City of Tukwila

Thomas McLeod, Mayor

INFORMATIONAL MEMORANDUM

TO: **Finance and Governance Committee**

FROM: **Tony Cullerton, Deputy Finance Director**

BY: **Adam Schierenbeck, Senior Fiscal Coordinator**

CC: **Mayor McLeod**

DATE: **July 16, 2024**

SUBJECT: **Tax & License Software Budget Approval**

ISSUE
Staff are requesting approval to enter into a contract for the set-up and use of tax and licensing software with HdL Companies. The software solution will enable the City to maintain a database of businesses operating in the City, improve the business license application approval process, aid the City in administering its business taxes, and allow businesses to file and pay business tax returns online.

BACKGROUND
The City's business and occupation (B&O) tax took effect on January 1, 2024. The B&O tax generally applies to every business activity engaged in within the City (unless specifically exempt), thereby significantly increasing the number of businesses that are subject to City taxes.

Prior to the effective date of the B&O tax, staff consulted with other local taxing jurisdictions and met with numerous software vendors to find a solution that will provide the City with an internal system of record to aid in administering the tax while allowing businesses to file and pay tax returns online and. This solution was sought not only for B&O tax but also to administer the City's other business taxes on admissions, gambling, parking, and utilities.

At this time, businesses must send tax returns by mail with payment made by check or money order. Finance Department staff must manually process each individual tax return and use Microsoft Excel to record and maintain the tax return information and business details. Thus, the processes required by both City staff and businesses are manual and labor-intensive. Excel is also used to route business license applications through multiple departments for approval.

On January 31, 2024, the City published a request for proposals (RFP) for a tax administration and online filing system. On March 29, 2024, HdL Companies provided a response and cost proposal. Through subsequent discussions and software demonstrations, HdL Companies has established that its software solution will meet the City's desired requirements within budgetary constraints.

DISCUSSION
Approximately 3,400 B&O tax returns are expected to be received by the City annually, in addition to 1,600 returns for taxes due on admissions, gambling, parking and utilities.

To properly administer and enforce the City's business taxes, staff must maintain a list of businesses that are subject to the tax; identify whether required tax returns have been filed and whether they were paid timely; and identify whether the correct amount of tax has been paid. Administering B&O tax is especially challenging compared to the City's other business taxes

due to the larger number of tax filers and the additional complexities related to B&O tax – including an annual taxable threshold, multiple tax rates, and multiple calculation schedules.

While Microsoft Excel has been used as a means to track tax return data and maintain a list of businesses in the City, this method is time-consuming to maintain and prone to errors and omissions. The alternative software solution offered by HdL Companies provides an internal system of record that will allow a streamlined method for viewing, sorting, and analyzing tax return and business information. Staff anticipate that such software will lead to efficiency for routine tasks while improving the ability to monitor and enforce tax compliance.

Importantly, HdL Companies' software solutions will allow businesses to file and pay City tax returns online, thereby providing a more efficient means for businesses to comply with the City's requirements. This also will reduce the staff time needed for manually processing payments.

Finally, the solution offered by HdL Companies provides functionality related to business license application approvals, allowing applications to be routed through the various departments involved in the approval process. This task is currently being handled in Microsoft Excel, whereas the proposed solution would provide greater efficiency, accuracy, and timeliness.

While the City did not receive a formal response to the RFP from other software vendors, a preliminary estimate provided by another vendor, Tyler Technologies, showed a first-year cost of $167,665 and recurring annual fees of over $28,000. An alternative option is to pursue an interlocal agreement with FileLocal, pending a vote of other member cities. FileLocal is a municipal subdivision of the State of Washington that was created to provide an online filing option for municipal B&O tax (and municipal business licensing). FileLocal does not, however, provide an internal system of record, and therefore, would solve only part of the solution. Staff recommend entering into an agreement with HdL Companies because the solution meets both the needs of staff and those of external customers at a similar cost to FileLocal.

Staff conducted reference checks with the City of Bellingham and with Henry County, GA, both of which use HdL Companies' software solution to administer their taxes and/or license fees. Positive feedback was received from these references, with an emphasis on ease of use and timely responsiveness by the vendor.

The draft contract and associated schedules have been reviewed and approved by the City Attorney's Office.

FINANCIAL IMPACT
The proposed software solution from HdL Companies will cost $84,500 in the first year, which includes a one-time startup cost of $65,000 and an annual recurring fee of $19,500. The total contract amount for two years – the length of time sought by the City for the initial agreement – is $104,000 (plus a CPI increase for the second year). This does not include additional training time beyond the amount specified in the contract (i.e. one day), and it does not include customization to the software. Should the City find that additional costs are needed as the project progresses, a contract amendment would be sought at that time.

RECOMMENDATION
Review and respond to the proposed budgetary approval. The Council is being asked to approve the budget for this contract at the Regular Meeting on August 5, 2024.

ATTACHMENTS
    A. HdL Company Profile and Project
        Approach
    B. Draft contract and exhibits

March 29, 2024

Vicky Carlsen, Finance Director
City of Tukwila

Dear Ms. Carlsen,

HdL Companies (HdL) is pleased to submit our proposal for **Tax Administration and Online Filing System.** With 40 years of experience, HdL provides revenue enhancement and consulting services to local governments. Our firm serves over 700 cities, counties and special districts across the nation and has recovered more than $3 billion in revenue. We use our expertise to analyze tax data to provide relevant insights to support your financial strategies. Our commitment to innovative solutions and quality customer service is valued by our clients, proven by our 99.6% client retention rate and the over 60 municipalities who have switched to HdL from other service providers.

Our **contact information** is:

> Robert Gray, Director of Tax and Fee Administration/CIO
> HdL Companies
> 120 S. State College Blvd., Suite 200
> Brea, CA 92821

Company Overview

Hinderliter, de Llamas and Associates (HdL) was established in 1983 to maximize local government revenues by providing allocation audits, analytical services, and software products to local governments. The firm, which is a 100% employee-owned company, provides audit and consulting services for sales, use and transaction taxes, and other locally administered taxes. HdL Software was formed in 1996 to provide innovative software processing tools for business licensing, hospitality taxes, and other locally administered revenues. HdL's systematic and coordinated approach to revenue management, tax administration, and economic data analysis is currently being utilized by over 700 agencies nationwide.

Currently partnering with over 700 cities and counties for services including business license tax/registration, hospitality tax, and short-term rentals, HdL processes hundreds of millions in revenue annually from locally collected taxes. To date, HdL has recovered more than $3 billion in revenue for client agencies.

HdL employs over 250 employees. The firm will not be using any subcontractors or consultants for this project.

HdL offers the following **advantages**:

- Relevant, timely and ongoing staff support by a team with decades of direct experience in municipal finance and budgeting, economic development, and maximization of revenues.
- Technology-driven resources for data analysis and reporting capabilities, providing immediate and convenient access to the most up-to-date tax and fee information.
- Expertise, analysis, recaptured revenues, and precise budget forecasts to maximize your revenue streams.
- Reliable continuity of service by a firm with stable employee ownership and a low staff turnover rate.

HdL is uniquely suited to delivering high quality and full-service solutions to the City and its business community in the areas outlined in this proposal. HdL will provide unparalleled service, reporting, and analytics as requested by the City.

HdL is committed to providing the City with the dedication time, personnel and resources needed for this project. We look forward to reviewing the proposal with you in more detail and demonstrate how HdL can enhance the City's bottom line. Please call if you have questions or need additional information. I can be reached at 714.879.5000 or by email at rgray@hdlcompanies.com.

Sincerely,

Robert Gray
Director of Tax and Fee Administration

Firm Profile

HdL was established in 1983 to maximize local government revenues by providing allocation audits, analytical services, and software solutions to local governments. The firm provides municipal revenue and software solutions for business license tax, lodging tax, sales, use and transaction tax, and various other locally administered taxes. In 1996, HdL introduced innovative software and revenue solutions for business license, transient occupancy tax and other locally administered revenues. HdL is an S-corporation and 100% employee owned.

Qualifications

HdL is uniquely suited to delivering high quality, full-service software solutions to the City and its business community. HdL will provide unparalleled service, reporting, and analytics. As local tax experts, the firm offers comprehensive software and services which assist municipalities with Business License Administration and Compliance, Hospitality Administration and Audits, Short Term Rentals Discovery and Administration, Rental Unit Registration, Operations Support, Fee and Ordinance Analysis and other analytical services that allow cities and counties to expand the effectiveness of related internal operations.

HdL has grown from one employee to over 250 and is proud to be 100% employee owned. HdL empowers each employee-owner to fulfill our mission of helping local government agencies increase revenues, gain actionable insights, maintain regulatory compliance, and operate more efficiently. This approach has led to steady long-term growth and financial stability, making HdL an ideal partner.

HdL acknowledges the City's request to assist with Business Licensing Software and is proposing HdL's Prime solution to meet the City's desire for a business license solution. HdL's Best-of-Breed local tax software solution is utilized by hundreds of municipalities. Our team of professionals has the capacity to meet and exceed the expectations set forth in the City's RFP, as related to local tax software.

Unlike ERP software providers, HdL has a dedicated local tax team which spends 100% of its time on local tax solutions and support for our municipal clients. As a direct result, HdL's best of breed business license solution is preferred by a variety of municipalities throughout the nation, while maintaining an over 99.6% customer retention rate. Our staff brings hundreds of years of combined local government experience, including Certified Revenue Officers (CRO), business tax supervisors, finance directors and city managers. We have a broad and intimate understanding of the complex needs of local government. As former government professionals ourselves, our dedication to local government is second to none. Guided by this experience and our client relationships, HdL's Prime local tax solution continually improves in ease of use and functionality. HdL's Prime solution will support the City's identified core activities including business license fee collection, additional taxes/assessments, monitoring current activity, auditing license activity, and improving operations efficiency. Whether business license tax, hospitality tax/STR, UUT, parking facilities tax, rental unit registration, or other similar locally administered programs, HdL Prime will provide an efficient platform for both City staff and the City's business community. HdL also goes above and beyond in our service, pro-actively monitoring local and state legislation for potential impacts on locally administered revenue programs, both to ensure our systems are ready when legislation goes into effect, and also to shape potential legislation, when possible, to benefit local governments.

HdL's best of breed solution supports integrating with the City's other systems, allowing the City to benefit from the best available local tax solution for business license tax without requiring compromise by other departments. HdL Prime can be integrated with the City's finance, cashiering, permitting, GIS, and other systems as may be desired.

The HdL Prime solution is built, continually enhanced, and supported by tax experts for local agencies.

Equipment

HdL's local tax software solution is offered as Software as a Service (SaaS). The City only needs to provide its users with reliable internet access and a computing device supporting a standard internet browser. The solution is hosted in the highly secure Microsoft Azure Government cloud, which adheres to security controls for the most rigorous security and compliance standards including ISO 27001, ISO 27018, SOC 1, SOC 2, SOC 3, FedRAMP and HITRUST.
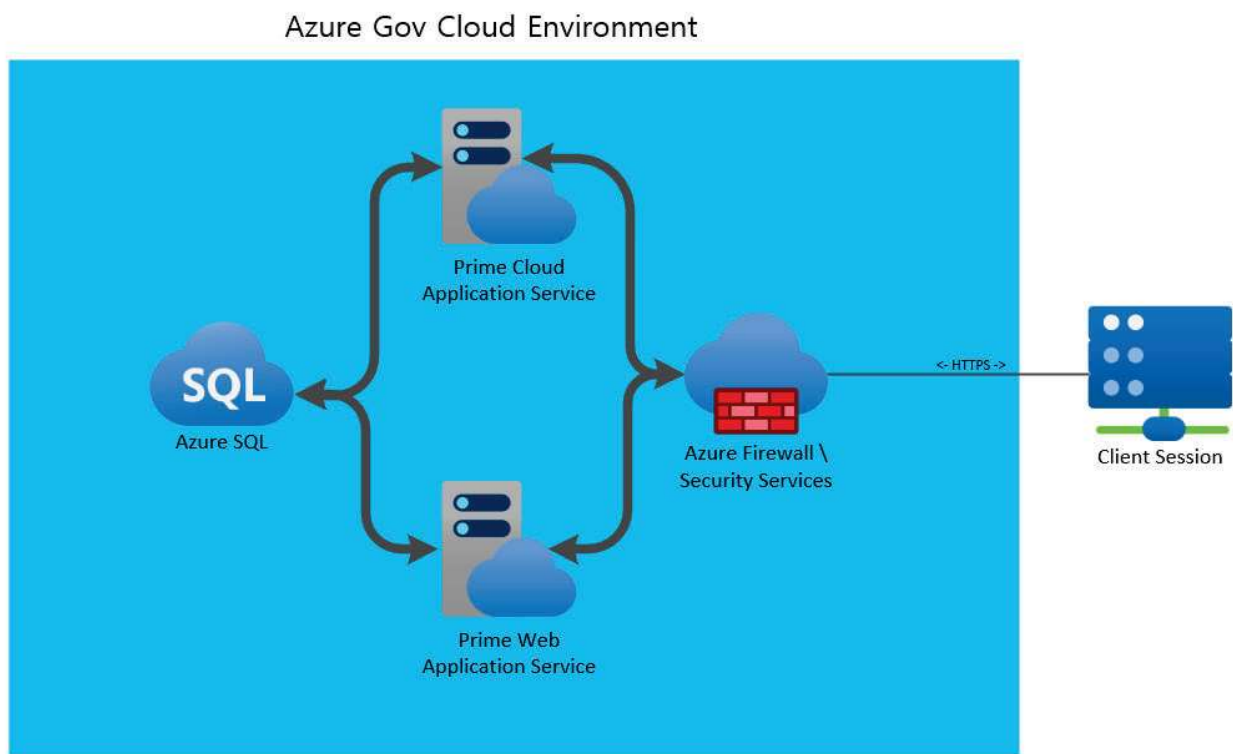
Tax & Fee Administration Services Team

HdL's key staff has extensive local government experience, having previously held positions in city management, finance, planning, economic development, and revenue collection. The HdL team includes several experienced business license tax department supervisors and certified revenue officers (CROs). The firm has the staffing and capacity to provide the services requested by the City. HdL's intimate understanding of local government needs coupled with our extensive databases and advanced methodology provides for the most relevant, productive, and responsive revenue solutions, software systems and customer service. The firm is properly staffed to provide these services to the City.

Robert Gray – Chief Information Officer, Director of Tax and Fee Administration

Mr. Gray serves as Chief Information Officer and Director of Tax and Fee Administration and has been with the firm since 1996. He has extensive experience in the design, development, implementation and operation of revenue management solutions for local government. He introduced HdL's local tax services, which provide tax administration and consulting services to an increasing number of municipalities. While leading HdL's Tax and Fee Division through a period of significant growth, he has ensured that HdL maintains its commitment to providing excellent customer service. He earned a Bachelor of Science degree in Computer Science and an MBA from Azusa Pacific University.

Josh Davis - Director of Professional Services

Mr. Davis has over 25 years of experience with local tax administration, discovery, and audit, and oversees a skilled team which provides the most sophisticated local tax administration services available to municipalities. Trained in revenue audit and discovery techniques, he is skilled in navigating the complex scenarios and needs often encountered during such services. He also possesses strong technical and business process capabilities which he employs to aid HdL clients in meeting their strategic objectives. His reputation amongst municipalities is that of a very capable local taxation expert who will help the municipality achieve their objectives while providing excellent customer service throughout the engagement.

Bret Harmon – Director of Client Experience

Mr. Harmon serves as the Director of Client Experience. With over 20 years of experience leading and consulting local governments, Mr. Harmon understands firsthand the opportunities and struggles facing HdL clients. He leads the Client Experience division, which is dedicated to the success of each client. His team supports clients through implementation, going live, and ongoing needs. He is well-known for building strong relationships with his clients, mentoring his staff, and lifting organizations to new levels of success. Mr. Harmon earned a Master of Public Administration degree from Brigham Young University.

Connor Duckworth - Client Advisor

Mr. Duckworth has over ten years of experience working for both State and local municipalities and providing political consulting to candidates on a number of races and referendums. As a project manager, he is responsible for the development and implementation of business license, tax, and revenue related products and services. He has served as a lecturer and mentor to municipalities nationwide and served as a Vice-President on both Division and State Boards for the CMRTA. He has won the CMRTA Lighthouse Award of Excellence for creating the top business license and revenue program in the State. Additionally, Mr. Duckworth also previously served on a countywide office which serves the needs of over 200,000 residents.

Project Approach

HdL's Prime Cloud tax software solution has the built-in capabilities to meet the City's needs for business licensing tax. HdL's solution is a unique combination of technology, expertise, and service. We have a broad, deep and intimate understanding of the complex needs of local government. As former government professionals ourselves, our dedication to local government is second to none. Guided by this experience and our client relationships, HdL's Prime local tax solution continually improves in ease of use and functionality. HdL's Prime solution will support the City's identified core activities including business license fee collection, additional taxes/assessments, monitoring current activity, auditing license activity, and improving operations efficiency. Whether business license tax, hospitality tax/STR, UUT, parking facilities tax, rental unit registration, or other similar locally administered programs, HdL Prime will provide an efficient platform for both City staff and the City's business community.

HdL's solution can print QR codes on applications and renewal forms which can then be scanned to pull up accounts for payments or batch processing. Each account has a comments section for staff to enter information where their information is timestamped in the system. This also applies to HdL's approvals portal, which allows multiple departments to review and approve new applications through a workflow with the ability to attach photos, documents, and notes, see location history, and much more. There are two types of activity logs to track activity: the individual account log and the system event log. HdL's cloud software solution is accessible from anywhere via an internet connection. Each user's access is secured through permissions assigned allowing for only specific activities to be performed. Permissions can be updated at any time by the named system administrators.

HdL's solution offers robust inquiry and reporting capabilities, allowing users to create various reports from data collected in the system and generated into a pdf, xls, or csv file. Additionally, the system comes with dozens of helpful built-in reports. Ad-hoc lists can be easily generated through a sophisticated query system which allows powerful and immediate access to the City's valuable business data. All reports and emails can be saved for future use in the system.

HdL's solution can be integrated with the City's other systems as may be desired, including cashiering, finance, permitting, GIS, and more. Daily journal entry files can automatically be generated, data can be pushed to other software platforms, and an available API can facilitate enhanced access or exchange of information.

HdL also offers optional supporting services in partnership with our software solution, such as business license discovery and compliance or hospitality tax audits. HdL's business license discovery and compliance program will scour City provided and HdL proprietary data sources to identify businesses conducting activity within the City but not currently registered with the City. Upon confirmation of these leads, HdL can work with the business to get them registered and current on any applicable City taxes/fees.

Description of Work Plan

HdL's Prime local tax software solution has the built-in capabilities to meet the City's needs for business licensing software solutions. HdL's solution is a unique combination of technology, expertise, and service. We have a broad, deep and intimate understanding of the complex needs of local government. As former government professionals ourselves, our dedication to local government is second to none. Guided by this experience and our client relationships, HdL's Prime local tax solution continually improves in ease of use and functionality. HdL's Prime solution will support the City's identified core activities including business license fee collection, additional taxes/assessments, monitoring current activity, auditing license activity, and improving operations efficiency. Whether business license tax, HVT/STR, UUT, parking facilities tax, rental unit registration, or other similar locally administered programs, HdL Prime will provide an efficient platform for both City staff and the City's business community.

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Scope of Work

Technology Environment

HdL's local tax software solution is offered as Software as a Service (SaaS). The City only need provide its users with reliable internet access and a computing device supporting a standard internet browser. The solution is hosted in the highly secure Microsoft Azure Government cloud, which adheres to security controls for the most rigorous security and compliance standards including ISO 27001, ISO 27018, SOC 1, SOC 2, SOC 3, FedRAMP and HITRUST. HdL's solution includes PCI compliant online payment processing powered via Nuvei's payments platform. Integrations with alternative payment processers can be built at the request of the City.

Software Hosting Services

As a Software as a Service (SaaS) solution, the majority of IT concerns are offloaded to HdL's hosting team; including system upgrades, hardware and software maintenance, database management, disaster recovery, and security updates and monitoring. The City will be responsible for maintaining its workstations and providing a high speed, reliable internet connection. HdL will handle the rest. Website functionality will be hosted using a City specific sub-domain on HdL's special purpose hdlgov.com domain.

1. **Workstation Specifications** – Workstations will access the software through HdL's cloud hosting service. All workstations require 8+GB Memory, 1280x1024 screen resolution, and a modern internet web browser.
2. **Network Specifications** – HdL's hosted service requires reliable, high speed internet connectivity. High-speed internet connections are always helpful, but the service will also run over slower WAN connections such as mobile broadband.
3. **Printer Specifications** - The software is designed to work with laser printers. A PCL compliant laser printer is recommended. Each make and model of printer has different drivers and therefore has slightly different results when printing. We design forms/reports using HP LaserJet printers.

Please find the following documents for the City's review:

- ✓ SLA – Prime Hosted Services
- ✓ Disaster Recovery Plan
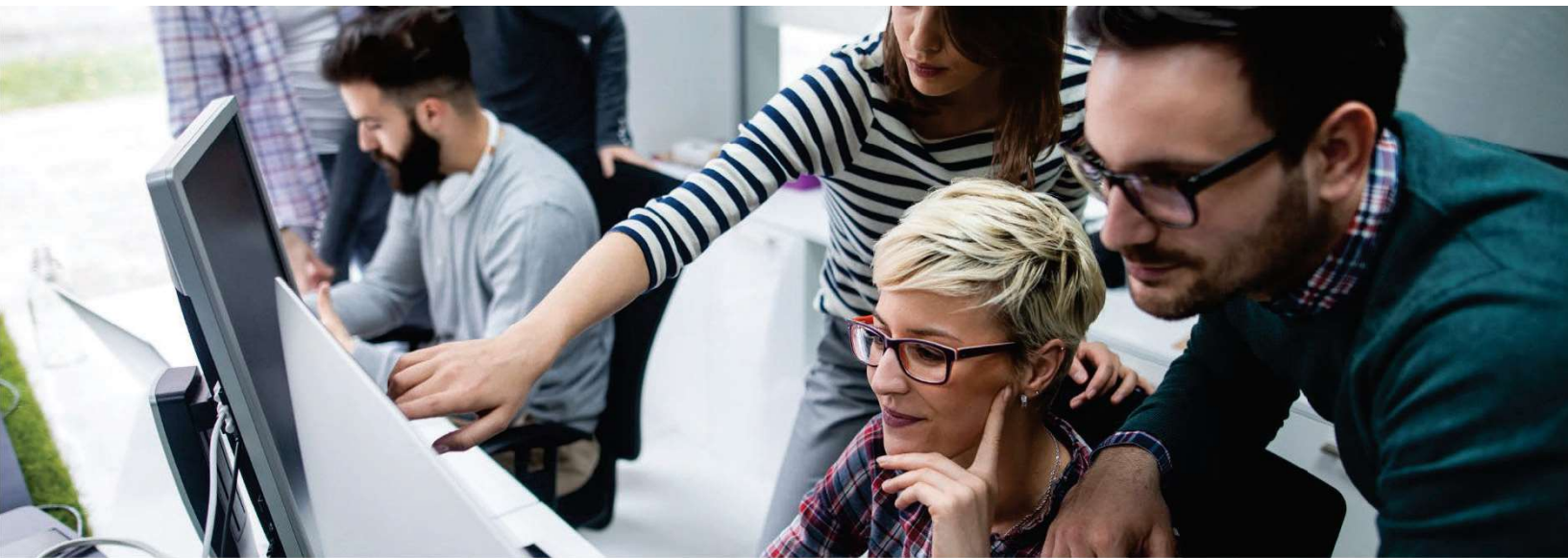
Implementation Plan for Prime Business License Software and Web Module

HdL's Responsibilities
1. **Project Manager -** HdL will provide a project manager (PM) to guide the software implementation process. The primary responsibility for the PM is to ensure successful and timely completion of each step of the software implementation schedule. The PM will work closely with the City's designated project manager to define the software implementation schedule, identify the City' needs and configure the software accordingly, validate the data conversion, and provide user training.
2. **IT Support -** HdL will provide a dedicated IT staff member to provide IT support during the software implementation process.

3. **Management Support** – HdL will assist the City in evaluating current policies and procedures in order to enhance operational efficiency. This may include suggestions to redesign forms/reports, implement new processes, or adopt new strategies for improving communication with the business community and other City departments.
4. **Training –** HdL will provide software training for the City's users as defined in the fees schedule. The timing, size and participants of each training session will be determined by HdL and the City's PMs.

Client's Responsibilities
1. **Project Manager –** The City will designate a staff member to serve as the City's project manager (PM). This individual must be intimately involved in the daily business processes which the software will automate, and be empowered to make, or quickly secure from management, decisions required for the configuration and implementation of the software. The primary responsibility for the City PM is to ensure that all City responsibilities during the software implementation process are met according to the agreed upon software implementation schedule.

   The City's PM will be instrumental in the successful implementation of the software; working closely with HdL's PM to verify data conversion, review and approve reports, establish business rules, and confirm configuration and behavior of the software.

2. **IT Support –** The City will designate an IT staff member to work with HdL staff throughout the software implementation process. This individual must be knowledgeable about the City's computing environment and be authorized to access any equipment or services required for proper access to and operation of the software.

Data Conversion
HdL will convert the City's existing data as provided. The City agrees to provide its current data in a format agreed upon by HdL and the City. Acceptable formats include Microsoft SQL Server backup file, Excel, Access, and ASCII delimited text file. The City will provide all available documentation to assist with identifying the contents of the data files, including but not limited to file layout documentation, database schema, and screenshots from five (5) sample accounts. The City will provide the data a minimum of two times during the conversion process. The City understands that the second (and any subsequent) data must be provided in the same format and layout as the first data set. Any inconsistencies between the first and final data sets will result in a delayed installation date and additional charges for conversion.

Schedule
The timeline for software implementation (including "Go Live") will be determined in discussions with the City, considering resource availability, and final project scope and constraints. HdL estimates that implementation for the City will required between 10 to 16 weeks from receipt of initial discovery materials and data. Implementations which have multiple customizations and integrations are subject to an updated timeline as agreed upon by both parties. When the Agreement is signed by all parties, HdL will immediately work with the City to establish a concrete implementation schedule which is agreeable to both the City and HdL.

Company Approach to Project Management

HdL's approach to assisting the City of Tukwila include:

- **Local Tax Solution Provider of Choice by Local Governments** – HdL has been partnering with local governments for 40 years and is the preferred provider of local tax solutions, having been selected by more agencies than any other provider while maintaining an over 99% customer retention rate. Our broad and informed customer base and unmatched dedication to serving local governments have helped us to deliver local tax solutions of the highest quality.

- **Exceptional Customer Support** – Our staff represents hundreds of years of local government experience, including CROs, business tax supervisors, finance directors and city managers. We have a broad, deep and intimate understanding of the complex needs of local government. As former government professionals ourselves, our dedication to local government is second to none.

- **Full-Service Provider** – HdL is the only firm which provides software as well as tightly integrated local tax services as needed, including modernizing your municipal code and tax structure, discovery and audit services, and consulting services which encompass any circumstance which may be encountered in the realm of local government licensing and taxes.

- **Integrations** – HdL offers a best of breed local tax solution without compromise, as Prime can be integrated with the City's other systems, such as finance, cashiering, permit tracking, lockbox processing, sales tax data, property tax data, and more.

HdL has built a track record of successful implementations by listening to our client's needs and tailoring our process as needed. We understand that the City of Tukwila has unique business processes and requirements, so our methodology is a combination of structure and flexibility. The result is a process that predictably moves the project towards completion while allowing for the unique requirements of the project. The HdL Implementation Methodology consists of three phases as pictured here below, each with a planning, delivery, and closure stage. Our goal is to keep the process structure as simple as possible, which minimizes disruption of City operations and keeps the project burden on City staff as small as possible. The HdL Project Manager works with the City Project Manager at every phase and stage to ensure a successful project.

The first project deliverable will be a detailed project plan, determined through coordination between HdL and the City, pending further project requirements discovery and documentation of project specifications.

HdL Software Implementation Methodology

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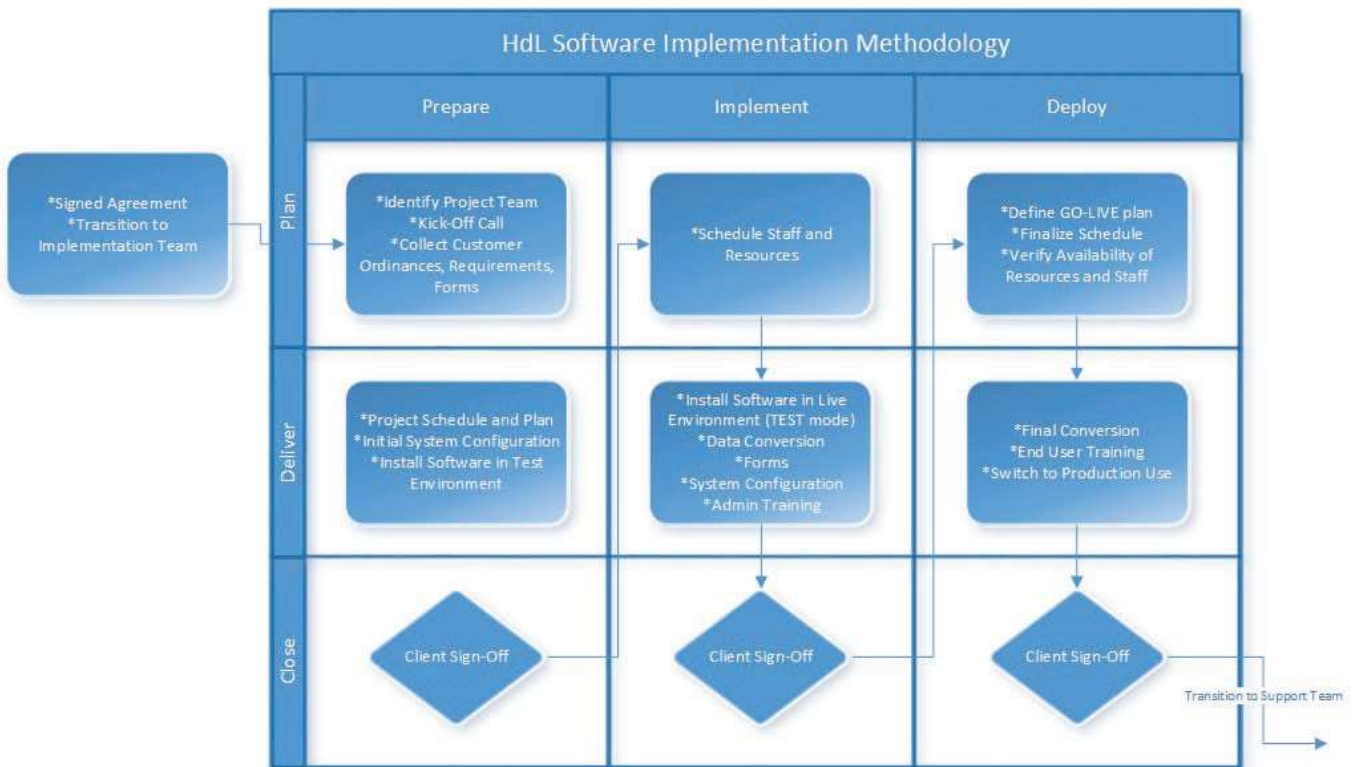
Client Support

HdL will provide the City with no charge support by telephone and email during the term of the agreement. Support is available as follows: For customer support between the hours of 8:00 am and 5:00 pm Pacific time, Monday through Friday, email support@hdlcompanies.com or call (909) 861-4335 and ask for software support. For urgent off hours support before 8:00 am or after 5:00 pm Pacific time, Monday through Friday (or anytime Saturday), email 911@hdlcompanies.com and HdL's on call support personnel will be notified. Please only include your name, agency and contact phone number in emails to 911@hdlcompanies.com. HdL will contact you as soon as possible.

Response Time

In the event that the City encounters an error and/or malfunction whereby the software does not conform to expected behavior in accordance with the software design, HdL will assign one of the following severity levels and render support services in a timely manner consistent with the urgency of the situation.

- **Severity Level 1** – a critical problem has been encountered such that the software is essentially inoperable and without a reasonable workaround. HdL will respond within one (1) business hour to diagnose the problem. A response is defined as an email or call to the City's designated support contact. HdL and the City will work diligently and continuously to correct the problem as quickly as possible.
- **Severity Level 2** – a problem has been encountered that does not prevent use of the software, but the software is not operating correctly. HdL will diagnose the problem within 48 hours and advise the City of any available work-around. Upon HdL's confirmation that the software is not operating correctly, HdL will provide a software update to repair the defect and confirm with the City that the update resolved the issue.
- **Severity Level 3** – a minor problem has been encountered. The software is usable but could be improved by correction of a minor defect or addition of a usability enhancement. HdL will assess the request within fifteen (15) business days and, depending on priorities, schedule a software update for a future release, advise City that the request will not be implemented, or offer the option of implementing the request as a custom software enhancement at additional cost.

Support Policy Regarding Reports

HdL will assist with modifications to reports as needed during the term of the agreement with the City. Typical report modifications require 7 to 10 business days to complete. Very complex reports or reports required in a very short time frame may incur development costs, in which case an estimate will be provided for approval before the work is begun.

Software Upgrades

Except to the extent that upgrades of the software include new modules or features not previously offered as part of the software as of the date hereof, the City is entitled to upgrades of the software within the terms of the agreement with the City. Though rare, additional costs may apply depending on the extent of the upgrade. Potential additional costs include training, configuration, or other consulting services.

Online Payment Processing

HdL's software is bundled with PCI compliant payment gateway services powered by Nuvei, which supports both credit card and eCheck transactions. If a different payment gateway is required there will be a programming cost to establish the custom payment gateway integration.

Payment Processing

HdL will provide its services to support payments remitted to the City. HdL will transmit transactions for authorization and settlement through HdL's certified payment processor. Funds for transactions processed by HdL will be submitted to the City's designated bank account as follows:

(i) no more than two (2) business banking days after all Transactions (other than electronic Check Transactions) that are successfully processed prior to 5:00 p.m. ET on each business banking day (e.g., a Transaction authorized at 2:00 p.m. ET on Monday will be submitted on Wednesday; a Transaction successfully processed at 8:00 p.m. ET on Monday will be submitted on Thursday); and

(ii) no more than five (5) business banking days for all electronic Check Transactions that are successfully processed prior to 5:00 p.m. ET on each business banking day. HdL makes no representation or warranty as to when funds will be made available by the City's bank.

Electronic Check Authorization

If the City elects to accept electronic Checks as a form of payment, the following subsections apply. For the purpose of this section, "checks" means checks drawn on accounts held in the U.S. ("Check(s)").

1. As part of the implementation plan, the City will select risk management controls governing Check acceptance and assumes sole responsibility for the choice of controls.
2. HdL will ll provide confirmation on a submitted ABA number as part of the Service to assist the City with the decision whether to accept a Check and shall route accepted Checks.
3. The City authorizes HdL to debit the City's financial institution account in the amount of any returned item that is received by HdL.

Client Responsibilities

1. As a condition to its receipt of the Service, the City shall execute and deliver any and all applications, agreements, certifications or other documents required by Networks or other third parties whose consent or approval is necessary for the processing of Transactions. "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.
2. The City agrees that it will comply with applicable laws and regulations and network rules, regulations or operating guidelines. We request that the City notify HdL in writing as soon as possible in the event a claim is either threatened or filed against the City by any governmental organization having jurisdiction over the City or a Customer related to the Service. We also ask that the City notify HdL in writing as soon as possible in the event a claim is either threatened or filed against the City relating to Transactions or the Services or a fine or other penalty is assessed or threatened relating to Transactions or the Services.
3. The City agrees that it will continue to be in full compliance with all applicable requirements of the City's Information Security Program of VISA, the Site Data Protection Program of MasterCard, and similar programs of other Networks, and any modifications to such programs that may occur from time to time. Upon the request of HdL, the City shall provide HdL with documentation verifying compliance with this Section.
4. We request that the City grant HdL the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report.

City of Tukwila

6200 Southcenter Boulevard, Tukwila WA 98188

CONTRACT FOR SERVICES

This Agreement is entered into by and between the City of Tukwila, Washington, a non-charter optional municipal code city hereinafter referred to as "the City," and **HdL Companies** hereinafter referred to as "the Contractor," whose principal office is located at **120 S State College Blvd Ste 200, Brea, CA 92821**. The City and the Contractor are each individually a "Party" and collectively the "Parties."

WHEREAS, the City has determined the need to have certain services performed for its citizens but does not have the manpower or expertise to perform such services; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions; now, therefore,

IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. **Scope and Schedule of Services to be Performed by Contractor.** The Contractor shall perform those services described on **Exhibit A** attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all Federal, State, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. The Contractor shall request and obtain prior written approval from the City if the scope or schedule is to be modified in any way.

2. **Compensation and Method of Payment.** The City shall pay the Contractor for services rendered according to the rate and method set forth on **Exhibit B** attached hereto and incorporated herein by this reference. The total amount to be paid shall not exceed a one-time cost of $65,000 and an annual software user fee of $19,500 plus CPI adjustment as set forth on Exhibit B.

3. **Contractor Budget.** The Contractor shall apply the funds received under this Agreement within the maximum limits set forth in this Agreement. The Contractor shall request prior approval from the City whenever the Contractor desires to amend its budget in any way.

4. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing **August 10**, **2024**, and ending **August 9**, **2026**, unless sooner terminated under the provisions hereinafter specified.

5. **Independent Contractor.** The Contractor and the City agree that the Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Contractor, or any employee of the Contractor.

6. **Indemnification.**

A. <u>Contractor Indemnification</u>. The Contractor shall indemnify, defend and hold harmless the City its officers, officials, employees, volunteers and permitted successors and assigns harmless from any and all claims, injuries, damages, losses or suits including attorney fees (collectively, "Losses"), in connection with any claims, demands, suits or proceedings (collectively, "Claims") made or alleged against the City by a third party arising out of or resulting from the acts, errors or omissions, or the intentional or negligent performance of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. <u>RCW 4.24.115</u>. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

C. <u>Infringement Indemnification</u>. In addition to Contractor's obligations under Section 6.A., the Contractor shall indemnify, defend, and hold harmless the City and its directors, officers, employees, agents and other representatives against any Losses in connection with Claims made or alleged against the City by a third party that the services, software or deliverables infringes a U.S. patent, copyright or other intellectual property rights of any third party. The foregoing indemnification obligation does not apply to any Claims or Losses arising out of or relating to any: (a) access to or use of the software in combination with any hardware, system, software, network or other materials or service not provided or authorized by this Agreement or otherwise in writing by the Contractor; or (b) modification of the software other than: (i) by or on behalf of the Contractor; or (ii) with the Contractor's written approval or in accordance with Contractor's written specifications.

D. <u>Mitigation</u>. If any of the services, software or deliverables are, or in Contractor's opinion are likely to be, claimed to infringe, misappropriate or otherwise violate any third-party intellectual property right, or if the City's or any Authorized User's use of the services, software or deliverables is enjoined or threatened to be enjoined, the Contractor may, at its option and sole cost and expense:

   i. obtain the right for the City to continue to use the Services, Software and Deliverables materially as contemplated by this Agreement;

   ii. modify or replace the services, software and deliverables, in whole or in part, to seek to make the services, software and deliverables (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality; or

   iii. by written notice to the City, terminate this Agreement with respect to all or part of the Services, Software and Deliverables, and require the City to immediately cease any use of the Services, Software and Deliverables or any specified part or feature thereof, provided that if such termination occurs, the Contractor shall refund any prepaid fees to the City and provide transition services free of charge.

E. <u>Limitation of Liability</u>. In no event will either party be liable under or in connection with this agreement or its subject matter under any legal or equitable theory, including breach of contract, tort (including negligence), strict liability and otherwise, for any: (i) loss of revenue or profit; or (ii) consequential, incidental, indirect, exemplary, special, or punitive damages, regardless of whether such persons were advised of the possibility of such losses or damages or such losses or damages were otherwise foreseeable, and notwithstanding the failure of any agreed or other remedy of its essential purpose. In no event shall the aggregate liability of either party arising out of or related to this agreement exceed the greater of two times the fees paid under the agreement or $1,000,000; provided however, the limitation of liability set forth in this section shall not apply to: (i) Contractor's indemnification obligations for infringement claims made or brought against the City by a third party as described herein, or (ii) damages related to claims brought against the City due to Contractor's breach of City's data, including but not limited to damages, penalties or other liabilities arising from government enforcement actions or breach notification requirements. The provisions of this section shall survive the expiration or termination of this agreement.

7. **Insurance**. Prior to commencing the Services, the Contractor shall procure and maintain at its sole cost and expense at least the following insurance, covering its obligations under this Agreement.

   A. <u>Insurance Policies</u>.

      i. ***Commercial General Liability:*** With coverage of not less than $2,000,000 per occurrence, $2,000,000 general aggregate, and $2,000,000 products-completed operations aggregate limit, which shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. Commercial General Liability insurance shall be as least at broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

      ii. ***Cyber Liability Insurance:*** With coverage of not less than $1,000,000 per occurrence and $5,000,000 in the annual aggregate which shall include, but not be limited to, coverage, including defense, for the following losses or services:

         (1) Breach of City's Data, including but not limited to liability arising from theft, dissemination, and/or use of City's confidential and Personal Information as defined by RCW 42.56.590, including but not limited to, any information about an individual maintained by City, including: (a) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (b) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information regardless of how or where the information is stored or transmitted.

(2) Network security liability arising from: (a) the unauthorized access to, use of, or tampering with computer systems, by an outside party, including hacker attacks or a virus introduced by a third party; or (b) the inability of an authorized third party to gain access to supplier systems and/or City Data, including denial of service, unless caused by a mechanical or electrical failure; (c) introduction of any unauthorized software computer code or virus causing damage to City Data or any other third party data.

(3) Event management services and first-party loss expenses for a data breach response including crisis management services, credit monitoring for individuals, public relations, legal service advice, notification of affected parties, independent information security forensics firm, and costs to re-secure, re-create and restore data or systems.

iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

iv. Automobile Liability Insurance of a minimum combined single limit for per occurrence for bodily injury and property damage of $1,000,000 per accident, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

v. Professional Liability/Errors and Omissions Insurance (including Technology Errors and Omissions) of at least $1,000,000 per occurrence and $2,000,000 in the annual aggregate.

B. Additional Insurance Requirements.

i. If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

ii. The insurance required in Section 7 shall be in a form and on terms and written by insurers with a current A.M. Best rating of not less than A: VII. The Commercial General Liability, Cyber Liability Insurance and Automobile Liability Insurance shall name the City as an additional insured, and shall contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

iii. The Contractor shall provide the City with written notice of any policy cancellation within two business days of the receipt of such notice. Contractor shall obtain replacement insurance policies meeting the requirements of this Section 7.

iv. Failure of the Contractor to maintain the insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving five business days' notice to the Contractor to correct such breach, immediately terminate this Agreement.

v. The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

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vi. ***Subcontractor's Insurance.*** The Contractor shall cause each and every subcontractor utilized by the Contractor in connection with the provision of Services ("Subcontractors"), to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy, using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

vii. The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.

8. **Record Keeping and Reporting.**

A. <u>Records Maintenance</u>. The Contractor shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement.

B. <u>Retention Period</u>. These records shall be maintained for a period of seven years after termination hereof unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City.

C. <u>Public Records Requests</u>. The Contractor acknowledges that the City is a public entity and is subject to the Public Records Act under Chapter 42.56 RCW. To the extent permitted by law, the City shall treat as exempt from treatment as a public record, and shall not disclose in response to a request made pursuant to any applicable public records law, any of the Contractor's Confidential Information. If a request is received for records the Contractor has submitted to the City and has identified as Confidential Information, the City will use its best efforts to provide the Contractor with notice of the request in accordance with RCW 42.56.540 and a reasonable time within which the Contractor may seek an injunction to prohibit the City's disclosure of the requested record. The City shall comply with any injunction or court order requested by the Contractor which prohibits the disclosure of any such Confidential Information; however, in the event a higher court overturns such injunction or court order, the Contractor shall reimburse the City for any fines or penalties imposed for failure to disclose such records. Nothing in this section prohibits the City from complying with RCW 42.56, or any other applicable law or court order requiring the release of public records, and the City shall not be liable to the Contractor for compliance with any law or court order requiring the release of public records.

D. <u>Compelled Disclosures</u>. If either the Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (a) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that they can seek a protective order or other remedy or waive its rights under Section 3; and (b) provide reasonable assistance, at the Disclosing Party's cost, to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this section, the Receiving Party remains required by law to disclose

any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose. This Section 8.2 shall not apply to Subscriber's response to a request made under the Public Records Act, Chapter 42.56 RCW.

9. **Breach Notification.**

   A. The Contractor shall maintain a data breach plan and shall implement the procedures required under such data breach plan on the occurrence of a data breach, in compliance with the requirements of Washington's data breach notification law codified at RCW 42.56.590. The Contractor shall report, in writing, to the City any data breach involving data maintained by the Contractor on behalf of the City ("City Data") including any reasonable belief that an unauthorized individual has accessed City Data. The report shall identify the nature of the event, a list of the affected individuals and the types of data, and the mitigation and investigation efforts of the Contractor. The Contractor shall make the report to the City immediately upon discovery of the data breach, but in no event more than five business days after discovery of the data breach. The Contractor shall provide investigation updates to the City.

   B. The Contractor shall promptly reimburse the City in full for all costs incurred by the City in any investigation, remediation or litigation resulting from any data breach. The Contractor's duty to reimburse the City includes but is not limited to, reimbursing to the City its cost incurred in doing the following:

      i. Notification to third parties whose information may have been or were compromised and to regulatory bodies, law enforcement agencies or other entities as may be required by law or contract;

      ii. Establishing and monitoring call center(s) and credit monitoring and/or identity restoration services to assist each person impacted by a data breach of a nature that, in the City's sole discretion, could lead to identity theft; and

      iii. Payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed upon the City by a regulatory agency, court of law, or contracting partner as a result of the data breach.

   C. Upon a data breach, the Contractor is not permitted to notify affected individuals without the express written consent of the City. Unless the Contractor is required by law to provide notification to third parties or the affected individuals in a particular manner, the City shall control the time, place, and manner of such notification.

10. **City Data.** The Contractor does not claim ownership of, and assumes no responsibility with respect to any City Data defined as information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from the City, an Authorized Personnel or end-users by or through the Contractor's Services.

11. **Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by law during the performance of this Agreement.

12. **Termination.** This Agreement may at any time be terminated by the City giving to the Contractor 30 days written notice of the City's intention to terminate the same. Failure to provide products on schedule may result in contract termination. If the Contractor's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately.

13. **Effect of Termination or Expiration.** On the expiration or earlier termination of this Agreement:

   A. Each Party shall continue to hold such Confidential Information in confidence pursuant to Section 8; and

   B. Each Party shall pay to the other all undisputed amounts accrued prior to and through the date of termination of this Agreement; and

   C. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.

   D. Within 60 days following such expiration or termination, the Contractor shall deliver to the City, in a format as requested by the City, the then most recent version of City Data maintained by the Contractor, provided that the City has at that time paid all undisputed fees then outstanding and any amounts payable after or as a result of such expiration or termination.

   E. In the event of (i) expiration or earlier termination of this Agreement, or (ii) the City no longer purchasing certain Services from the Contractor, if the City requests assistance in the transfer of City Data to a different vendor's applications ("Deconversion"), the Contractor will provide reasonable assistance. The Parties will negotiate in good faith to establish the relative roles and responsibilities of the Parties in effecting Deconversion, as well as the appropriate date for completion.

14. **Taxes.** The Contractor shall be solely responsible for the payment of any and all applicable taxes related to the Services provided under this Agreement; if such taxes are required to be passed through to the City by law, the same shall be duly itemized on timely billings submitted to the City by the Contractor.

15. **Waiver.** A waiver of any breach by either Party shall not constitute a waiver of any subsequent breach.

16. **Third Party Beneficiaries.** This Agreement is solely for the conveniences of the Parties and there are no third party beneficiaries to this Agreement.

17. **Compliance with Laws.** The Consultant shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

18. **Discrimination Prohibited.** The Consultant, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.

19. **Assignment and Subcontract.** The Contractor shall not assign or subcontract any portion of the services contemplated by this Agreement without the written consent of the City.

20. **Entire Agreement: Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

21. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

22. **Notices.** Notices to the City of Tukwila shall be sent to the following address:

    City Clerk
    City of Tukwila
    6200 Southcenter Blvd.
    Tukwila, Washington 98188

    Notices to the Contractor shall be sent to the address provided by the Contractor upon the signature line below.

23. **Applicable Law; Venue; Attorney's Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

24. **Force Majeure.** Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, pandemic, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment, software, or services from suppliers, default of a subcontractor or vendor to the Party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other Party, or its officers, directors, employees, agents, contractors, or elected officials, and/or other occurrences beyond the Party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended on a day for day basis or as otherwise reasonably necessary to compensate for such delay.

25. **Counterparts.** This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. This Amendment shall be considered properly executed by a Party if executed by that Party and transmitted by facsimile or other electronic means including, without limitation, SeamlessDocs or other City-approved program, Tagged Image Format Files (TIFF), or Portable Document Format (PDF).

26. **Conflict in Terms.** In the event of a conflict between the terms of this Agreement and the terms in any other document, including but not limited to all Exhibits hereto, the terms of this Agreement shall prevail.

27. **Additional Exhibits and Documents Incorporated by Reference.** Exhibit C (Service Level Agreement), Exhibit D (City of Tukwila Security Requirements), and Exhibit E (Data Protection and Information Security Exhibit) are all attached hereto and incorporated herein by this reference. In addition, the City of Tukwila RFP for Tax Administration Software Solution and Online Tax Filing Software Solution, (issue date January 31, 2024), including exhibits, and the HdL Companies RFP Response "City of Tukwila Proposal for Tax Administration and Online Filing System" dated March 29, 2024, including exhibits, are incorporated herein by this reference.

Exhibit A: Scope of Services
Exhibit B: Compensation Schedule
Exhibit C: Service Level Agreement (SLA)
Exhibit D: City of Tukwila Security Requirements
Exhibit E: Data Protection and Information Security Exhibit

CITY OF TUKWILA

CONTRACTOR:

_____
Thomas McLeod, Mayor

By: _____

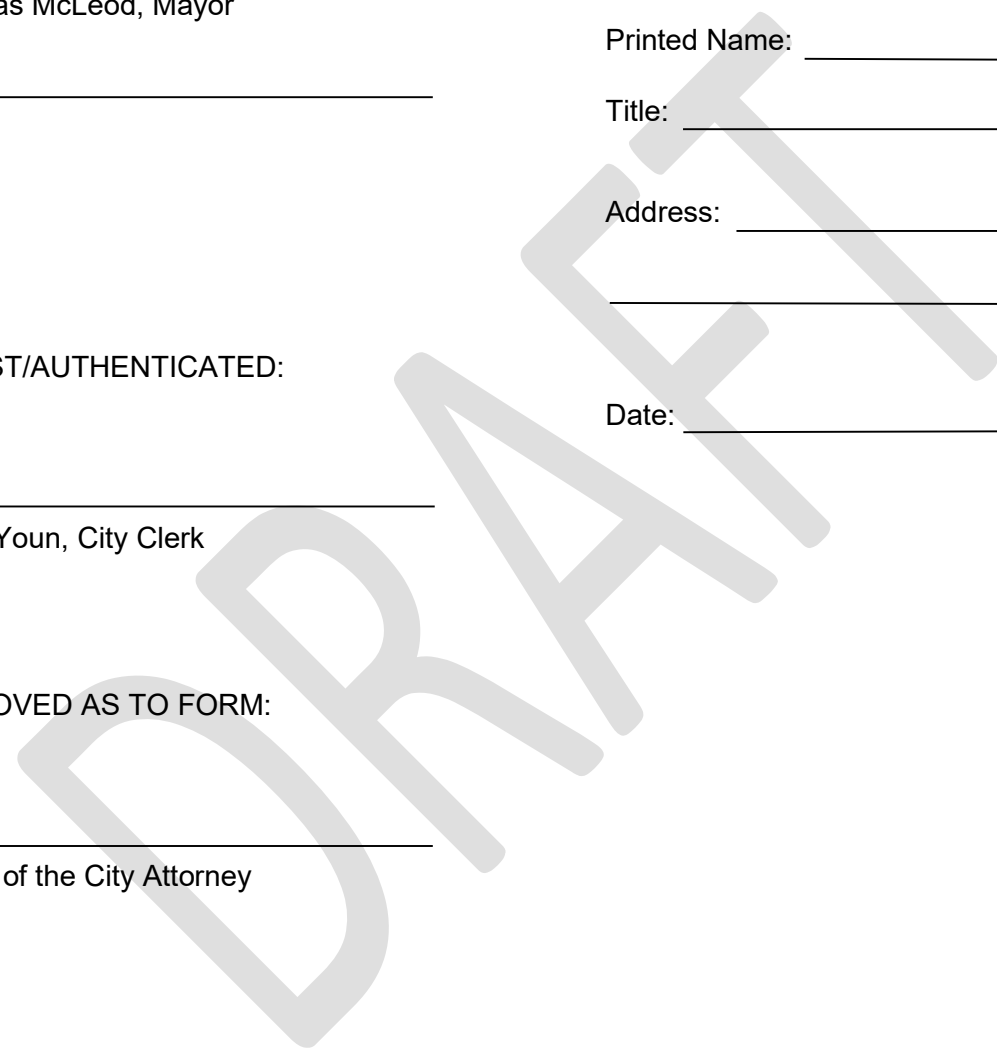_____
Date

Printed Name: _____

Title: _____

Address: _____

_____

ATTEST/AUTHENTICATED:

Date: _____

_____
Andy Youn, City Clerk

APPROVED AS TO FORM:

_____
Office of the City Attorney

Hinderliter De llamas & Associates HdL Prime Software
City of Tukwila, WA

EXHIBIT A - SCOPE OF SERVICES

Consultant will provide the following Services relative to Consultant's local tax software solution.

1. **Software Implementation**
    1.1. **Consultant's responsibilities**
        1.1.1. **Project manager -** Consultant will provide a project manager (PM) to guide the software implementation process. The primary responsibility for the Consultant PM is to ensure successful and timely completion of each step of the software implementation schedule. The Consultant PM will work closely with the Client's designated project manager to define the software implementation schedule, identify Client needs and configure the software accordingly, validate the data conversion, and provide user training.
        1.1.2. **IT support -** Consultant will provide a dedicated IT staff member to provide IT support during the software implementation process.
        1.1.3. **Management support** - Consultant will assist the Client in evaluating current policies and procedures in order to enhance operational efficiency. This may include suggestions to redesign forms/reports, implement new processes, or adopt new strategies for improving communication with the business community and other Client departments.
        1.1.4. **Training -** Consultant will provide software training for Client users as defined in the fees schedule. The timing, size and participants of each training session will be determined by the Consultant's and Client's PMs.
    1.2. **Client's responsibilities**
        1.2.1. **Project manager -** Client will designate a staff member to serve as the Client's project manager (PM). This individual must be intimately involved in the daily business processes which the software will automate, and be empowered to make, or quickly secure from management, decisions required for the configuration and implementation of the software. The primary responsibility for the Client PM is to ensure that all Client responsibilities during the software implementation process are met according to the agreed upon software implementation schedule. The Client PM will be instrumental in the successful implementation of the software; working closely with the Consultant PM to verify data conversion, review and approve reports, establish business rules, and confirm configuration and behavior of the software.
        1.2.2. **IT support -** Client will designate an IT staff member to work with Consultant staff throughout the software implementation process. This individual must be knowledgeable about the Client's computing environment and be authorized to access any equipment or services required for proper access to and operation of the software.
    1.3. **Data Conversion -** Consultant will convert the Client's existing data as provided by Client. Client agrees to provide its current data in a format agreed upon by Consultant and Client. Acceptable formats include Microsoft SQL Server backup file, Excel, Access, and ASCII delimited text file. Client will provide all available documentation to assist with identifying the contents of the data files, including but not limited to file layout documentation, database schema, and screenshots from five (5) sample accounts. Client will provide the data a minimum of two times during the conversion process. Client understands that the second (and any subsequent) data must be provided in the same format and layout as the first data set. Any inconsistencies between the first and final data sets will result in a delayed installation date and additional charges for conversion.
    1.4. **Schedule –** The default timeline for software implementation (including "Go Live") is approximately 60 days from receipt of initial discovery materials. When the Agreement is signed by all parties, Consultant will immediately work with the Client to establish a defined implementation schedule which is agreeable to both Client and Consultant.

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2. **Software Hosting Services** – Consultant's hosting services offload the majority of IT concerns to Consultant's hosting team; including system upgrades, hardware and software maintenance, database management, and disaster recovery. Client will be responsible for maintaining its workstations and a reliable internet connection. Consultant will handle the rest. Website functionality will be hosted using a Client specific sub-domain on Consultant's special purpose hdlgov.com domain.

  2.1. **Workstation Specifications** – Workstations will access the software through a remote application session with Consultant's hosting service. All workstations require 4+GB Memory, 1280x1024 screen resolution, and MS Windows 10/11 operating system.

  2.2. **Network Specifications** – Consultant's hosted service requires reliable, high speed internet connectivity. High-speed local area network connections are always helpful, but the service will also run without difficulty over slower WAN connections such as T1 or mobile broadband.

  2.3. **Printer Specifications** - The software is designed to work with laser printers. A PCL compliant laser printer is recommended. Each make and model of printer has different drivers and therefore has slightly different results when printing. We design forms/reports using HP LaserJet printers.

3. **Software Support**

  3.1. **Client Support -** Consultant will provide Client's users no charge support by telephone, email and the web during the term of this Agreement. In the United States support is available as follows: For customer support between the hours of 8:00 am and 5:00 pm Pacific time, Monday through Friday, email support@hdlcompanies.com or call (909) 861-4335 and ask for software support. For urgent off hours support before 8:00 am or after 5:00 pm Pacific time, Monday through Friday (or anytime Saturday), email 911@hdlcompanies.com and Consultant's on call support personnel will be notified. Please only include your name, agency and contact # in emails to 911@hdlcompanies.com. You will be contacted as soon as possible.

  3.2. **Response Time** – In the event that Client encounters an error and/or malfunction whereby the software does not conform to expected behavior in accordance with the software design, Consultant will assign one of the following severity levels and render support services in a timely manner consistent with the urgency of the situation.

    3.2.1. **Severity Level 1** – a critical problem has been encountered such that the software is essentially inoperable and without a reasonable workaround. Consultant will respond within one (1) business hour to diagnose the problem. A response is defined as an email or call to the Client's designated support contact. Consultant and Client will work diligently and continuously to correct the problem as quickly as possible.

    3.2.2. **Severity Level 2** – a problem has been encountered that does not prevent use of the software, but the software is not operating correctly. Consultant will diagnose the problem within 48 hours and advise Client of any available work-around. Upon Consultant's confirmation that the software is not operating correctly, Consultant will provide a software update to repair the defect and confirm with Client that the update resolved the issue.

    3.2.3. **Severity Level 3** – a minor problem has been encountered. The software is usable but could be improved by correction of a minor defect or addition of a usability enhancement. HdL will assess the request within fifteen (15) business days and, depending on priorities, schedule a software update for a future release, advise Client that the request will not be implemented, or offer the option of implementing the request as a custom software enhancement at additional cost.

  3.3. **Support Policy Regarding Reports -** Consultant will assist with modifications to reports as needed during the term of this agreement. Typical report modifications require 7 to 10 business days to complete. Very complex reports or reports required in a very short time frame may incur development costs, in which case an estimate will be provided for approval before the work is begun.

  3.4. **Software Upgrades -** Except to the extent that upgrades of the software include new modules or features not previously offered as part of the software as of the date hereof, Client is entitled to

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upgrades of the software within the terms of this Agreement. Additional costs may apply depending on the extent of the upgrade. Potential additional costs include training, consulting, configuration, or other requested services.

3.5. **Out of Scope Support** – Client agrees to pay additional hourly fees according to Consultant's then current hourly rates if the Client desires Consultant's assistance for matters which are not caused by any defects in Consultant's software.

4. **Online Payment Processing**

4.1. **Standard Payment Processing Solution –** Consultant's software includes PCI compliant prayment processing services, supporting both credit card and eCheck transactions. Consultant guarantees continued support of the Standard Payment Processing Solution across all releases of Consultant's software and the Standard Payment Processing Solution, at no cost to Client.

4.1.1. **Payment Processing -** Consultant shall provide its Services to support payments remitted to Client. Consultant shall transmit transactions for authorization and settlement through Consultant's certified payment processor. Funds for transactions processed by Consultant hereunder shall be submitted to Client's designated bank account as follows: (i) no more than two (2) business banking days after all Transactions (other than electronic Check Transactions) that are successfully processed prior to 5:00 p.m. ET on each business banking day (e.g., a Transaction authorized at 2:00 p.m. ET on Monday will be submitted on Wednesday; a Transaction successfully processed at 8:00 p.m. ET on Monday will be submitted on Thursday); and (ii) no more than five (5) business banking days for all electronic Check Transactions that are successfully processed prior to 5:00 p.m. ET on each business banking day. Consultant makes no representation or warranty as to when funds will be made available by Client's bank.

4.1.2. **Support -** Consultant shall provide Client with payment processing related customer service as needed. Client shall timely report any problems encountered with the service. Consultant shall promptly respond to each report problem based on its severity, the impact on Client's operations and the effect on the service. Consultant shall either resolve the problem or provide Client with the information needed to enable the Client to resolve it.

4.1.3. **Transaction Errors -** Consultant's sole responsibility for any Transaction error or reversed Transaction is to determine whether the result indicates a problem with Consultant's service and, if necessary, reprocess and resubmit the Transaction without additional charge. In the event that a Transaction is reversed or refunded to any Customer of Client, for any reason, Consultant may offset such amount against funds remitted to Client, or invoice Client for such amount, at Consultant's discretion. Client shall pay any such invoice within 30 days of receipt.

4.1.4. **Electronic Check Authorization -** If Client elects to accept electronic Checks as a form of payment, the following subsections apply. For the purpose of this section, "checks" means checks drawn on accounts held in the U.S. ("Check(s)").

4.1.4.1. As part of the implementation plan, Client shall select risk management controls governing Check acceptance and assumes sole responsibility for the choice of controls.

4.1.4.2. Consultant shall provide confirmation on a submitted ABA number as part of the Service to assist Client with the decision whether to accept a Check and shall route accepted Checks.

4.1.4.3. Client hereby authorizes Consultant to debit the Client's financial institution account in the amount of any returned item that is received by Consultant.

4.1.5. **Client Responsibilities**

4.1.5.1. As a condition to its receipt of Consultant's Standard Payment Processing Solution, Client shall execute and deliver a payments services/merchant application with Consultant's Standard Payment Processing Solution vendor to establish Client's merchant account for payments processing, and any and all applications, agreements, certifications or other

documents required by Networks or other third parties whose consent or approval is necessary for the processing of Transactions. This includes "Network" is an entity or association that operates, under a common service mark, a system which permits participants to authorize, route, and settle Transactions among themselves, including, for example, networks operated by VISA USA and Mastercard, Inc., NYCE Corporation, American Express, and Discover.

4.1.5.2. Client represents, warrants, and agrees that it does and will comply with applicable Laws and regulations and Network rules, regulations or operating guidelines. Client shall notify Consultant in writing as soon as possible in the event a claim is either threatened or filed against Client by any governmental organization having jurisdiction over Client or a Customer related to the Service. Client shall also notify Consultant in writing as soon as possible in the event a claim is either threatened or filed against Client relating to Transactions or the Services or a fine or other penalty is assessed or threatened relating to Transactions or the Services.

4.1.5.3. Client represents, warrants and agrees that it is and will continue to be in full compliance with all applicable requirements of the Client Information Security Program of VISA, the Site Data Protection Program of MasterCard, and similar programs of other Networks, and any modifications to such programs that may occur from time to time. Upon the request of Consultant, Client shall provide Consultant with documentation reasonably satisfactory to Consultant verifying compliance with this Section.

4.1.5.4. Client hereby grants Consultant the full right, power and authority to request, receive and review any Data or records reflected in a Transaction report. Client represents and warrants that it has the full right and authority to grant these rights.

4.2. **Custom Payment Processing Solution -** Should Client require a different payment processing solution than Consultant's designated standard solution, Client will pay an initial custom development fee to establish the integration as well as an increase to the annual use fee to maintain the integration across regular maintenance releases of Consultant's software and Client's custom payment processing solution. The annual use fee does not include significant redevelopment of the integration as may be required for major updates to Consultant's software or Client's custom payment processing solution. Before commencing any work Consultant will provide a statement of work (SOW) defining the scope of work to be performed, timeline for development, and all associated costs.

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EXHIBIT B – COMPENSATION SCHEDULE

1. **Pricing Adjustments** – All pricing listed in this Schedule will be honored during the first twelve months of software services. Any additional/optional services needed after this period will be provided using Consultant's current pricing schedule at the time the service is requested.

2. **Software Services**

   2.1. **One Time Costs**

Item	Price	Comments
Software License Fee	$37,500.00	5 Named users
WA Department of Revenue Business License Integration	$5,000.00	Custom Integration
Implementation	$10,500.00	Project management, installation, configuration, report design, training, etc.
Data conversion	$12,000.00	
Travel Expenses	TBD	At cost
Training - 1 Day	Included	Additional days available at $2,000/day
TOTAL	**$65,000**	**Total one-time costs**

   2.1.1. **Software License Fee** – Fee includes use of the software by the specified number of users and all standard forms and reports. Additional user licenses are available for $1,500.00 license fee plus $450 annual software use fee.

   2.1.2. **Data Conversion** – Fee includes two (2) conversions of Client data. The first for the pre-install environment used for testing and training, and the second at go-live. Additional conversions can be performed, upon request, at a cost of $2,500 per conversion. Includes up to 30 hours of developer time. Unusually complex conversions or poor data quality may require additional effort beyond the 30 hours, which will be charged at the developer hourly rate.

   2.1.3. **Travel Expenses** – Travel and lodging expenses are billed at cost and apply to all meetings; including process, pre-installation, installation, training, and support. Consultant is dedicated to conserving public funds, and ensures any travel costs are required and reasonable.

   2.1.4. **Customizing Services** – Consultant's software is a customizable off the shelf system (COTS), and has been designed to meet all common needs of municipalities. Should the need occur, Consultant is available to provide custom enhancements to the software on a time and material basis. No work shall be performed without prior written approval of Client.

   2.2. **Recurring Costs**

Item	Price	Comments
Software User Fee	$19,500	Due at Prime Cloud core system "Go Live", and annually thereafter + CPI. Includes HdL cloud-hosted database with 5 named users.

2.2.1. **Software Use Fee** – Software Use Fee is billed annually, and provides for ongoing customer support and updates to the software.

2.2.2. **Hosting Services** – The fee for software hosting services is billed annually in advance, along with the software use fee.

2.2.3. **CPI** – Recurring costs will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

3. **Payment Processing** – Consultant's Standard Payment Processing Solution will configure payment processing services to utilize either a taxpayer funded model (service/convenience fee) or Agency funded model, as directed by Client. Client may switch between these models upon written request to Consultant. Fees for each of these payment processing models are detailed here.

   3.1. Taxpayer funded model – Client authorizes Consultant to collect each convenience fee from the taxpayer at time of payment.

      3.1.1. Credit and debit card processing – 2.9% of transaction amount, minimum of $2.00

      3.1.2. ACH/eCheck processing - $2.50 per transaction

      3.1.3. ACH/eCheck returns - $0.00 per return

      3.1.4. Chargebacks - $0.00 per chargeback

      3.1.5. Payment Account Hosting and Maintenance - $35.00 per month

   3.2. Agency funded interchange passthrough model

      3.2.1. Credit and debit card processing – 2.9% of transaction amount, + $0.30 per transaction

      3.2.2. ACH/eCheck processing - $0.75 per transaction

      3.2.3. ACH/eCheck returns - $10.00 per return

      3.2.4. Chargebacks - $25.00 per chargeback

      3.2.5. Payment Account Hosting and Maintenance - $35.00 per month

   3.3. Consultant reserves the right to review and adjust pricing related to payment processing services on an annual basis. Consultant will communicate any such adjustment to Client in writing, with 60 days advance notice. Items that will be considered in the review of fees may include, but are not limited to: regulatory changes, card association rate adjustments, card association category changes, bank/processor dues and assessments, average consumer payment amounts, card type utilization, and costs of service.

   3.4. Fees do not include expenses, late fees or charges, or taxes, all of which shall be the responsibility of Client. In addition to the charges specified, Client shall be responsible for (a) all interchange and network provider fees, (b) all dues, fees, fines and assessments established and owed by Client to Visa and/or Mastercard, (c) for all costs and fees associated with changes to ATM protocol caused by Client's conversion to the Services, and (d) any increase in postage charges, provided that any increase in charges resulting from (a) through (d) shall not exceed the actual increase incurred by Consultant.

4. **Payment Schedule**

   4.1. All one-time project costs and the first year service fees shall be paid as follows:

      4.1.1. 60% shall be due within 30 days of the effective date of the Agreement.

      4.1.2. 30% shall be due within 60 days of the effective date of the Agreement.

      4.1.3. The final 10% shall be due within 30 days of full system delivery or first production use of the software, whichever comes first.

4.2. Any travel and lodging expenses are billed at cost as they are incurred. Such expenses shall be due within 30 days of the billing date.

4.3. Recurring software service fees will be invoiced each year on the anniversary of the effective date of the Agreement, and shall be due within 30 days of the invoice date.

4.4. Payment processing service fees are invoiced monthly for the prior month's activity, and shall be due within 30 days of the invoice date.

EXHIBIT C

SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment, are provided with the service levels described in this Exhibit C. SLAs are only applicable to production environments. SLAs will be available upon Customer's signature of Contractor's Go Live Acceptance Form for Customer's production environment.

"Contractor" means HdL Companies.

99.9% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Customer in Customer's production environment hosted by Contractor and end when Contractor has restored availability of the Applications. Failure to meet the 99.9% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Customer to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Customer's monthly invoice for the affected month
<99.9% to 99.75%	10%
<99.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75% to 96.75%	35%
<96.75%	50%

"Outage" means the accumulated time, measured in minutes, during which Customer is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by: (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Contractor, including without limitation Customer Content, failures or malfunctions resulting from circuits provided by Customer, any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (c) Force Majeure events; (d) expected downtime during the Maintenance Periods described below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit C is attached; (f) the unavailability of required Customer personnel, including as a result of failure to provide Contractor with accurate, current contact information; or (g) using an Application in a manner inconsistent with the Documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Contractor to maintain and update the Services, when downtime may be necessary, as further described below. The Maintenance Period is used for purposes of the Service Credit Calculation; Contractor continuously maintains the production environment on a 24x7 basis to reduce disruptions.

Customer Specific Maintenance Period

1. Customer will choose one of the following time zones for their Maintenance Period:
   a. United States Eastern Standard Time,
   b. GMT/UTC,
   c. Central European Time (CET) or
   d. Australian Eastern Standard Time (AEST).

2. Customer will choose one of the following days of the week for their Maintenance Period: Saturday, Sunday, Wednesday or Thursday.

3. Contractor will use up to 6 hours in any two consecutive rolling months (specifically: January and February; March and April; May and June; July and August; September and October; November and December) to perform Customer Specific Maintenance, excluding any customer requested Application updates. Downtime in excess of these six hours will be deemed to be an Outage.

4. Customer Specific Maintenance will occur between 12 am - 6 am during Customer's selected time zone.

5. Excluding any customer requested Application updates, Contractor will provide notice for planned downtime via an email notice to the primary Customer contact at least seven days in advance of any known downtime so planning can be facilitated by Customer.

6. Customer Specific Maintenance Windows also include additional maintenance windows mutually agreed upon by Customer and Contractor.

7. In absence of instruction from Customer, Contractor will by default perform Maintenance in the time zone where the Data Center is located.

Non-Customer Specific Maintenance Period

Contractor anticipates non-Customer Specific Maintenance to be performed with no or little (less than three hours per month) Customer downtime. If for any reason non-Customer Specific Maintenance requires downtime, Contractor will provide as much notice as reasonably possible of the expected window in which this will occur. Downtime in excess of three hours per month for Non-Customer Specific Maintenance will be deemed to be an Outage.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Reporting and Claims Process: Service Credits will not be provided if: (a) Customer is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event.

Contractor will provide Customer with an Application Availability report on a monthly basis for each prior calendar month. Within 60 days of receipt of such report, Customer must request the applicable Service Credit by written notice to Contractor. Customer waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Contractor records and data unless Customer can provide Contractor with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Customer acknowledges that Contractor manages its network traffic in part on the basis of Customer's utilization of the Services and that changes in such utilization may impact Contractor's ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Customer significantly changes its utilization of the Services from what is contracted with Contractor and such change creates a material and adverse impact on the traffic balance of the Contractor network, as reasonably determined by Contractor, the parties agree to cooperate, in good faith, to resolve the issue.

Exhibit D
City of Tukwila Security Requirements

Introduction

During the term of this agreement, Contractor shall operate an information security program designed to meet the confidentiality, integrity, and availability requirements of the service or product being supplied. The program shall include at a minimum the following security measures.

Governance

1. ***Information Security Policy:*** Contractor shall develop, implement, and maintain an information security policy and shall communicate the policy to all staff and contractors.

2. ***Information Security Accountability:*** Contractor shall appoint an employee of at least manager level who shall be accountable for the overall information security program.

3. ***Risk Management:*** Contractor shall employ a formal risk assessment process to identify security risks which may impact the products or services being supplied, and mitigate risks in a timely manner commensurate with the risk.

Asset Management

4. ***Asset Inventory:*** Contractor shall maintain an inventory of all hardware and software assets, including asset ownership.

5. ***Data Classification:*** Contractor shall develop, implement, and maintain a data classification scheme and process designed to ensure that data is protected according to its confidentiality requirements.

Supply Chain Risk Management

6. ***Supplier Security Assessments:*** Contractor shall engage in appropriate due diligence assessments of potential suppliers which may impact the security of the services or products being supplied.

7. ***Security in Supplier Agreements:*** Contractor shall ensure that agreements with suppliers who may impact the security of the services or products being supplied contain appropriate security requirements.

Human Resource Security

8. ***Information Security Awareness:*** Contractor shall develop and implement an information security awareness program designed to ensure that all employees and contractors receive security education as relevant to their job function.

9. ***Background Checks:*** Contractor shall conduct appropriate background checks on all new employees based on the sensitivity of the role that they are being hired for.

Identity Management, Authentication and Access Control

10. ***Authentication:*** Contractor shall ensure that all access, by employees or contractors, to its information systems used to provide services or products being supplied shall require appropriate authentication controls that at a minimum will include:

a. Strong passwords or multi-factor authentication for users

b. Multi-factor authentication for all remote access

11. *Authorization:* Contractor shall ensure that all access to its information systems used to provide services or products being supplied shall be approved by management.

12. *Privileged Account Management:* Contractor shall appropriately manage and control privileged accounts on its information systems that at a minimum will include:

a. Use of dedicated accounts for privileged activity

b. Maintaining an inventory of privileged accounts

13. *Access Termination:* Contractor shall develop and maintain a process designed to ensure that user access is revoked upon termination of employment, or contract for contractors.

Data Security

14. *Encryption:* Contractor shall ensure that all laptops, mobile devices, and removable media, including those that are owned by Contractor employees or contractors, which may be used to store, process, or transport organizational data are encrypted at all times. [Scoping guideline: This requirement may be removed if Contractor is not expected to possess any confidential or sensitive organizational data]

15. *Secure Disposal:* Contractor shall ensure that all media which may be used to store, process, or transport organizational data is disposed of in a secure manner. [Scoping guideline: This requirement may be removed if Contractor is not expected to possess any confidential or sensitive organizational data]

System Acquisition, Development and Maintenance

16. *Security Requirements:* Contractor shall ensure that information security requirements are defined for all new information systems, whether acquired or developed.

17. *Separation of Environments:* Contractor shall ensure that development and testing environments are separate from their production environment.

18. *Data Anonymization:* Contractor shall ensure that the City of Tukwila's data will not be used in the development or testing of new systems unless the data is appropriately anonymized.

19. *Secure Coding:* Contractor shall ensure that all applications are developed with secure coding practices, including OWASP Top 10 Most Critical Web Application Security Risks.

Physical and Environmental Security

20. *Risk Assessment:* Contractor shall use a formal risk assessment methodology to identify physical and environmental threats and shall implement controls to minimize the risks.

Information Protection Processes and Procedure

21. ***Hardening:*** Contractor shall develop and implement security configuration baselines for all endpoint and network devices types.

22. ***Network Segregation:*** Contractor shall segregate its network into zones based on trust levels, and control the flow of traffic between zones.

23. ***Anti-Malware:*** Contractor shall ensure that all information systems that are susceptible to malware are protected by up-to-date anti-malware software.

24. ***Wireless Access Control:*** Contractor shall ensure that wireless network access is protected, including at a minimum:

    a. All wireless network access should be encrypted

    b. All wireless network access to the production network should be authenticated using multi-factor authentication such as machine certificates

    c. Wireless network access for personal devices and guest access should be segregated from the production network

25. ***Patching:*** Contractor shall evaluate, test, and apply information system patches in a timely fashion according to their risk.

26. ***Backup and Recovery:*** Contractor shall implement a backup and recovery process designed to ensure that data can be recovered in the event of unexpected loss.

Protective Technology

27. ***Logging:*** Contractor shall ensure that security event logging requirements have been defined, and that all information systems are configured to meet logging requirements.

28. ***Intrusion Detection:*** Contractor shall deploy intrusion detection or prevention systems at the network perimeter.

29. ***URL Filtering:*** Contractor shall deploy tools to limit web browsing activity based on URL categories.

30. ***Denial of Service Protection:*** Contractor shall deploy controls to detect and mitigate denial of service attacks.

Security Continuous Monitoring

31. ***Security Monitoring:*** Contractor shall deploy automated tools to collect, correlate, and analyze security event logs from multiple sources, and monitor them for suspected security incidents.

32. ***Vulnerability Assessments:*** Contractor shall conduct vulnerability assessments against all Internet-facing information systems on a regular basis, no less often than quarterly.

33. ***Penetration Testing:*** Contractor shall perform penetration tests on all web applications and services, in accordance with standard penetration testing methodologies, on a regular basis, no less often than annually.

Information Security Incident Management

34. ***Incident Response:*** Contractor shall develop, implement, and maintain an information security incident response process, and will test the process on a regular basis, no less often than annually.

Exhibit E
Data Protection and Information Security

This Data Protection and Information Security Exhibit ("Exhibit") is an attachment to the Agreement and sets forth the data protection and information security requirements of City of Tukwila. This Exhibit includes by reference the terms and conditions of the Agreement. In the event of any inconsistencies between this Exhibit and the Agreement, the parties agree that the terms and conditions of the Exhibit will prevail. Throughout the term of the Agreement and for as long as Contractor controls, possesses, stores, transmits, or processes Confidential Information as part of the Services provided to City of Tukwila, Contractor will comply with the requirements set forth in this Exhibit. Any breach of this Exhibit will be deemed a material breach under the Agreement.

1. **Definitions**

"Authorized Personnel" for the purposes of this Exhibit, means Contractor's employees or subcontractors who: (i) have a need to receive or access Confidential Information or Personal Information to enable Contractor to perform its obligations under the Agreement; and (ii) are bound in writing with Contractor by confidentiality obligations sufficient for the protection of Confidential Information and Personal Information in accordance with the terms and conditions set forth in the Agreement and this Exhibit.

"Common Software Vulnerabilities" (CSV) are application defects and errors that are commonly exploited in software. This includes but is not limited to:

   (i)   The CWE/SANS Top 25 Programming Errors – see http://cwe.mitre.org/top25/ and http://www.sans.org/top25-software-errors/

   (ii)   The Open Web Application Security Project's (OWASP) "Top Ten Project" – see http://www.owasp.org

"Confidential Information" means certain non-public proprietary information that has economic value and is protected with reasonable safeguards to maintain its secrecy. Confidential Information may include, but is not limited to any financial data, business and other plans, specifications, equipment designs, electronic configurations, design information, product architecture algorithms, quality assurance plans, inventions (whether or not the subject of pending patent applications), ideas, discoveries, formulae, models, requirements, standards, trade and manufacturing secrets, drawings, samples, devices, demonstrations, technical information, all Personal Information as defined in RCW 42.56.590 that come within the Contractor's possession in the course of performance under this Agreement, as well as any and all intellectual and industrial property rights contained therein or in relation thereto; provided that, Personal Information shall remain Confidential Information even if at the time of disclosure or collection, or later, it is or becomes known to the public.

"Industry Standards" mean generally recognized industry standards, best practices, and benchmarks including but not limited to:

   (i)   Payment Card Industry Data Security Standards ("PCI DSS") – see http://www.pcisecuritystandards.org/

   (ii)   National Institute for Standards and Technology – see http://csrc.nist.gov/

   (iii) ISO / IEC 27000-series – see http://www.iso27001security.com/

(iv)   COBIT 5 – http://www.isaca.org/cobit/

(v)   Cyber Security Framework – see http://www.nist.gov/cyberframework/

(vi)   Cloud Security Alliance – see https://cloudsecurityalliance.org/

(vii)   Other standards applicable to the services provided by Contractor to City of Tukwila

"Information Protection Laws" mean all local, state, federal and international laws, standards, guidelines, policies, regulations and procedures applicable to Contractor or City of Tukwila pertaining to data security, confidentiality, privacy, and breach notification.

"Personal Information" also known as Personally Identifiable Information (PII), is defined in RCW 42.56.590 and includes information of City of Tukwila customers, employees and subcontractors or their devices gathered or used by Contractor that can be used on its own or combined with other information to identify, contact, or locate a person, or to identify an individual or his or her device in context. Examples of Personal Information include name, social security number or national identifier, biometric records, driver's license number, device identifier, IP address, MAC address, either alone or when combined with other personal or identifying information which is linked or linkable to a specific individual or device, such as date and place of birth, mother's maiden name, etc.

"Security Incident" is any actual or suspected occurrence of:

(i)   Unauthorized access, use, alteration, disclosure, loss, theft of, or destruction of Confidential Information or the systems / storage media containing Confidential Information

(ii)   Illicit or malicious code, phishing, spamming, spoofing

(iii)   Unauthorized use of, or unauthorized access to, Contractor's systems

(iv)   Inability to access Confidential Information or Contractor systems as a result of a Denial of Service (DOS) or Distributed Denial of Service (DDOS) attack

(v)   Loss of Confidential Information due to a breach of security

"Security Vulnerability" is an application, operating system, or system flaw (including but not limited to associated process, computer, device, network, or software weakness) that can be exploited resulting in a Security Incident.

2. **Roles of the Parties and Compliance with Information Protection Laws**

As between City of Tukwila and Contractor, City of Tukwila shall be the principal and Contractor shall be its agent with respect to the collection, use, processing and disclosure of all Confidential Information. The Parties shall comply with their respective obligations as the principal (e.g., data owner/controller/covered entity) and agent (e.g., data processor/business associate/trading partner) under all Information Protection Laws. The Parties acknowledge that, with respect to all Confidential Information processed by Contractor for the purpose of providing the Services under this Agreement:

a. City of Tukwila shall determine the scope, purpose, and manner in which such Confidential Information may be accessed or processed by Contractor, and Contractor shall limit its access to or use of Confidential Information to that which is necessary to

provide the Services, comply with applicable laws, or as otherwise directed by City of Tukwila;

b. Each party shall be responsible for compliance with Information Protection Laws in accordance with their respective roles; and

c. Contractor and City of Tukwila shall implement the technical and organizational measures specified in this Exhibit and any additional procedures agreed upon pursuant to a Statement of Work ("SOW") to protect Confidential Information against unauthorized use, destruction or loss, alteration, disclosure or access.

3. **General Security Requirements**

Contractor will have an information security program that has been developed, implemented and maintained in accordance with Industry Standards. At a minimum, Contractor's information security program will include, but not be limited to, the following elements:

3.1 **Information Security Program Management.** Contractor will have or assign a qualified member of its workforce or commission a reputable third-party service provider to be responsible for the development, implementation and maintenance of Contractor's enterprise information security program.

3.2 **Policies and Standards.** To protect City of Tukwila Confidential Information, Contractor will implement and maintain reasonable security that complies with Information Protection Laws and meets data security Industry Standards.

a. Security Policies and Standards. Contractor will maintain formal written information security policies and standards that:

(i) Define the administrative, physical, and technological controls to protect the confidentiality, integrity, and availability of Confidential Information, City of Tukwila systems, and Contractor systems (including mobile devices) used in providing Services to City of Tukwila

(ii) Encompasses secure access, retention, and transport of Confidential Information

(iii) Provide for disciplinary or legal action in the event of violation of policy by employees or Contractor subcontractors and vendors

(iv) Prevent unauthorized access to City of Tukwila data, City of Tukwila systems, and Contractor systems, including access by Contractor's terminated employees and subcontractors

(v) Employ the requirements for assessment, monitoring and auditing procedures to ensure Contractor is compliant with the policies

(vi) Conduct an annual assessment of the policies, and upon City of Tukwila written request, provide attestation of compliance.

b. In the SOW or other document, Contractor will identify to City of Tukwila all third-party vendors (including those providing subcontractors to Contractor) involved in the provision of the Services to City of Tukwila, and will specify those third-party vendors that will have access to Confidential Information.

3.3 **Security and Privacy Training.** Contractor, at its expense, will train new and existing employees and subcontractors to comply with the data security and data privacy obligations under this Agreement and this Exhibit. Ongoing training is to be provided at least annually and more frequently as appropriate or requested by City of Tukwila. City of Tukwila may provide specific training material to Contractor to include in its employee/subcontractor training.

3.4 **Access Control.** Contractor will ensure that City of Tukwila Confidential Information will be accessible only by Authorized Personnel after appropriate user authentication and access controls (including but not limited to two-factor authentication) that satisfy the requirements of this Exhibit. Each Authorized Personnel shall have unique access credentials and shall receive training which includes a prohibition on sharing access credentials with any other person. Contractor should maintain access logs relevant to City of Tukwila Confidential Information for a minimum of six years or other mutually agreed upon duration.

3.5 **Data Backup.** The parties shall agree in an SOW or other document upon the categories of City of Tukwila Confidential Information that are required to be backed up by Contractor. Unless otherwise agreed to in writing by City of Tukwila, backups of City of Tukwila Confidential Information shall reside solely in the United States. For the orderly and timely recovery of Confidential Information in the event of a service interruption:

   a. Contractor will store a backup of Confidential Information at a secure offsite facility and maintain a contemporaneous backup of Confidential Information on-site to meet needed data recovery time objectives.

   b. Contractor will encrypt and isolate all City of Tukwila backup data on portable media from any backup data of Contractor's other customers.

3.6 **Business Continuity Planning (BCP) and Disaster Recovery (DR).** Contractor will maintain an appropriate business continuity and disaster recovery plan to enable Contractor to adequately respond to, and recover from, business interruptions involving City of Tukwila Confidential Information or services provided by Contractor to City of Tukwila.

   a. At a minimum, Contractor will test the BCP and DR plan annually, in accordance with Industry Standards, to ensure that the business interruption and disaster objectives set forth in this Exhibit have been met and will promptly remedy any failures. Upon City of Tukwila's request, Contractor will provide City of Tukwila with a written summary of the annual test results.

   b. In the event of a business interruption that activates the BCP and DR plan affecting the Services or Confidential Information of City of Tukwila, Contractor will notify City of Tukwila's designated Security Contact as soon as possible.

   c. Contractor will allow City of Tukwila or its authorized third party, upon a minimum of 30 days' notice to Contractor's designated Security Contact, to perform an assessment of Contractor's BCP and DR plan once annually, or more frequently if agreed to in an SOW or other document. Following notice provided by City of Tukwila, the parties will meet to determine the scope and timing of the assessment.

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3.7 **Network Security.** Contractor agrees to implement and maintain network security controls that conform to Industry Standards including but not limited to the following:

a. Firewalls. Contractor will utilize firewalls to manage and restrict inbound, outbound and internal network traffic to only the necessary hosts and network resources.

b. Network Architecture. Contractor will appropriately segment its network to only allow authorized hosts and users to traverse areas of the network and access resources that are required for their job responsibilities.

c. Demilitarized Zone (DMZ). Contractor will ensure that publicly accessible servers are placed on a separate, isolated network segment typically referred to as the DMZ.

d. Wireless Security. Contractor will ensure that its wireless network(s) only utilize strong encryption, such as WPA2.

e. Intrusion Detection/Intrusion Prevention (IDS/IPS) System. Contractor will have an IDS and/or IPS in place to detect inappropriate, incorrect, or anomalous activity and determine whether Contractor's computer network and/or server(s) have experienced an unauthorized intrusion.

3.8 **Application and Software Security.** Contractor, should it provide software applications or Software as a Service (SaaS) to City of Tukwila, agrees that its product(s) will remain secure from Software Vulnerabilities and, at a minimum, incorporate the following:

a. Malicious Code Protection. Contractor's software development processes and environment must protect against malicious code being introduced into its product(s) future releases and/or updates.

b. Application Level Security. Contractor must use a reputable third party to conduct static/manual application vulnerability scans on the application(s) software provided to City of Tukwila for each major code release or at the time of contract renewal. An *internally* produced static/manual test from the Contractor will not be accepted. Results of the application testing will be provided to City of Tukwila in a summary report and vulnerabilities categorized as Very High, High or that have been identified as part of the OWASP Top 10 and SANS Top 25 within 10 weeks of identification.

c. Vulnerability Management. Contractor agrees at all times to provide, maintain and support its software and subsequent updates, upgrades, and bug fixes such that the software is and remains secure from Common Software Vulnerabilities.

d. Logging. Contractor software that controls access to Confidential Information must log and track all access to the information.

e. Updates and Patches. Contractor agrees to promptly provide updates and patches to remediate Security Vulnerabilities that are exploitable. Upon City of Tukwila's request, Contractor shall provide information on remediation efforts of known Security Vulnerabilities.

3.9 **Data Security.** Contractor agrees to preserve the confidentiality, integrity and accessibility of City of Tukwila Confidential Information with administrative, technical and physical measures that conform to Industry Standards that Contractor then applies to its own systems and processing environment. Unless otherwise agreed to in writing by City of Tukwila, Contractor agrees that any and all City of Tukwila Confidential Information will be stored, processed, and maintained solely on designated systems located in the continental United States. Additionally:

a. Encryption. Contractor agrees that all City of Tukwila Confidential Information and Personal Information will be encrypted with a Federal Information Processing Standard (FIPS) compliant encryption product, also referred to as 140-2 compliant. Symmetric keys will be encrypted with a minimum of 128-bit key and asymmetric encryption requires a minimum of 1024 bit key length. Encryption will be utilized in the following instances:

- City of Tukwila Confidential Information and Personal Information will be stored on any portable computing device or any portable storage medium.

- City of Tukwila Confidential Information and Personal Information will be transmitted or exchanged over a public network.

b. Data Segregation. Contractor will segregate City of Tukwila Confidential Information and Personal Information from Contractor's data and from the data of Contractor's other customers or third parties.

3.10 **Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor further agrees that no Confidential Information of any kind shall be transmitted, exchanged or otherwise passed to other parties except on a case-by-case basis as specifically agreed to in writing by City of Tukwila.

3.11 **Data Destruction and Data Retention.** Upon expiration or termination of this Agreement or upon City of Tukwila's written request, Contractor and its Authorized Personnel will promptly return to City of Tukwila all City of Tukwila Confidential Information and/or securely destroy City of Tukwila Confidential Information. At a minimum, destruction of data activity is to be performed according to the standards enumerated by the National Institute of Standards, Guidelines for Media Sanitization – see http://csrc.nist.gov/. If destroyed, an officer of Contractor must certify to City of Tukwila in writing within 10 business days all destruction of City of Tukwila Confidential Information. If Contractor is required to retain any City of Tukwila Confidential Information or metadata to comply with a legal requirement, Contractor shall provide notice to both the general notice contact in the Agreement as well as City of Tukwila's designated Security Contact.

3.12 **Right to Audit.** Upon a minimum of 30 days' written notice to Contractor, Contractor agrees to allow City of Tukwila or a mutually agreed upon independent third party under a Non-Disclosure Agreement to perform an audit of Contractor's policies, procedures, software, system(s), and data processing environment at City of Tukwila's expense to confirm compliance with this Exhibit. Prior to commencement of the audit, the parties will discuss the scope of the audit and the schedule. Contractor shall provide reasonable support to the audit team. Upon request Contractor will provide any relevant third party assessment reports such as SOC 2, PCI DSS Report on Compliance, or ISO 27001 certification. Unless critical issues are identified during the audit, such audits will be restricted to once in any 12 month period. If issues are identified, Contractor shall provide a remediation plan to City of Tukwila to remedy such issues at Contractor's expense.

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3.13 **Security Testing.** Contractor, at its expense, will allow City of Tukwila to conduct static, dynamic, automated, and/or manual security testing on its software products and/or services, hardware, devices, and systems to identify Security Vulnerabilities on an ongoing basis. Should any vulnerabilities be discovered, Contractor agrees to notify City of Tukwila and create a mutually agreed upon remediation plan to resolve all vulnerabilities identified. City of Tukwila has the right to request or conduct additional reasonable security testing throughout the Term of the Agreement.

4. **Security Incident / Data Breach**

4.1 **Security Contact.** The individuals identified below shall serve as each party's designated Security Contact for security issues under this Agreement.

City of Tukwila Security Contact:

Name

Address

Phone

Email

Contractor Security Contact:

Name

Address

Phone

Email

4.2 **Requirements.** Contractor will take commercially reasonable actions to ensure that City of Tukwila is protected against any and all reasonably anticipated Security Incidents, including but not limited to:

(i)   Contractor's systems are continually monitored to detect evidence of a Security Incident

(ii)   Contractor has a Security Incident response process to manage and to take corrective action for any suspected or realized Security Incident

(iii)   Upon request Contractor will provide City of Tukwila with a copy of its Security Incident policies and procedures. If a Security Incident affecting City of Tukwila occurs, Contractor, at its expense and in accordance with applicable Information Protection Laws, will immediately take action to prevent the continuation of the Security Incident.

4.3 **Notification.** Within eight hours of Contractor's initial awareness of a Security Incident or other mutually agreed upon time period, Contractor will notify City of Tukwila of the incident by calling by phone the City of Tukwila Security Contact(s) listed above.

4.4 **Investigation and Remediation.** Upon Contractor's notification to City of Tukwila of a Security Incident, the parties will coordinate to investigate the Security Incident. Contractor shall be responsible for leading the investigation of the Security Incident, but shall cooperate with City of Tukwila to the extent City of Tukwila requires involvement in the investigation. Contractor shall involve law enforcement in the investigation if requested by City of Tukwila. Depending upon the type and scope of the Security Incident, City of Tukwila personnel may participate in: (i) interviews with Contractor's employees and subcontractors involved in the incident; and (ii) review of all relevant records, logs, files, reporting data, systems, Contractor devices, and other materials as otherwise required by City of Tukwila.

Contractor will cooperate, at its expense, with City of Tukwila in any litigation or investigation deemed reasonably necessary by City of Tukwila to protect its rights relating to the use, disclosure, protection and maintenance of Confidential Information. Contractor will reimburse City of Tukwila for actual costs incurred by City of Tukwila in responding to, and mitigating damages caused by any Security Incident, including all costs of notice and remediation which City of Tukwila, in its sole discretion, deems necessary to protect such affected individuals in light of the risks posed by the Security Incident. Contractor will, at Contractor's own expense, provide City of Tukwila with all information necessary for City of Tukwila to comply with data breach recordkeeping, reporting and notification requirements pursuant to Information Protection Laws. Contractor will use reasonable efforts to prevent a recurrence of any such Security Incident. Additionally, Contractor will provide (or reimburse City of Tukwila) for at least one year of complimentary access for one credit monitoring service, credit protection service, credit fraud alert and/or similar services, which City of Tukwila deems necessary to protect affected individuals in light of risks posed by a Security Incident.

4.5 **Reporting.** Contractor will provide City of Tukwila with a final written incident report within five business days after resolution of a Security Incident or upon determination that the Security Incident cannot be sufficiently resolved.

5. **Confidential Information or Personal Information**

5.1 **Authorized Personnel.**   Contractor will require all Authorized Personnel to meet Contractor's obligations under the Agreement with respect to Confidential Information or Personal Information. Contractor will screen and evaluate all Authorized Personnel and will provide appropriate privacy and security training, as set forth above, in order to meet Contractor's obligations under the Agreement. Upon City of Tukwila's written request, Contractor will provide City of Tukwila with a list of Authorized Personnel. Contractor will remain fully responsible for any act, error, or omission of its Authorized Personnel.

5.2 **Handling of Confidential Information or Personal Information.** Contractor will:

a. Keep and maintain all Confidential Information and Personal Information in strict confidence in accordance with the terms of the Agreement

b. Use and disclose Confidential Information and/or Personal Information solely and exclusively for the purpose for which the Confidential Information or Personal Information is provided pursuant to the terms and conditions of the Agreement. Contractor will not disclose Confidential Information or Personal Information to any person other than to Authorized Personnel without City of Tukwila's prior written consent, unless and to the extent required by applicable law, in which case, Contractor will use best efforts to notify City of Tukwila before any such disclosure or as soon thereafter as reasonably possible.   In addition, Contractor will not produce any Confidential Information or Personal Information in response to a non-legally binding request for disclosure of such Personal Information.

5.3 **Data and Privacy Protection Laws.** Contractor represents and warrants that its collection, access, use, storage, disposal, and disclosure of Personal Information complies with all applicable federal, state, local and foreign data and privacy protection laws, as well as all other applicable regulations and directives.

6. **Third Party Security**

6.1 Contractor will conduct thorough background checks and due diligence on any third and fourth parties which materially impact Contractor's ability to provide the products and/or Services to City of Tukwila as described in the Agreement.

6.2 Contractor will not outsource any work related to its products or the Services provided to City of Tukwila in countries outside the United States of America, which have not been disclosed in the Agreement or without prior written approval from City of Tukwila Legal and Information Security. If Contractor desires to outsource certain work during the Term of the Agreement, Contractor shall first notify City of Tukwila so that the parties can ensure adequate security protections are in place with respect to the Services provided to City of Tukwila.

7. **Payment Cardholder Data**

7.1 If Contractor accesses, collects, processes, uses, stores, transmits, discloses, or disposes of City of Tukwila and/or City of Tukwila customer credit, debit, or other payment cardholder information, Contractor agrees to the following additional requirements:

a. Contractor, at its sole expense, will comply with the Payment Card Industry Data Security Standard ("PCI DSS"), as may be amended or changed from time to time, including without limitation, any and all payment card industry validation actions (e.g., third party assessments, self-assessments, security vulnerability scans, or any other actions identified by payment card companies for the purpose of validating Contractor's compliance with the PCI DSS).

b. Contractor will maintain a continuous PCI DSS compliance program. Annually, Contractor agrees to provide evidence of PCI DSS compliance in the form of a Qualified Security Assessor ("QSA") Assessment Certificate, a PCI Report on Compliance ("ROC"), or evidence that Contractor is included on the Visa or MasterCard list of PCI DSS Validated Service Providers.

c. Contractor will ensure that subcontractors approved by City of Tukwila, in accordance with Section 6.2, comply with and maintain a continuous PCI DSS compliance program if the subcontractor provides any service on behalf of Contractor that falls within PCI DSS scope. The Subcontractor must provide evidence of PCI DSS compliance in the form of a Qualified Security Assessor ("QSA") Assessment Certificate, a PCI Report on Compliance ("ROC"), or evidence that Subcontractor is included on the Visa or MasterCard list of PCI DSS Validated Service Providers.

d. Contractor will immediately notify City of Tukwila if Contractor is found to be non-compliant with a PCI DSS requirement or if there is any breach of cardholder data impacting City of Tukwila or its customers.

8. **Changes**

In the event of any change in City of Tukwila's data protection or privacy obligations due to legislative or regulatory actions, industry standards, technology advances, or contractual obligations, Contractor will work in good faith with City of Tukwila to promptly amend this Exhibit accordingly.