

California Department of Technology
Administration Division
P.O. Box 1810
Rancho Cordova, CA 95741-1810



Date: May 2, 2018

SUBJECT: 2017/2018 AGREEMENT PACKAGE FOR NON-STATE CUSTOMERS

The California Department of Technology 2017/2018 Agreement package is available for your completion and signature. All renewals are due sixty (60) calendar days prior to the expiration date in order to execute in a timely manner.

Annual agreements are normally established on a fiscal year basis (July 1 – June 30); however, they may cover any time period. To streamline paperwork, the California Department of Technology encourages multiple year Agreements. The expiration date on all approved Agreement Packages may be extended by submitting an amendment in advance of the expiration date.

The Department of General Services State Contracting Manual, Volume 3, Chapter 8.3.3, requires purchase documents to be signed by a county, city, district, or other local public body must be accompanied by a resolution, order, motion, or ordinance for the purchase document. Please ensure a copy of such documentation is submitted with your completed Agreement Package. Lack of such documentation will result in a delay of execution.

Please complete two (2) Agreement Packages with original signatures no later than 60 calendar days prior to the expiration date, and return to the IAA Processing Analyst at:

California Department of Technology
Acquisition and IT Program Management Branch
Attention: IAA Processing Analyst (MS Y-18)
P.O. Box 1810
Rancho Cordova, CA 95741-1810

Once the Agreement Package is fully executed, one (1) original copy will be returned to the attention of the designated Contract Analyst listed in Exhibit C.

If you have any questions regarding the Agreement Package, please contact the California Department of Technology IAA Processing Analyst at (916) 431-5089, by email at iaaprocessinganalyst@state.ca.gov, or to be redirected to the Contract Manager, clerical staff at (916) 431-5397. If you have any other questions regarding services, costs, rates, etc., please contact your Customer Representative.

J. HERRERA, Branch Chief
Acquisition and IT Program Management

Enclosures

AGREEMENT INSTRUCTIONS

These instructions apply to agreements submitted by customers for services beginning on or after July 1, 2017.

STANDARD 213 IT - STANDARD AGREEMENT FOR I.T. GOODS/SERVICES ONLY

1. The Standard 213 IT is the cover page for the Agreement Package to which the exhibits are attached.
2. Sections titled "NON-STATE AGENCY NUMBER" and "CONTRACT NUMBER," are provided for identifying purposes that pertains to the Agreement.
3. The term date is normally established by fiscal year (July 1 – June 30), however, a multi-year Agreement is encouraged.
4. The encumbrance amount of your Agreement will be estimated based upon the California Department of Technology's current rate schedule, which can be viewed at: <https://cdt.ca.gov/services/rates/>

EXHIBIT A – STATEMENT OF WORK

EXHIBIT B - BUDGET DETAIL AND PAYMENT PROVISIONS

1. The California Department of Technology will render invoices monthly in arrears and the Customer agrees to pay monthly upon receipt of invoice.

EXHIBIT B-1 – COST WORKSHEET

EXHIBIT C – CUSTOMER COMPLETION FORM

1. Contact information must be provided to the California Department of Technology for recordkeeping purposes.
2. The completion of Operational Recovery Inquiry is critical information to the California Department of Technology for planning and meeting customer demand/requirements for these essential services.

EXHIBIT D – DEPARTMENT OF TECHNOLOGY SERVICE CATALOG GENERAL PROVISIONS

EXHIBIT E – SPECIAL CONDITIONS

EXHIBIT F – PUBLIC LIABILITY LETTER

STANDARD AGREEMENT

FOR I.T. GOODS/SERVICES ONLY

NON-STATE AGENCY

NON-STATE AGENCY NUMBER
CONTRACTOR NUMBER
18-11780

1. This Agreement is entered into between the Non-State Agency and the Contractor named below

<small>NON-STATE AGENCY NAME</small> CITY AND COUNTY OF SAN FRANCISCO	(hereafter called Customer or City)
<small>CONTRACTOR'S NAME</small> CALIFORNIA DEPARTMENT OF TECHNOLOGY	(hereafter called Contractor or State)
2. The term of this Agreement is: July 1, 2018 through June 30, 2021
3. The maximum amount of this Agreement is: \$ 2,385,938.10
Two million, three hundred eighty five thousand, nine hundred thirty eight dollars and ten cents
4. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Agreement:

Exhibit A – Statement of Work	1 page
Exhibit B - Budget Detail and Payment Provisions	2 pages
Exhibit B-1 - Cost Worksheet	1 page
Exhibit C – Customer Completion Form	1 page
Exhibit D – Special Conditions	7 pages
Exhibit E – Department of Technology Service Catalog General Provisions	4 pages
Exhibit F – Public Liability Letter	1 page

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	CALIFORNIA Department of General Services Use Only
<small>CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)</small> CALIFORNIA DEPARTMENT OF TECHNOLOGY	
<small>BY (Authorized Signature)</small> 	<small>DATE SIGNED</small>
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small> Marisa Duarte-Lott, Manager	
<small>ADDRESS</small> P.O. Box 1810, Rancho Cordova, CA 95741-1810	
NON-STATE AGENCY	
<small>NON-STATE AGENCY NAME</small> City and County of San Francisco, a municipal corporation	
<small>BY (Authorized Signature)</small> 	<small>DATE SIGNED</small>
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small> John Updike, Director of Property	
<small>ADDRESS</small> 25 Van Ness Ave., #400, San Francisco, CA 94102	

Agreements are exempt from
DGS approval per Delegation
CDT-7502

STATEMENT OF WORK

1. This Agreement is entered into by and between City and County of San Francisco (hereinafter referred to as the "Customer") and the State of California (hereinafter referred to as the "California Department of Technology" or the "Department, or Contractor") for the Customer to obtain information technology services, materials, or equipment. This Agreement shall represent the cost of ongoing services provided to the Customer by the Department along with the cost of projected new services to be requested through the Service Request (SR) process. This Agreement shall be augmented through the Department's SR process with any resulting mutually agreed upon contractual terms becoming a part of this Agreement, as if fully set forth herein. This Agreement also provides for payment for these services pursuant to State Administration Manual (SAM) section 8752-8752.1 and section 3.03 of the State Contracting Manual.

STATEMENT OF WORK

1. This Agreement is entered into by and between City and County of San Francisco (hereinafter referred to as the "Customer") and the State of California (hereinafter referred to as the "California Department of Technology" or the "Department, or Contractor") for the Customer to obtain information technology services, materials, or equipment. This Agreement shall represent the cost of ongoing services provided to the Customer by the Department along with the cost of projected new services to be requested through the Service Request (SR) process. This Agreement shall be augmented through the Department's SR process with any resulting mutually agreed upon contractual terms becoming a part of this Agreement, as if fully set forth herein. This Agreement also provides for payment for these services pursuant to State Administration Manual (SAM) section 8752-8752.1 and section 3.03 of the State Contracting Manual.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____


Charles Sullivan, Deputy City Attorney

BUDGET DETAIL AND PAYMENT PROVISIONS**1. GENERAL CUSTOMER OBLIGATIONS**

- A. Return completed Agreement Renewal Package to the Department of Technology (Contractor) no later than 60 calendar days prior to the expiration date. In the event a Customer does not return a completed Agreement Renewal Package during the required time frame, the Department of Technology will escalate the matter with the Customer. Any costs incurred by the Department of Technology on behalf of the Customer after the expiration date will be billed to the Customer with full payment due within 30 calendar days.
- B. The Customer must provide 45 calendar days cancellation notice for specific services to be terminated. Lead-time for cancellation of services is vendor-dependent and may require additional lead-time for processing termination documents. The Customer must submit a Service Request through Remedy to notify Department of Technology of the intent to terminate services. The targeted completion date noted on the Service Request must allow reasonable time for the lead-time required to cancel services. Due to the daily accumulation of system utilization and cost activity within the billing system, retroactive termination of services will not be considered. For additional information regarding lead-times for canceling services, please contact your Customer Account Lead.
- C. Customers are required to submit payments for services billed at the specified rates. Payment must be received within 90 calendar days of receipt of invoice. After 90 calendar days, the Department of Technology will escalate payment issues with the Customer. Use of services and goods provided by the Department of Technology to the Customer constitutes an obligation, which must be paid.
- D. In the event the Customer utilizes, requires, accepts or requests services that exceed the amount authorized by this Agreement, the Customer is responsible for all charges incurred and agrees that either party, with the written consent of the other party, may amend this Agreement, in writing, to provide payment to the Department of Technology to the extent services have been provided. Such payment for services incurred beyond the amount authorized by this Agreement shall be made payable on or before the agreement expiration date. If, after the conclusion of the subject agreement period, it is determined that monies above and beyond that which was authorized by this Agreement are owed to the Department of Technology for services received by the Customer, either party, with the written consent of the other party, may amend the Agreement, in writing, with the Customer agreeing to pay the outstanding amount in full, no later than 60 calendar days from discovery of the outstanding payment due.

2. INVOICING

- A. The Customer agrees to compensate the Department of Technology for services billed in accordance with the rates specified herein. Customer can access invoices from CalTABS.
- B. Invoices shall include the Agreement Number (as requested) and shall be submitted in duplicate not more frequently than monthly in arrears to the billing address identified in Exhibit C.
- C. Invoices are published monthly in arrears via the CalTABS system. To learn more about CalTABS, please visit: <https://cdt.ca.gov/caltabs/>. To obtain a user ID, please contact ciobilling@state.ca.gov.
- D. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of Department of Technology. The Customer will not compensate Department of Technology for any costs incurred for invoice preparation. The Customer may request, in writing, changes to the content and format of the invoice and supporting documentation at any time. The Customer reserves the right to request additional supporting documentation to substantiate costs at any time. Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any Customer office or department, and approve demands before they are drawn on the Treasury.

3. PAYMENT TERMS

- A. Costs for this Agreement shall be computed in accordance with SAM sections 8752 and 8752.1.
- B. The cost of subscribing to the Department of Technology's IT services is based upon the published Billing Rate Schedule, which is subject to change upon 30 calendar days' prior written notice. The rates billed under this Agreement, however, may not increase more than 5% per fiscal year (July 1 – June 30) during the term of this Agreement. These rates may be viewed on the Department of Technology's web site at: <https://cdt.ca.gov/services/rates/>
- C. Customer agrees to pay the Department of Technology monthly upon receipt of invoice. The Department of Technology will issue monthly invoice in arrears to the Customer.

4. CUSTOMER RESPONSIBILITY

It will be the responsibility of the Customer to notify the Department of Technology in writing within seven (7) State business days after Customers receipt/installation of goods, procured by the Department of Technology in relation to the services provided herein (i.e., equipment, telecommunications lines, and software products). Such notification shall be sent to:

Department of Technology
Warehouse Receiving at: warehouseceiving@state.ca.gov

BUDGET DETAIL AND PAYMENT PROVISIONS

Service Category	Service Code	Service Code Description	Rate Quantity	Unit	Extended per month	End of Year
<i>Year 1</i>						
F100	F114	Basic Tenant Managed Services Cabinet Gold Camp	\$1,709.00	30 Cabinets	\$51,270.00	\$615,240.00
	F116	Power Exceeding 3.5 kW	\$117.00	30 kW/Month	\$3,510.00	\$42,120.00
N600	N607	TMS -Foreign Cable Install	\$350.00	4 One-Time/Install	As needed	\$4,200.00
N700	N747	1000 Mbps Foreign/TMS Basic Connectivity	\$2,500.00	2 Circuit	\$5,000.00	\$60,000.00
N100	N118	Cloud Provider Dedicated Direct Connect up to 1000Mbps	\$2,940.00	1 Circuit	\$2,940.00	\$35,280.00
					\$62,720.00	\$756,840.00
<i>Year 2</i>						
F100	F114	Basic Tenant Managed Services Cabinet Gold Camp	\$1,709.00	30 Cabinets	\$51,270.00	\$615,240.00
	F116	Power Exceeding 3.5 kW	\$117.00	30 kW/Month	\$3,510.00	\$42,120.00
N600	N607	TMS -Foreign Cable Install	\$350.00	4 One-Time/Install	As needed	\$4,200.00
N700	N747	1000 Mbps Foreign/TMS Basic Connectivity	\$2,500.00	2 Circuit	\$5,000.00	\$60,000.00
N100	N118	Cloud Provider Dedicated Direct Connect up to 1000Mbps	\$2,940.00	1 Circuit	\$2,940.00	\$35,280.00
					\$62,720.00	\$756,840.00
<i>Year 2</i>						
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N100	N118	Cloud Provider Dedicated Direct Connect up to 1000Mbps	\$2,940.00	1 Circuit	\$2,940.00	\$35,280.00
					\$62,720.00	\$756,840.00
				Year 1 Total		\$756,840.00
				Year 2 Total (plus 5%)		\$794,682.00
				Year 3 Total (plus 5%)		\$834,416.10
				3 Year IAA Total		<u>\$2,385,938.10</u>

California Department of Technology
 Administration Division
 P.O. Box 1810
 Rancho Cordova, CA 95741-1810



CUSTOMER COMPLETION FORM

DEPARTMENT OF TECHNOLOGY:

CONTRACT ADMINISTRATOR: IAA PROCESSING ANALYST ACQUISITION AND IT PROGRAM MANAGEMENT BRANCH	CUSTOMER ACCOUNT LEAD: OFFICE OF CUSTOMER ENGAGEMENT
P.O. BOX 1810, MS Y-18 RANCHO CORDOVA, CA 95741-1810	P.O. BOX 1810 RANCHO CORDOVA, CA 95741-1810
PHONE: (916) 431-5089 FAX (916) 463-9914 EMAIL: iaaprocessinganalyst@state.ca.gov	PHONE: (916) 431-5454 FAX (916) 454-7273

CUSTOMER:

CONTRACT ANALYST: Department of Technology Asset Manager Attn: Fazululhaque Sheik	BILLING CONTACT: Department of Technology Accounting Manager Attn: Maria Soledad
ADDRESS: 1 South Van Ness Ave., 2 nd Floor San Francisco, CA 94102	ADDRESS: 1 South Van Ness Ave., 2 nd Floor San Francisco, CA 94102
PHONE: (415) 581-4000 FAX EMAIL: Fazululhaque.Sheik@sfgov.org	PHONE: (415) 581-4000 FAX : EMAIL : leo.levenson@sfgov.org
CONTRACT ADMINISTRATOR Executive Director, Department of Technology Attn: Linda Gerull	TECHNICAL CONTACT: Infrastructure Director, Department of Technology, Attn: Matt Reeves
ADDRESS: 1 South Van Ness Ave., 2 nd Floor San Francisco, CA 94102	ADDRESS: 1 South Van Ness Ave., 2 nd Floor San Francisco, CA 94102
PHONE: (415) 581-4000 FAX EMAIL: linda.gerull@sfgov.org	PHONE: (415) 581-4000 FAX EMAIL: matt.reeves@sfgov.org

1. PAYMENT TERMS

The Customer agrees to pay the Department of Technology monthly in arrears upon receipt.

2. OPERATIONAL RECOVERY INQUIRY

The Department offers Operational Recovery Hot Site Services. Quotations for this service will be provided by the Department's Operational Recovery Coordinator and are based on agency individual requirements.

- A. Does your agency plan to use this service during the term of this Agreement? Yes No
- B. If yes, are funds included in this Agreement for these services? Yes No
- C. If no, when will the Agreement be amended to add funds for these services? Date

Special Conditions

1.1 Notices

Except as otherwise specifically provided in this Agreement, any notice given under this Agreement shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: **(a)** Contractor or Customer at address set forth in the Standard Agreement; or **(b)** such other address as either Contractor or Customer may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first-class, certified mail, one day after the date when it is mailed if sent by Express Mail, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Standard Agreement or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

1.2 No Implied Waiver

No failure by either party to insist upon the strict performance of any obligation of the other party under this Agreement or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial monthly Agreement Fee or other sum payable hereunder by Contractor while Customer is in default hereunder shall constitute a waiver of such default by Contractor. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Contractor or Customer given in one instance under the terms of this Agreement shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Agreement.

1.3 Approvals

Neither this Agreement nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Agreement, but each and every term, covenant and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

Whenever this Agreement requires or permits the giving by Customer of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Agreement, including, without limitation, amendments to or modifications to the exhibits to this Agreement, shall be subject to the mutual written agreement of Customer and

Contractor, and Customer's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Agreement **(a)** changing the legal description of the Agreement Space, **(b)** increasing the Term, **(c)** increasing the monthly Agreement Fee, **(d)** changing the general use of the Agreement Space from the use authorized under Exhibit A of this Agreement, and **(e)** any other amendment or modification which materially increases Customer's liabilities or financial obligations under this Agreement shall additionally require the approval of Customer's Board of Supervisors.

1.4 Authority

Contractor represents and warrants to Customer that the execution and delivery of this Agreement by Contractor has been duly authorized and does not violate any provision of any agreement, law or regulation to which Contractor or the Property is subject.

1.5 Interpretation of Agreement

The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Agreement. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of the parties, without any presumption against the party responsible for drafting any part of this Agreement. Except as otherwise specifically provided herein, wherever in this Agreement Contractor or Customer is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed. Provisions in this Agreement relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or Contractor or Customer holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Agreement, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

1.6 Brokers

Neither party has had any contact or dealings regarding the leasing of the Agreement Space, or any communication in connection therewith, through any real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Agreement contemplated herein, and Customer shall have no liability therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall indemnify the other party from any and all claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Agreement.

1.7 Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances

other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the full extent permitted by law.

1.8 Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

1.9 Attorneys' Fees

In the event that either Contractor or Customer fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Agreement, reasonable attorneys' fees of the Customer's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

1.10 Cumulative Remedies

All rights and remedies of either party hereto set forth in this Agreement shall be cumulative, except as may otherwise be provided herein.

1.11 Time of Essence

Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified.

1.12 Survival of Indemnities

Termination of this Agreement shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Agreement, nor shall it affect any provision of this Agreement that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Agreement, if any, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

1.13 Non-Liability of Customer Officials, Employees and Agents

Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of Customer shall be personally liable to Contractor, its successors and assigns, in the event of any default or breach by Customer or for any amount which may become due to Contractor, its successors and assigns, or for any obligation of Customer under this Agreement.

1.14 MacBride Principles - Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Contractor acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

1.15 Controller's Certification of Funds

The terms of this Agreement shall be governed by and subject to the budgetary and fiscal provisions of the Customer's Charter. Notwithstanding anything to the contrary contained in this Agreement, there shall be no obligation for the payment or expenditure of money by Customer under this Agreement unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the Customer's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of Customer after the fiscal year in which the Term of this Agreement commences, sufficient funds for the payment of Rent and any other payments required under this Agreement are not appropriated, then Customer may terminate this Agreement, without penalty, liability or expense of any kind to Contractor, as of the last date on which sufficient funds are appropriated. Customer shall use its reasonable efforts to give Contractor reasonable advance notice of such termination.

1.16 Non Discrimination in Contractor Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

In the performance of this Agreement, Contractor agrees not to discriminate against any employee of, any contracted employee working with Contractor, or applicant for employment with Contractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(a) Subcontracts

Contractor shall include in all subcontracts relating to the Agreement Space a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(b) Non-Discrimination in Benefits

Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by Contractor, or where the work is being performed for the Contractor or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(c) CMD Form

As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (the "CMD"). Contractor hereby represents that prior to execution of the Agreement: **(a)** Contractor executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(b)** the CMD approved such form.

(d) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for services under this Agreement are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

1.17 Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither Contractor nor any of its contractors shall provide any items to Customer in the construction of the Agreement Space or otherwise in the performance of this Agreement which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

(c) In the event Contractor fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Contractor shall be liable for liquidated damages for each violation in an amount equal to Contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Contractor from any contract with the City and County of San Francisco.

(d) Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment.

1.18 Resource-Efficient Buildings and Pilot Projects

Contractor acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction and operation of City buildings. Contractor hereby agrees that it shall comply with all applicable provisions of such code sections.

1.19 Certification by Contractor

By executing this Agreement, Contractor certifies that neither Contractor nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental Customer. In the event Contractor or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental Customer, it shall immediately notify the Customer of same and the reasons therefore together with any relevant facts or information requested by Customer. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Agreement. Contractor acknowledges that this certification is a material term of this Agreement.

1.20 Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, Agreements, licenses, responses to Requests for Proposals, and all other records of communications between Contractor and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, Agreement, license or other benefit

until and unless that person or organization is awarded the contract, Agreement, license or benefit. Information provided which is covered by this Section will be made available to the public upon request.

1.21 Conflicts of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Contractor becomes aware of any such fact during the Term of this Agreement, Contractor shall immediately notify Customer.

1.22 Notification of Limitations on Contributions

Through its execution of this Agreement, Contractor acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Customer for the selling or leasing of any land or building to or from the Customer whenever such transaction would require approval by an Customer elective officer or the board on which that elective officer serves, from making any campaign contribution to (1) an individual holding an Customer elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to Customer the names of each person, entity or committee described above.

1.23 Cooperative Drafting

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

1.24 Prevailing Wages

Contractor agrees to require its contractors and subcontractors performing labor in the construction of a "public work" as defined in California Labor Code Section 1720 et seq. to pay prevailing wages as required by state law.

DEPARTMENT OF TECHNOLOGY SERVICE CATALOG GENERAL PROVISIONS

This Exhibit D contains terms and conditions in addition to those contained in the Agreement to which this Exhibit is attached (Agreement), under which you, the Customer, agree to obtain services from the Department of Technology. By submitting a Service Request through the Remedy System, you consent to these terms and conditions.

1. Service Information

The Department of Technology provides information technology services to state, county, federal and local government entities throughout California.

A. Service Catalog

The [Service Catalog](#) provides an overview of services offered by the Department of Technology.

B. Remedy System

The [Remedy System](#) is used by the Customer to request new services, modify existing services, or discontinue a service.

C. Account Lead

The Account Lead acts as the single point of contact for the Customer. The Account Lead reviews the Service Request and associated documents with the Customer to ensure the proper forms and approvals are completed. The Customer can locate their Account Lead information in the [Customer Account Lead Lookup](#) directory.

2. Service Rates

The rates charged for services under this Agreement are located in the Billing Rate Schedule at <https://cdt.ca.gov/services/rates/>. Rates are subject to change upon 30 calendar-day prior written notice from the Department of Technology. The costs for services shall be computed in accordance with the State Administrative Manual (SAM) Section 8752 and 8752.1.

3. Authority to Enter into Agreement

The Customer hereby warrants and represents that it has the budget and project approvals necessary for the services covered under this Agreement. The Customer further warrants and represents that sufficient monies are available to the Customer to fund the expenditures for services covered under this Agreement, subject to appropriation of funds as set forth in Exhibit B of this Agreement. The Customer acknowledges that it is acting in an independent capacity in making this Agreement, and not as agents or employees of the Department of Technology.

4. Customer Invoices

Invoices shall be available by the 10th business day of the following month. The Customer will be notified by email when monthly invoices are available for viewing on the [California Department of Technology Billing System \(CalTABS\)](#).

5. Proprietary Rights

A. Pursuant to Executive Order S-16-04 and SAM Section 4846 et seq., the Customer acknowledges that the use of licensed products in violation of a valid licensing agreement could subject the Department of Technology to third-party lawsuits. The Customer, therefore, agrees that it will not duplicate, copy, or otherwise reproduce any proprietary software products supplied pursuant to this Agreement without the express written consent of the owner of the software. The Customer further agrees that it will use any such software products in strict compliance with the terms of any license provided by the owner of the software. The Customer further agrees that its use of any such licensed software products will not violate any applicable copyright, trademark, trade name, patent or similar legal right.

B. Each of the parties to the Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the

authorization contained in Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of its officers, agents or employees by law, for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2. To achieve the above-stated purpose, each party, to the extent permitted by law, indemnifies and holds harmless the other party for all losses, costs, or expenses that may be imposed upon such other party solely by virtue of said Section 895.2. The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein.

6. Unsupported Software

The Department of Technology is not responsible for license, service, and/or support issues related to software in the Customer systems, unless the Department of Technology is the licensee of the software products. The Customer agrees to maintain appropriate licenses and service and support arrangements for the systems or applications owned or maintained by the Customer's department; all enterprise-wide systems, which include hardware and operating systems; application software (if applicable); security systems; and software licenses for all systems and services. The Department of Technology is neither responsible nor liable for damages resulting from the Customer's decision to use unlicensed or unsupported software.

7. Examination and Audit

In accordance with Government Code Section 8546.7, the Department of Technology and the Customer agree that the Bureau of State Audits (BSA) or other entity will have the right to review, obtain and copy all records pertaining to performance of this Agreement. The Department of Technology and the Customer agree to provide, or otherwise make available to, the BSA or other entity any relevant information requested and shall permit the BSA or other entity access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts and other material that may be relevant to this Agreement. The Department of Technology and the Customer further agree to maintain such records for a period of three (3) years after final settlement under this Agreement.

8. Information Security

Information Security Based on the specific requirements of SAM Section 5300 et seq., and pursuant to Government Code Section 11549.3, every state agency, department, and office shall comply with the information security and privacy policies, standards, and procedures issued by the California Information Security Office.

A. Requirements on Customer

Information security is defined as the protection of information and information systems, equipment, and people from a wide spectrum of threats and risks. To ensure the confidentiality, integrity, and availability of its managed resources, the Department of Technology agrees to provide protection of its information assets by establishing appropriate administrative, operational and technical policies, standards, and procedures. To further protect and minimize risk to the State, the Customer requesting to use the network or resources of the Department of Technology must comply with basic security requirements. By submitting a Service Request, the Customer agrees to ensure that:

- i. The Customer is in compliance with statewide policies and laws regarding the use and protection of information resources and data.
- ii. The Customer's virus software is up-to-date and security patches and upgrades are installed on all systems on which the data may be used.
- iii. The Customer promptly notifies the Department of Technology Information Security Officer (ISO) of any security incidents involving information systems or data on any managed service by the Department of Technology.

- iv. The Customer transmitting data through resources at the Department of Technology has at least one firewall system properly situated between the network and each external entry point.
- v. Physical access to network components, servers, and data storage used in conjunction with access to information resources at the Department of Technology are limited to the appropriate designated staff responsible for implementing and maintaining the components.
- vi. The Customer's administrative access is limited to those individuals that require access in order to perform duties essential to the operation and maintenance of that system.

B. Provisions provided by the Department of Technology

The Department of Technology "shall comply with applicable industry standards and guidelines, including but not limited to relevant security provisions of the California State Administrative Manual (SAM), California Statewide Information Management Manual (SIMM), The National Institute of Standards and Technology (NIST) 800-53 v4 and Federal Information Processing Standard (FIPS) Publication 199 which protect and minimize risk to the State. At a minimum, provision shall cover the following:

- i. The Department of Technology will protect the confidentiality, integrity and availability of the data under its custodianship. The Department of Technology shall implement and maintain appropriate administrative, physical, technical, and procedural safeguards during the term of the Agreement to secure such data from data breach or loss, protect the data and information assets from breaches, introduction of viruses, disabling of devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its data or affects the integrity of that data.
- ii. Confidential, sensitive or personal information shall be encrypted in accordance with SAM 5350.1 and SIMM 5305-A as directed by the Customer.
- iii. The Department of Technology shall comply with statewide policies and laws regarding the use and protection of information assets and data. Unauthorized use of data by the Department of Technology or third parties will not be allowed.
- iv. Signed Security and Confidentiality Statement for all personnel assigned during the term of the Agreement.
- v. Apply security patches and upgrades, and keep virus protection software up-to-date on all information assets on which data may be stored, processed, or transmitted.
- vi. The Department of Technology shall notify the Customer data owner immediately if a security incident involving the information asset occurs.
- vii. The Customer data owner shall have the right to participate in the investigation of a security incident involving its data or conduct its own independent investigation. The Department of Technology shall allow the Customer reasonable access to security logs, latency statistics, and other related security data that affects this Agreement and the Customer's data.
- viii. The Department of Technology shall be responsible for all costs incurred by the Customer due to security incident resulting from the Department of Technology's failure to perform or negligent acts of its personnel, and resulting in an unauthorized disclosure, release, access, review, destruction; loss, theft or misuse of an information asset. If the Department of Technology experiences a loss or breach of data, the Department of Technology shall immediately report the loss or breach to the Customer. If the Customer data owner determines that notice to the individuals whose data has been lost or breached is appropriate, the Department of Technology will bear any and all costs associated with the notice or any mitigation required by law. These costs include, but are not limited to, staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach or loss of data.

- ix. The Department of Technology shall immediately notify and work cooperatively with the Customer data owner to respond timely and correctly to public records act requests.
- x. The Department of Technology shall dispose of records of Customer data as instructed by the Customer during the term of this Agreement. No data shall be copied, modified, destroyed or deleted by the Department of Technology other than for normal operation or maintenance during the Agreement period without prior written notice to and written approval by the Customer.
- xi. Remote access to data from outside the territorial United States, including remote access to data by authorized support staff in identified support centers, is prohibited unless approved in advance by the Customer.
- xii. The physical location of the Department of Technology data center where the Data is stored shall be within the territorial United States.

9. Mutual Limitation of Liability

In no event, will either party be liable to the other for any indirect, incidental, special, consequential or damages, even if notification has been given as to the possibility of such damages.

10. Changes to Service

- A. All notices relating to changes, additions, or modifications of service shall be in writing and shall be submitted by the Customer through Remedy.
- B. No variation of the terms of the service shall be valid unless made in writing, signed by the Department of Technology and the Customer, approved as required, and submitted through Remedy. No verbal understanding or agreement is binding on any of the parties.

11. Disputes

In the event of a dispute, the Department of Technology shall continue with the responsibilities of providing services to the Customer.

12. Problem Escalation

The Customer acknowledges and agrees that certain technical and project-related problems or issues may arise, and that such matters shall be promptly reported to the Department of Technology. The Department of Technology agrees to provide an internal escalation process to facilitate communication between the Customer and staff at the Department of Technology, as appropriate. The Account Lead will determine the problem severity level, and notify appropriate staff at the Department of Technology including, but not limited to, the following:

First Level	Section or Unit Manager/Service Owner
Second Level	Branch Chief/Service Owner
Third Level	Division Deputy Director

13. Cancellation of Service

The Customer must provide 45 calendar days cancellation notice for a service to be terminated. Cancellation of services is vendor-dependent and may require lead-time for processing termination documents. The Customer must submit a Service Request through CSS or Remedy to notify the Department of Technology of the intent to terminate services. The targeted completion date noted on the Service Request must allow for the reasonable lead-time required to cancel services. Retroactive termination of services will not be considered. For more information regarding lead-times for canceling services, please contact your Account Lead.

14. Insurance

For the purposes of fully satisfying the requirement for insurance, the Customer acknowledges, accepts and will use the Department of Technology's self-insured practice as described in Exhibit F, Public Liability and Workers Compensation Self-Insurance Memorandum to address any liability.

June 9, 2017

**STATE OF CALIFORNIA
PUBLIC LIABILITY AND WORKERS' COMPENSATION INSURANCE
FISCAL YEAR JULY 1, 2017 / JUNE 30, 2018**

To Whom It May Concern:

In accordance with Government Code section 11007.4, the State of California has elected to be self-insured for liability exposures. Under this form of insurance, the State and its employees acting in the course and scope of their employment are insured for tort liability arising out of official State business. All claims against the State of California based on tort liability should be presented as a government claim to the Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-9052. (Gov. Code section 900, et. seq.) Internet link: <http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx>.

The State of California has also elected to be insured for its motor vehicle liability exposures through the State Motor Vehicle Liability Self-Insurance Program (VELSIP). This program provides liability coverage arising out of the operations of motor vehicles used by state employees for official state business (California Vehicle Code Sections 17000 and 17001). Motor vehicle liability claims against the State of California should be presented to the Office of Risk and Insurance Management, P.O. Box 989052 MS-403, West Sacramento, CA 95798-9052, (800) 900-3634, claims@dgs.ca.gov. If your motor vehicle liability claim is not resolved within six months from the date of loss, California law requires you to file a formal claim with the Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-9052. (Gov. Code section 900, et. seq.) Internet link: <http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx>.

The State of California has a Master Agreement with the State Compensation Insurance Fund regarding workers' compensation benefits for all state employees, as required by the Labor Code.

Sincerely,



Carrie Willson
Staff Risk Manager
Insurance Services Unit
Phone: (916) 376-5278
Fax: (916) 376-5275
carrie.willson@dgs.ca.gov

STATEMENT OF WORK

1. This Agreement is entered into by and between City and County of San Francisco (hereinafter referred to as the "Customer") and the State of California (hereinafter referred to as the "California Department of Technology" or the "Department, or Contractor") for the Customer to obtain information technology services, materials, or equipment. This Agreement shall represent the cost of ongoing services provided to the Customer by the Department along with the cost of projected new services to be requested through the Service Request (SR) process. This Agreement shall be augmented through the Department's SR process with any resulting mutually agreed upon contractual terms becoming a part of this Agreement, as if fully set forth herein. This Agreement also provides for payment for these services pursuant to State Administration Manual (SAM) section 8752-8752.1 and section 3.03 of the State Contracting Manual.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____


Charles Sullivan, Deputy City Attorney

