parties and set forth in Exhibit B. Annual subscription fees are due upfront upon the commencement of the Term of this Agreement, and one-time fees are due according to the billing frequency as specified in Exhibit B. Customer shall pay all properly documented and prepared invoices not subject to dispute within thirty (30) days of receipt of invoice by Customer.

SECTION 7 - TERMINATION

Either party may terminate this Agreement for convenience upon providing at least ninety (90) days' written notice to the other party.

Either party may terminate this Agreement for cause upon written notice if the other party is in material breach of this Agreement and fails to cure such breach within thirty (30) days after the notifying party

SECTION 8 - OWNERSHIP OF DOCUMENTS

All documents prepared by VENDOR specifically and exclusively under this Agreement are and shall be the property of CUSTOMER, whether the project for which they are made is executed or not.

SECTION 9 – CONFIDENTIALITY

It is expected that one Party may disclose to the other Party certain information which may be considered confidential or trade secret information ("Confidential Information"). Confidential Information shall include: (i) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (ii) non-public information of a Party if it is identified as confidential or proprietary before, during, or promptly after presentation and (iii) any information that should be reasonably understood to be confidential or proprietary to a Party, given the nature of the information and the context in which disclosed.

Subject to applicable law, each Party agrees to receive and hold any Confidential Information in strict confidence. Each Party also agrees: (i) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (ii) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the other Party; (iii) not to use any Confidential Information for any purpose other than for performance under this Agreement; (iv) to restrict access to Confidential Information to those of its employees, agents, and contractors who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (v) to exercise at least the same standard of care and security to protect the Confidential Information received by it as it protects its own confidential information. If a Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any

Confidential Information, it will notify the other Party as promptly as practicable so that such Party may seek a protective order or waiver for that instance.

Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of either Party; (ii) was in a Party's possession before receipt from the other Party; (iii) is rightfully received by a Party from a third party without any duty of confidentiality; (iv) is independently developed by a Party without use or reference to the other Party's Confidential Information; or (v) is disclosed with the prior written consent of the Parties.

Each Party shall return or destroy the Confidential Information upon written request by the other Party; provided, however, that each Party may retain one copy of the Confidential Information in order to comply with applicable law. CUSTOMER understands and agrees that it may not always be possible to completely remove or delete all Confidential Information from Vendor's databases without some residual data.

SECTION 10 - INTEREST OF VENDOR

VENDOR covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Products or Services under this Agreement.

SECTION 11 – VENDOR'S STATUS

It is expressly agreed that in providing the Products and Services required under this Agreement, VENDOR shall at all times be considered an independent Vendor as defined in Labor Code Section 3353, under control of the CUSTOMER as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make VENDOR an agent or employee of CUSTOMER while providing the Products and Services under this Agreement.

SECTION 12 – PERSONNEL REVIEW AND APPROVAL

Reserved.

SECTION 13 - INDEMNITY and LIMITATION OF LIABILITY

13.1 Indemnification. VENDOR will indemnify, defend and hold harmless CUSTOMER from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party unaffiliated with either Party to this Agreement (“Claims”) and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, “Losses,” and including reasonable attorneys’ fees and court costs), to the extent arising out of any Claims that VENDOR products and services infringe a valid intellectual property right of any third party. In the event of such a Claim, if VENDOR determines that this Agreement is likely affected, or if the solution is determined in a final, nonappealable judgment by a court of competent jurisdiction, to infringe a valid intellectual property right, VENDOR will, in its discretion: (i) replace the affected VENDOR products and services; (ii) modify the affected VENDOR products and services to render it non-infringing; or (iii) terminate this Agreement with respect to the affected solution and refund to Client any prepaid fees for the then-remaining or unexpired portion of the Agreement term. Notwithstanding the foregoing, VENDOR will have no obligation to indemnify, defend, or hold CUSTOMER harmless from any Claim to the extent it is based upon: (i) a modification to any solution by CUSTOMER (or by anyone under CUSTOMER’s direction or control or using logins or passwords assigned to Client); (ii) a modification made by VENDOR pursuant to CUSTOMER’s required instructions or specifications or in reliance on materials or information provided by CUSTOMER; or (iii) CUSTOMER’s use (or use by anyone under CUSTOMER’s direction or control or using logins or passwords assigned to Client) of any VENDOR products and services other than in accordance with this Agreement. This Section sets forth CUSTOMER’s sole and exclusive remedy, and VENDOR’s entire liability, for any Claim that the VENDOR products and services or any other materials provided by VENDOR violate or infringe upon the rights of any third party. With regard to any Claim subject to indemnification pursuant to this Section: (i) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (ii) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (iii) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim without the indemnifying Party’s prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party. The VENDOR’S duty to indemnify shall survive expiration or early termination of this Agreement.

13.2 Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO INSTANCE SHALL EITHER PARTY’S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CUSTOMER FOR THE VENDOR PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. VENDOR SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED.

SECTION 14 - INSURANCE

VENDOR shall procure and maintain for the duration of the contract the insurance specified in Exhibit B of this agreement.

SECTION 15 - NONASSIGNABILITY

Both parties hereto recognize that this Agreement is for the Products and Services of VENDOR and cannot be transferred, assigned, or subcontracted by VENDOR without the prior written consent of CUSTOMER; provided that either party may assign this Agreement with reasonable notice to the other party to an affiliate or to a successor in interest resulting from acquisition of all, or substantially all, of the assigning party's business by means of merger, stock or asset purchase, or otherwise.

SECTION 16 – RELIANCE UPON SKILL OF VENDOR

It is mutually understood and agreed by and between the parties hereto that VENDOR is skilled in the performance of the work agreed to be done under this Agreement and that CUSTOMER relies upon the skill of VENDOR to do and perform the work in the most skillful manner, and VENDOR agrees to thus perform the work. The acceptance of VENDOR's work by CUSTOMER does not operate as a release of VENDOR from said obligation.

SECTION 17 - WAIVERS

The waiver by either Party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either Party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other Party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

SECTION 18 - COSTS AND ATTORNEY FEES

Attorney fees in an amount not exceeding \$85 per hour per attorney, and in total amount not exceeding \$5,000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing Party in any action or actions to enforce the provisions of this Agreement. The above \$5,000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this Agreement that neither Party shall have to pay the other more than \$5,000 for attorney fees arising out of an action, or actions to enforce the provisions of this Agreement.

SECTION 19 - NON-DISCRIMINATION

VENDOR warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither VENDOR nor any of its sub-Vendors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

SECTION 20 - MEDIATION

20.1 Dispute Resolution. Except for any dispute, action or claim, regarding a party's intellectual property rights, which shall be brought before a court of competent jurisdiction, in the event of any dispute between the parties hereunder, the parties shall first attempt to resolve the dispute at the Project Manager level representing CUSTOMER and his/her equivalent representing VENDOR. If the dispute is not resolved at this level within ten (10) business days of the date the other party is first informed of the dispute in writing, the parties shall attempt to resolve the dispute at the City Manager level and his/her equivalent representing VENDOR. The use of the foregoing procedure is a condition precedent to the commencement of any mediation or other legal proceedings hereunder.

20.2 Mediation. Except for any dispute, action or claim, regarding a party's intellectual property rights, which shall be brought before a court of competent jurisdiction, should any dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within thirty (30) days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process.

The cost of mediation shall be borne equally by the Parties. Neither Party shall be deemed the prevailing party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than sixty (60) days, unless the parties extend the maximum time.

Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfolded" process.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

SECTION 25 - COOPERATION/FURTHER ACTS

The parties shall fully cooperate with one another in attaining the purposes of this Agreement and, in connection therewith, shall take any such additional further acts and steps and sign any such additional documents as may be necessary, appropriate and convenient as related thereto.

SECTION 26 – TRANSITION COOPERATION

Upon termination of this Agreement for any reason, CUSTOMER will have thirty (30) days to download or extract any CUSTOMER data records, logs, and documentation.

SECTION 27 – FORCE MAJEURE

Neither Party will incur any liability to the other on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond its reasonable control and without negligence of the Parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, acts of terrorism, floods, and earthquakes.

SECTION 28 – AGREEMENT CONTAINS ALL UNDERSTANDINGS

This document represents the entire and integrated agreement between CUSTOMER and VENDOR and supersedes all prior negotiations, representations, and agreements, either written or oral. Unless set forth herein, neither Party shall be liable for any representations made whether orally or in writing.

This document may be amended only by written instrument, signed by duly authorized representatives of both CUSTOMER and VENDOR.

The documents constituting the Agreement between both Parties are intended to be complementary so that what is required by any one of them shall be as binding as if called for by all of them. The Exhibits shown below constitute a material part hereof, and are hereby incorporated by reference herein as part of this Agreement.

1. Exhibit A - Statement of Work
2. Exhibit B - Fee Schedule
3. Exhibit C - Insurance Requirements

In the event of a disagreement between the various documents relating to this Agreement, the order of precedence shall be as follows (in order from most controlling to least controlling):

1. This Agreement
2. Statement of Work
3. Vendor Proposal

SECTION 29 – GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of San Mateo.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A

STATEMENT OF WORK

| Solution | Description |
|--|---|
| Legacy SKU for Agenda and Minutes Workflow Forms | Legacy SKU for Agenda and Minutes Workflow Form |
| Legacy SKU for PrimeGov Agenda Suite | Legacy SKU for PrimeGov Agenda Suite Bundle |
| Legacy SKU for Boards and Commissions | Legacy SKU for Boards and Commissions |
| Legacy SKU for Video Streaming | Legacy SKU for Video Streaming |
| Legacy SKU for Electronic Voting | Legacy SKU for Electronic Voting |

EXHIBIT B

PRICING SUMMARY

| Renewing Subscription Fees | | | |
|--|--------------------------|----------------------|-----------------------|
| Solution | Billing Frequency | Quantity/Unit | Annual Fee |
| Legacy SKU for Agenda and Minutes Workflow Forms | Annual | 1 Each | \$0.00 |
| Legacy SKU for PrimeGov Agenda Suite | Annual | 1 Each | \$ \$35,720.88 |
| Legacy SKU for Boards and Commissions | Annual | 1 Each | \$0.00 |
| Legacy SKU for Video Streaming | Annual | 1 Each | \$0.00 |
| Legacy SKU for Electronic Voting | Annual | 1 Each | \$0.00 |
| SUBTOTAL: | | | \$ \$35,720.88 |

FUTURE YEAR PRICING

| Solution(s) | Period of Performance | |
|--|----------------------------------|----------------------------------|
| | 28 Dec 2025 - 27 Dec 2026 | 28 Dec 2026 - 27 Dec 2027 |
| Legacy SKU for Agenda and Minutes Workflow Forms | \$0.00 | \$0.00 |
| Legacy SKU for PrimeGov Agenda Suite | \$38,221.34 | \$40,896.84 |
| Legacy SKU for Boards and Commissions | \$0.00 | \$0.00 |
| Legacy SKU for Video Streaming | \$0.00 | \$0.00 |
| Legacy SKU for Electronic Voting | \$0.00 | \$0.00 |
| SUBTOTAL: | \$38,221.34 | \$40,896.84 |

EXHIBIT B

Insurance Requirements for Vendors

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non- owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

4. **Cyber Liability** Insurance, with limits not less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant’s profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

- a. The Policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency in the care, custody, or control of the

Vendor. If not covered under the Vendor's liability policy, such "property" coverage of the Agency may be endorsed onto the Vendor's Cyber Liability Policy as covered property as follows:

If the Vendor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Vendor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

Primary Coverage

Except for Cyber Liability, and Technology Professional Liability Errors and Omissions, for any claims related to this contract, the **Vendor's insurance coverage shall be primary and non-contributory**. Coverage for commercial liability shall be at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Vendor's insurance and shall not contribute with it. This requirement shall also apply to any Excess policies.

Notice of Cancellation

Vendor shall provide to CUSTOMER at least thirty (30) days' written notice upon receipt from Vendor's insurer of any cancellation of coverage.

Waiver of Subrogation

Vendor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Vendor may acquire against the Entity by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the CONSULTANT to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

Vendor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Vendor's obligation to provide them.

Subcontractors

Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Vendor shall ensure that Entity is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.