

Software License, Implementation, Hosting, Technical Support, and Maintenance Agreement

THIS SOFTWARE LICENSE AND IMPLEMENTATION AGREEMENT (the "Agreement")

BETWEEN:

Intuitive Municipal Solutions, LLC of 541 N Mt Juliet Rd, Suite 2201B, Mount Juliet, TN 37122
(the "Vendor")

OF THE FIRST PART

- AND -

The City of Richmond, California of 450 Civic Center Plaza, Richmond, CA 94804
(the "Licensee")

OF THE SECOND PART

BACKGROUND:

The Vendor wishes to grant a license and implement IMS Software and Partner Subscription Services (collectively "the Software") for the Licensee and the Licensee desires to purchase the software license and implementation services under the terms and conditions stated below.

IN CONSIDERATION OF the provisions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

Software License

1. Under this Agreement the Vendor grants to the Licensee a perpetual, non-exclusive and non-transferable license (the "License") to use the Intuitive Municipal Solutions Software Suite (the "IMS Software").
2. "IMS Software" includes the executable computer programs and any related printed, electronic and online documentation and any other files that may accompany the product.
3. Title, copyright, intellectual property rights and distribution rights of the IMS Software remain exclusively with the Vendor. Intellectual property rights include the look and feel of the IMS Software. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to the Software.
4. The rights and obligations of this Agreement are personal rights granted to the Licensee only. The Licensee may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity.
5. The IMS Software may not be modified, reverse-engineered, or de-compiled in any manner through current or future available technologies.
6. Failure to comply with any of the terms under the Software License section will be considered a material breach of this Agreement.

Permit Rocket Subscription Services

Section 7-11 apply only to the Licensee's use of the software from Permit Rocket Software LLC.

7. **Subscription Services.** Subject to the terms and conditions of this Agreement, Vendor will make the Digital Plan Room software-as-service technologies from Permit Rocket Software LLC dba ePermitHub ("Partner"), together with related Software and documentation (collectively "Partner Subscription Services") available to Licensee by means of Vendor resell agreement with Partner.
8. **Hosting.** The Partner Subscription Services (including Software, as applicable) will be hosted by Partner at a physically secure, commercial third-party hosting facility. Partner will be responsible for maintaining standards at such facility and for implementing suitable network security measures to minimize the likelihood of unanticipated interruptions to the Partner Subscription Services. With respect to any Software that is provided to Licensee for use "on premise": (a) Partner through resell agreement with Vendor hereby grants Licensee non-exclusive, non-transferable, non-sublicensable, royalty-free license to use such Software during the Term only in connection with Licensee's use of the Partner Subscription Services; (b) Licensee may download the Software onto its systems or devices; and (c) Licensee will be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Software and Partner Subscription Services, including modems, hardware, servers, software, operating systems, networking, and web servers.
9. **Prohibited Use.** Licensee will not, and will ensure that its Users do not, directly or indirectly, (i) modify, rent, sublease, sublicense, assign, use as a service bureau, copy, lend, adapt, translate, sell, distribute, create derive works from, decompile, disassemble, reverse engineer or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, processes or algorithms relevant to the Software or Partner Subscription Services or remove any proprietary notices or labels affixed on or delivered with the Software or Services. Although Partner has no obligation to monitor Licensee's use of the Software or Partner Subscription Services, Partner may do so and may prohibit any use of the Software or Partner Subscription Services it believes are or may be in violation of this Agreement, with notice to Partner that includes a description of the actual or suspected violation.
10. **Licensee's Commitments.** Licensee represents and warrants that Licensee and its Users will use the Software and Partner Subscription Services, including any Customer Data associated with such use, only as permitted by this Agreement and in compliance with all applicable laws and regulations. If Licensee becomes aware of any threats to the confidentiality or security of the Software or Partner Subscription Services that is or is likely to be caused by Licensee, its Users or the systems, technologies or software used by them, Licensee will promptly notify Vendor. As used herein, "**Customer Data**" means all non-public data, information, materials and content provided by Licensee to Vendor or Partner or used by Licensee in connection with the Partner Subscription Services, excluding Usage Data (as defined below).
11. **Reserved Rights.** As between the parties, (a) Licensee owns and retains all right, title and interest in and to the Customer Data; and (b) Vendor and Partner respectively own and retain all right, title and interest in and to (i) the Software and Partner Subscription Services, and all improvements, enhancements or modifications thereto, (ii) any software, applications, inventions or other technology developed in connection with Professional Services or Support, and (iii) all intellectual property rights related to any of the foregoing. No rights or licenses are granted by either Party except as expressly set forth in this Agreement.

Selectron Subscription Services

Section 12-20 apply only to the Licensee's use of the subscription services from Selectron.

12. **Access to Selectron Services.** Subject to the terms and conditions of this Agreement, including the Selectron End User License Agreement ("EULA"), attached hereto as Exhibit B which is incorporated into and made a part hereof, and the timely payment of all fees hereunder, Vendor will make available to Licensee, on a non-exclusive, nontransferable, nonsublicensable, limited, and revocable basis, during the Term, the Selectron Technologies Inc. ("Selectron") proprietary subscription services described in the Statement of Work attached hereto as Exhibit A ("Selectron Services"), solely in accordance with the standard documentation for the Selectron Services, as generally provided by Selectron to its other customers (the "Documentation") and the EULA and solely for Licensee's own internal business use. Except as set forth in

this Section 12 or the EULA, Licensee will have no other right or license to the Selectron Services. At the termination or expiration of this Agreement, for any reason, the limit right to access the Selectron Services under this Section 12 will immediately terminate.

13. Selectron Services Restrictions. Licensee hereby acknowledges and agrees that it shall not use the Selectron Services for any purpose other than the purpose for which Selectron has developed the Selectron Services, and that it shall use the Selectron Services in accordance with the EULA and all applicable laws, rules, and regulations. Licensee shall not, and shall ensure that Authorized Users do not, directly or indirectly: (a) modify, rent, sublease, sublicense, assign, use as a service bureau, copy, lend, adapt, translate, sell, distribute, create derive works from, decompile, disassemble, reverse engineer or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, processes or algorithms relevant to the Selectron Services or remove any proprietary notices or labels affixed on or delivered with the Selectron Services. Selectron may monitor use of the Selectron Services. In the event of any violation of this Section 13 or the terms of the EULA by Licensee or any person Licensee provides with access to the Licensed Software (whether or not such person is an employee that Licensee provides with access to the Selectron Services (“Authorized User(s)”), Selectron may require that Vendor terminate the provision of the Selectron Services under this Agreement.
14. Authorized Users; Licensee Identification and Passwords. Licensee shall not permit any person to access the Selectron Services other than employees whom Licensee has designated as Authorized Users. Each individual natural person shall be a separate Authorized User for purposes of this Agreement. Licensee shall create or request that Selectron create unique log-in credentials, consisting of a “User Identification” and “User Password”, for each individual Authorized User who shall be accessing the Selectron Services. Licensee hereby acknowledges that Licensee and its Authorized Users bear sole responsibility for protecting the confidentiality of all User Passwords and shall remain fully responsible and liable for (and Selectron shall not be responsible or liable for) any unauthorized use of any User Identifications or User Passwords. Licensee shall not share or disclose, and shall not permit any Authorized User to share or disclose, such Authorized User’s log-in credentials with or to any other individual or entity, even if such other individual is also an Authorized User. A User Identification may not be transferred from one Authorized User to another Authorized User. Licensee shall promptly terminate (or cause to be terminated by requesting that Selectron terminate) the User Identification for any individual who ceases to be an Authorized User for any reason, including without limitation due to termination of such individual’s employment with Licensee. Licensee shall promptly notify Selectron if it discovers or suspects that any log-in credentials have been accessed or used by any person other than the Authorized User to which such log-in credentials were granted, in which case Selectron shall promptly reset or provide Licensee with a means of resetting the password associated with such log-in credentials.
15. Customer Tools. Licensee may permit its customers to access and use the Customer Tools solely through Licensee’s website and/or an application that is set up and maintained as part of the Selectron Services, and solely for the purpose of enabling such customers to (a) receive notifications sent by or on behalf of Licensee, (b) make payments to Licensee, (c) view their invoices from Licensee and history of payments to Licensee, and (d) update their contact information with Licensee. “Customer Tools” mean the Selectron Services components and interfaces that, as described in the Documentation, are designed and intended to be accessed by customers of Licensee through an application that is set up and maintained as part of the Selectron Services and/or Licensee’s website.
16. Updates, Maintenance, and Technical Support. Licensee understands and agrees that Selectron may make modifications and updates to the Selectron Services from time to time. Modifications or updates to current features and functions built into the current version of Subscription Services shall be provided at no additional charge to Licensee. In the event Selectron makes new features or functions available and does not remove any existing features or functionality, Selectron may determine in its sole discretion whether to provide such modifications and updates to Licensee and its other customers as an update to the Selectron Services provided hereunder, or whether such modifications and updates will be issued as a separate or new product or premium version of the Selectron Services that is available only at an additional charge.
17. Internet Security. Selectron Services are made available through the internet and may be used to access and transfer information over the internet. Licensee is solely responsible for the security and integrity of information it transfers from the Selectron Services, if any. No representations or warranties to Licensee are made regarding (a) the security or privacy of Licensee’s network environment, or (b) any third-party technologies or services not included in the Software ability to meet Licensee’s security and privacy needs. These third-party technologies and services may include, but are not limited to, operating systems, database management systems, web servers, and payment processing services. Licensee is solely responsible for ensuring a secure environment for information it transfers from the Selectron Services, if any.

18. Outbound Services Disclaimer. Outbound services are intended to create additional methods of communication for Licensee's employees who use the Selectron Services in support of existing processes. These services are not intended to replace all interaction with Licensee's end users or employees. While the outbound services have been created with the best available tools and practices, they are dependent on infrastructure that is inherently not fail-proof including, but not limited to, infrastructure such as software, computer hardware, network services, telephone services, and e-mail. Examples of situations that could cause failure include but are not limited to: down phone lines, all lines busy, equipment failure, email address changes, and Internet service disruptions. For this reason, while outbound services are valuable in providing enhanced communication, they are specifically not designed to be used as the sole method to deliver critical messages. Licensee acknowledges that it is aware of the potential hazards associated with relying on an automated outbound service feature, when using the Selectron Services, and Licensee acknowledges and agrees that it is giving up in advance any right to sue or make any claim against Selectron, and that Licensee forever releases Selectron from any and all liability caused by (a) any failed call attempts (including excess of calls over and above network or system capacity), incomplete calls, or any busy-outs; (b) any failure to transmit, obtain or collect data from callers or for human and machine errors, faulty or erroneous input, inarticulate caller communication, caller delays or call lengths exceeding estimated call lengths or omissions, delays and losses in connection with the Selectron Services provided hereunder; or (c) if Licensee, Licensee's employees, or Licensee's end user suffer injury or damage due to the failure of outbound services to operate, even though Licensee does not know what or how extensive those injuries or damages might be, unless such losses were directly attributable to Selectron's gross negligence or willful misconduct.
19. Data Transfers Between Licensee and Selectron. The parties acknowledge that, to facilitate providing the Selectron Services, Selectron and Licensee shall regularly transfer Licensee data to each other. Licensee, not Selectron, is responsible for providing and maintaining a secure file transfer protocol for such transfer of Licensee data, and shall be responsible for maintaining the security of the system components, environment, and procedures of such file transfer protocol.
20. Licensee's Privacy Practices. Licensee acknowledges that the Licensee data includes information about individuals with whom Licensee, rather than Selectron, has direct relationships. Therefore, it is Licensee's obligation, and not Selectron's obligation, to provide any privacy notices or disclosures to, and obtain any consent from, such individuals as may be required by applicable law with respect to processing of the Licensee data by Selectron on Licensee's behalf. Licensee represents, warrants, and covenants to Selectron that (a) Licensee has the authority to transmit the Licensee data to Selectron; and (b) Selectron's collection, storage, transmittal, and other processing of the Licensee data on behalf of Licensee, as described in the Documentation and this Agreement, does not and will not violate any applicable laws, regulations, ordinances, contracts, policies, orders, or decrees to which Licensee is subject.

Confidentiality

21. General. The parties agree to hold each other's Confidential Information in strict confidence, not to use it in any way, commercially or otherwise, other than for the legitimate purposes of this Agreement, and not to disclose it to others. For purposes of this Agreement, "**Confidential Information**" means and will include any information, materials or knowledge that is disclosed by one party or its Affiliates ("**Discloser**") to the other party or its Affiliates ("**Recipient**") during the relationship contemplated by this Agreement and concerns Discloser and its business, including business plans, roadmaps, financial condition, products, programming techniques, suppliers, technology or research and development. Recipient agrees to take all actions reasonably necessary to protect the confidentiality of all Confidential Information, including implementing and enforcing procedures to minimize the possibility of unauthorized use or disclosure of Confidential Information and not using or disclosing the Confidential Information to any third party (except as necessary to perform the Services or where required by law or court order). All Confidential Information, if any, is provided "AS IS" and without any warranty, express, implied or otherwise, regarding its accuracy or performance.
22. Exceptions. Confidential Information will not include any information that: (a) is or becomes publicly known through no fault of Recipient; (b) was rightfully in Recipient's possession at the time of disclosure, without restriction as to use or disclosure; (c) has been rightfully received by Recipient from a third party without restriction as to use or disclosure; or (d) was developed by employees or agents of Recipient independently of and without access or reference to any information communicated to Recipient by Discloser. The Disclosing Party agrees that these obligations of confidentiality will cease to apply to any information after five (5) years following the Disclosing Party's first disclosure thereof (excluding in respect of any trade secrets of Vendor or Partner, which will remain Vendor's or Partner's Confidential Information in perpetuity).
23. Usage Data. Notwithstanding anything to the contrary in this Agreement or otherwise, Vendor, Partner, and Selectron may collect and analyze Usage Data and will be free, during and after the Term, to (i) use such information and data to improve and enhance the Services and Selectron Services and for other development, diagnostic and corrective purposes in

connection with the Services and Selectron Services and other offerings, and (ii) use and disclose Usage Data pertaining to Licensee in aggregate or other de-identified forms in connection with business. As used herein, “*Usage Data*” means data and other information, including derivatives thereof, relating to the provision, use and performance of the Services and Selectron Services.

Limitation of Liability

24. The Vendor will not be liable for any general, special, incidental or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage suffered by the Licensee arising out of the use or failure to use the Software.
25. With the exception of warranties outlined in this Agreement, the Vendor makes no warranty expressed or implied regarding the fitness of the Software, Partner Subscription Services, or Selectron Services for a particular purpose or that the Software, Partner Subscription Services, or Selectron Services will be suitable or appropriate for the specific requirements of the Licensee.
26. The Vendor does not warrant that use of the Software, Partner Subscription Services, or Selectron Services will be uninterrupted or error-free. The Licensee accepts that software in general is prone to bugs and flaws within an acceptable level as determined in the industry.

Warrants and Representations

27. Vendor warrants that:
 - a. Software will perform without Defects during the term of this Agreement. If the Software does not perform as warranted, Vendor will use all reasonable efforts, consistent with industry standards, to cure the Defect.
 - b. “Defect” means any failure of the Software or Services or component thereof to conform in any material respect with applicable Functional Requirements as defined and included in this Agreement as Exhibit C or any specifications mutually agreed to as part of any accepted Deliverable as define by an applicable Statement of Work.
 - c. Vendor will (a) perform the services in a professional, workmanlike manner, consistent with industry standards; (b) perform the services in a manner that complies with all applicable laws and regulations; (c) staff the project with a sufficient number of resources with skills and experience sufficient to perform services in accordance with the requirements of this Agreement; and (d) comply with applicable functional requirements in Exhibit A and Exhibit C or other plans or specifications approved by Vendor and the City in any approved deliverables or work products. In the event Vendor provides services that do not conform to this warranty, Vendor will timely re-perform such services at no additional cost to City.
28. Vendor warrants that (a) it will perform the Services in a manner that complies with all applicable laws and regulations, and (b) when City requirements are included in an SOW, the City shall provide all Services and Work Products to comply with identified functional requirements or other expectations listed in the applicable SOW.
29. In the event that any Service or Work Product fails to conform to the foregoing warranty in any material respect, Vendor will, at its expense, promptly use commercially reasonable efforts to cure or correct such failure.

Indemnification

30. By Licensee. Licensee will defend, indemnify and hold Vendor, Partner, Selectron and their officers, directors, employees and agents harmless from and against any liabilities, losses, damages and expenses, including court costs and reasonable attorneys’ fees (collectively, “**Losses**”), arising out of or in connection with any third-party claims; (i) arising from Licensee’s (or any User’s or Authorized User’s) use of the Services or Selectron Services in violation of this Agreement or applicable law; or (ii) alleging that Customer Data or the use thereof in accordance with this Agreement infringes or misappropriates a party’s intellectual property or other rights therein.
31. By Vendor, Partner, and Selectron. To the fullest extent permitted by law, Vendor will defend, indemnity and hold Licensee and its officers, directors, employees and agents harmless from and against any Losses arising out of a third-party claim (i) that the Software or Services infringe any United States patent or any copyright or misappropriate of any trade secret or (ii) arising from Vendor, Partner, or Selectron’s gross negligence or willful misconduct in performance of the Services. The foregoing obligations do not apply (i) with respect to portions or components of the Software or Services not supplied by Vendor, Partner, or Selectron, made in whole or in part in accordance with Licensee’s direction or specifications, modified after delivery by Licensee, or combined with other processes or materials where the alleged infringement relates to such supply, use, modification or combination; (ii) where Licensee continues allegedly infringing activity after being notified

thereof or after being informed of modifications that would have avoided the alleged infringement; or (iii) with respect to any use of the Software or Services in violation of this Agreement or applicable law.

- a. Notwithstanding the foregoing, in the event a particular design, process or product of a particular manufacturer is specified by City in writing, City shall defend, indemnify and hold Vendor, Partner, or Selectron harmless from any suits or claims of patent or copyright infringement arising out of Vendor, Partner, or Selectron 's use of those specified designs, processes or products. City does not, however, consent to or authorize the unauthorized, unlicensed or otherwise impermissible use of any patented or copyrighted designs, processes, or products by Vendor, Partner, or Selectron. Therefore, if Vendor, Partner, or Selectron has any reason to believe the use of a specified design, process or product would result in the infringement of any patents or copyrights, Vendor, Partner, or Selectron shall promptly provide written notice thereof to City.
- b. If Vendor, Partner, or Selectron is subject to a claim of patent or copyright infringement, then Vendor, Partner, or Selectron hereby agrees to provide City prompt notice of any such claim, and to permit City to assume and control the defense of such action, with counsel selected by City. Vendor, Partner, or Selectron shall not enter into any settlement of any such claim without City's prior written consent, which shall not be unreasonably withheld.

This indemnification obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.

32. Infringement Claims. If, due to a claim of infringement, the Software or Partner Subscription Services are held by a court of competent jurisdiction to be or are reasonably believed by Vendor, Partner, or Selectron to be infringing, Vendor, Partner, or Selectron may, at its option and expense (a) replace or modify the Software or Services to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Licensee a license to continue using the Software or Services, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and provide Licensee a refund for any prepaid, unused fees for the Services. The foregoing is Licensee's sole and exclusive remedy with respect to infringement claims.
33. Procedure. To be entitled to the benefit of a Party's ("**Indemnitor**") obligations under this Section, (i) the other Party ("**Indemnitee**") must advise the Indemnitor in writing of the existence of the claim promptly upon learning of its assertion; (ii) the Indemnitee must cooperate with the Indemnitor in all reasonable aspects connected with the defense of the claim; and (iii) the Indemnitor must have the sole right to control the defense and/or settlement of all such claims, including selection of counsel. Notwithstanding the foregoing, if any settlement admits wrongdoing by Indemnitee, Indemnitee will have the right to pre-approve any such settlement in writing, such approval not to be unreasonably withheld. Further, Indemnitee will have the right to participate in the defense of any claim with separate counsel of its own choice at its own expense.

Professional Services

34. Under this Agreement the Vendor shall perform the services identified Exhibit A.
35. Vendor shall, at its own cost and expense, furnish all facilities and equipment necessary for Vendor to complete the project or perform the services required herein, unless otherwise provided in Exhibit A.
36. City shall have the ability to interview Vendor staff filling roles defined by the SOW as "key personnel." Once assigned, Vendor may not remove, except for reasons outside the control of Vendor, personnel listed in an applicable SOW as "key personnel" without the approval of the City. Both parties acknowledge that removal of "key personnel" would have detrimental impacts on the project. In the event that "key personnel" are removed for any reason, Vendor and City shall mutually agree upon process and period for onboarding new staff, which shall be provided at no cost to the City.
37. During the term of this Agreement, and for a period of one (1) year following the expiration or termination of this Agreement, City and Vendor agree, not take action to disrupt or interfere, or attempt to disrupt or attempt to interfere, with the business of the other party by directly or indirectly soliciting, recruiting, or attempting to recruit any of the other party's employees, contactors or consultants or otherwise inducing or attempting to induce the termination of any employee, contractor, or consultant of the other party. For the purposes of this provision, "take action" shall not be deemed to include broad based recruiting efforts, including, but not limited to, help wanted advertising and City posting of open positions.
38. Vendor will abide by any applicable City security or human resource policies in effect and communicated to Vendor when accessing City systems or facilities.
39. Vendor will comply with any instructions, restrictions, or conditions related to use of any City systems.
40. Professional Ability. Vendor acknowledges, represents and warrants that Vendor and its employees are skilled and able to competently provide the services hereunder, and possess all professional licenses, certifications, and approvals necessary to engage in their occupations. City has relied upon the professional ability and training of Vendor as a material inducement to enter into this Agreement. Vendor shall perform in accordance with generally accepted professional practices and standards of Vendor's profession. In the event that City, in its sole discretion, desires the removal of any person employed or retained by Vendor to perform services hereunder, such person shall be removed immediately upon receiving notice from City.

Intuitive Municipal Solutions

- 41. Implementation Software is limited to the functional areas identified in Exhibit A.
- 42. Implementation of the Software is limited to the features and/or applications identified in Exhibit A.

Support Services

- 43. The Vendor shall support and maintain computer software to the City including the following. Services shall be provided consistent with the service level agreements identified in Exhibit A.
 - a. The City will be entitled to hosting services in Microsoft Azure at no additional cost. The Vendor will provide both a Production and Test environment that include necessary software licenses and capacity to accommodate the City's needs under this Agreement.
 - b. The City will be entitled to maintenance, upgrades, and backups of the hosted environments.
 - c. The City will be entitled to unlimited technical support during Vendor business hours (7:30 AM to 5:30 PM Pacific, Monday through Friday). at no additional cost. A contact number will be provided for critical issues outside of business hours. Support is provided via email, or phone. Phone support includes screen sharing when required.
 - d. The City will be entitled to regular software updates.
 - e. The City will be notified via email when an update becomes available. If the City elects not to upgrade they will not be able to take advantage of features and fixes added in that update.
 - f. The City will be entitled to a reasonable number of refreshes upon request per year of their test environment from production.
 - g. The City is also entitled to licensing costs for major upgrades that require services at no additional cost. In these cases, the City will only incur the cost of the services required. An example of a major upgrade would be a change in the development platform or re-write of the program based on newly available programming tools. Such upgrades would be very infrequent but could require implementation services and training to successfully migrate.
- 44. The annual fee for Hosting, Technical Support, and Maintenance is identified in Exhibit A, due within 30 days of agreement execution.
- 45. The annual fee for Hosting, Technical Support, and Maintenance in subsequent years will receive a 5% increase from the preceding year, and is due within 30 days of the Acceptance date anniversary:
- 46. City data will be used only to provide City with the defined services and for purposes compatible with providing those services. Vendor will not use City data or derived information for any commercial purposes. City retains all rights, titles, and interests in and to their data, and Vendor acquires no rights to City data other than the rights granted to provide the service. Vendor will not disclose City data except as directed by the City or as required by law.
- 47. City will have the ability to request access to City database backup and copy of City files at any time during the term of service upon request. In the event of expiration or termination of service, Vendor will make City data (database backup and attached files) available to download for a period of 90 days after expiration or termination of service. At the end of the 90-day retention period, Vendor will delete City data. City is solely responsible for the retention or extraction of software provided by City. Vendor has no liability for the deletion of data as described in this section.

Third-Party Software/Services

- 48. Under this Agreement Vendor shall ensure the performance of the Selectron services identified in Exhibit A under the coordination and oversight of Vendor.
- 49. Under this Agreement Vendor shall ensure the performance of the PermitRocket services identified in Exhibit A under the coordination and oversight of Vendor.
- 50. Under this Agreement CORE Business Technologies shall perform the services identified in Exhibit CA ("Payment Processing Agreement Application and Fee Schedule") under coordination and oversight of Vendor.

Third-Party Software/Services Additional Terms

- 51. Additional terms relative to the agreement with CORE Business Technologies are detailed in Exhibit CA.

Implementation Cost

- 52. The cost for implementation will be as described in Exhibit A.

Payment Schedule

- 53. The payment schedule will be as described in Exhibit A.

Acceptance

54. All terms, conditions and obligations of this Agreement will be deemed to be accepted by the Licensee ("Acceptance") upon the execution and delivery hereof by each of the parties hereto of this agreement and an accepted purchase order, but in no event later than January 31, 2024.

Term and Termination

55. Term. This Agreement is effective as of the Effective Date and will continue in effect until terminated in accordance with this Section (the "**Term**"). In respect of the Vendor Hosting, Partner Subscription Services, and Selectron Services, Exhibit A will indicate periods for which City is permitted to use the Subscription Services and Selectron Services (each, a "**Subscription Period**"). Unless otherwise set out in the Order Form, at the end of City's first Subscription Period and each subsequent Subscription Period thereafter, City's commitment to purchase Subscription Services will automatically renew (each, a "**Renewal**"). A Renewal may be cancelled by one Party notifying the other Party of its intent to not renew no less than sixty (60) days prior to the Renewal. In respect of any Professional Services, Vendor will commence work on the date listed in the applicable Order Form or Statement of Work and continue performance for the period designated therein.
56. Removed.
57. Notwithstanding any provision herein to the contrary, City may, in its sole and absolute discretion and without cause, terminate this Agreement at any time, immediately upon written notice to Vendor. In the event of termination Vendor shall be compensated for:
- All authorized work satisfactorily performed prior to the effective date of termination.
 - Any necessary materials or services of others ordered by Vendor for this Agreement, prior to receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, provided that Vendor is not able to cancel such orders. Compensation for Vendor in such event shall be determined by City in accordance with the percentage of the project or services completed by Vendor; and all of Vendor's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to City. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.
58. Termination in the Event of Default. Should Vendor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, City may immediately terminate this Agreement by giving written notice of such termination, stating the reasons for such termination. Vendor shall be compensated as provided in this section; provided, however, there shall be deducted from such amount the amount of damage, including attorney's fees, expert witness fees and costs, if any, sustained by City by virtue of Vendor's breach of this Agreement. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.
59. Termination. In addition to any other remedies it may have, (a) either Party may terminate this Agreement (i) with thirty (30) days' notice if the other Party materially breaches any of the terms or conditions of this Agreement and fails to cure the breach during the notice period; (ii) with thirty (30) days' notice if the other Party becomes insolvent or (iii) by issuing a notice not to renew (as set out in above) where no other Order Forms or Statements of Work are then in effect; and (b) Vendor may terminate this Agreement (i) immediately if Licensee violates the Subscription Services section (Prohibited Use), or (ii) with ten (10) days' notice if Licensee fails to pay Fees when due and does not rectify non-payment in the notice period.
60. Termination for non-appropriation. In the event the Licensee does not appropriate funding for this agreement, Licensee shall have the option to terminate the Agreement with thirty (30) days notice to Vendor.
61. Effect of Termination; Survival. In the event of any termination of this Agreement under this Section, (i) Vendor's or Partner's obligations to perform and Licensee's rights to use the Services will immediately cease; and (ii) all outstanding Fees, including fees for Hosting and Partner Subscription Services that are reconciled for the period up to the effective date of termination and fees for Professional Services rendered prior to termination, will become immediately due and payable. If Vendor hosts database portions of the Software, Vendor will make Customer Data available to Licensee for electronic retrieval via a database export for a period of thirty (30) days following Agreement termination; thereafter Vendor may, but is not obligated to, delete stored Customer Data. Any termination of this Agreement prior to Vendor's completion of Professional Services may be subject to additional terms and conditions as set out in the applicable Order Form or Statement of Work if designated by Vendor. All sections of this Agreement which should, by their nature, remain applicable after termination will survive, including accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

Fees and Payment Policy

62. Vendor shall invoice the City for any software, support, or professional service fees based on payment terms identified in Exhibit A.
Unless otherwise identified in a statement of work, professional service and support fees include any expenses incurred by Vendor in performing the services.
63. Provided Vendor is not in default under this Agreement, Vendor shall be compensated as provided as per the payment terms listed in Exhibit A. Any and all payments made pursuant to this Agreement shall be subject to the Agreement Payment Limit. The Payment Limit includes expenses (phones, photocopying, meals and travel etc.). Invoices shall be adequately detailed, based on accurate records, and be in a form reasonably satisfactory to the City. Vendor may be required to provide back-up material upon request.
- Vendor shall submit timely invoices to the following address:
- a) Attention: City of Richmond, Finance Department - Accounts Payable
P.O. Box 4046
Richmond, CA 94804-0046
Email: accounts_payable@ci.richmond.ca.us
64. All invoices that are submitted by Vendor shall be subject to the approval of the City's Project Manager, before payments shall be authorized.
65. The City will pay invoice(s) within 30 days after completion of services to the City's satisfaction. The City shall not pay late fees or interest.
66. All insurance coverage required by this Agreement shall be provided by the Vendor before this Agreement shall be executed by the City. The insurance coverage must be kept current during the term of this Agreement for payments to continue to be authorized.

General Terms and Conditions

67. Force Majeure. Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such an obligation is prevented or delayed by reason of acts of God, strikes, boycotts, lock-outs, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations enacted after the date of this Agreement, riots, civil unrest, acts of terrorism, insurrection, war, declaration of a state or national emergency or other reasons of a like nature not within the reasonable control of such party.
68. If Licensee provides any feedback, comments, suggestions, ideas, requests or recommendations for modifications or improvements to Vendor's or Partner's products, services, websites, documentation or similar materials ("**Feedback**"), Licensee hereby assigns and agrees to assign all right, title and interest in any such Feedback to Vendor or Partner to be used for any purpose.
69. If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.
70. The Parties to this Agreement submit to the jurisdiction of the courts of the State of California for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement. This Agreement will be enforced or construed according to the laws of the State of California.
71. This Agreement can only be modified in writing signed by both the Vendor and the City.
72. This Agreement does not create or imply any relationship in agency or partnership between the Vendor and the City.
73. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
74. This Agreement contains the entire agreement between the parties. All understandings have been included in this Agreement. Representations which may have been made by any party to this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind.
75. All notices, demands, statements, or communications provided for by this Agreement shall be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notice shall be deemed delivered:
- a. upon personal delivery
 - b. as of the fifth business day after mailing by United States certified mail, postage prepaid, addressed to the proper party; or

- c. as of 12:00 p.m. on the second business day immediately after the day it is deposited with and accepted by Federal Express, or a similar overnight courier service, addressed to the proper party and marked for next business day morning delivery.

For the purposes of this Agreement, a "business day" means any day Monday through Friday that is not a holiday recognized by the federal government or the State of California.

Notices shall be sent to:

Intuitive Municipal Solutions, LLC

541 N Mt Juliet Rd, Suite 2201B

Mount Juliet, TN 37122

City of Richmond, California

450 Civic Center Plaza

Richmond, CA 94804

76. Independent Vendor. Vendor acknowledges, represents and warrants that Vendor is not a regular or temporary employee, joint venturer or partner of the City, but rather an independent Vendor. This Agreement shall not be construed to create an agency, servant, employee, partnership, or joint venture relationship. As an independent Vendor, Vendor shall have no authority to bind City to any obligation or to act as City's agent except as expressly provided herein. Due to the independent Vendor relationship created by this Agreement, City shall not withhold state or federal income taxes, the reporting of which shall be Vendor's sole responsibility.
77. Brokers. Vendor acknowledges, represents and warrants that Vendor has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
78. Inspection. Vendor's performance, place of business and records pertaining to this Agreement are subject to monitoring, inspection, review and audit by authorized representatives of the City of Richmond, the State of California, and the United States Government. If the project or services set forth in Exhibit A shall be performed on City or other public property, City shall have the right to inspect such work without notice. If such project or services shall not be performed on City or other public property, City shall have the right to inspect such work upon reasonable notice.
79. Records. Vendor shall keep and make available for inspection and copying by authorized representatives of the City, the State of California, and the United States Government, the Vendor's regular business records and such additional records pertaining to this Agreement as may be required by the City.
80. Vendor shall retain all documents pertaining to this Agreement for a period of five (5) years after this Agreement's termination (or for any further period that is required by law) and until all Federal or State audits are complete and exceptions resolved for this Agreement's funding period. Upon request, Vendor shall make these records available to authorized representatives of the City of Richmond, the State of California, and the United States Government.
81. Vendor shall keep full and detailed accounts, maintain records, and exercise such controls as may be necessary for proper financial management under this Agreement. The Vendor's accounting and control systems shall be satisfactory to City. Vendor's accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this Agreement, including properly executed payrolls, time records, utility bills, invoices, and vouchers. The City shall be afforded prompt access to Vendor's records, books, and Vendor shall preserve such project records for a period of at least five (5) years after the termination of this Agreement, or for such longer period as may be required by law.
82. Vendor shall permit City and its authorized representatives and accountants to inspect, examine and copy Vendor's books, records, accounts, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the project or services set forth in Exhibit A, and any and all data relevant to this Agreement at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Vendor pursuant to this Agreement and shall provide such assistance as may be reasonably required in the course of such inspection. Vendor shall also allow City access to the record keeping and accounting personnel of Vendor.
83. City further reserves the right to examine and re-examine said books, records, accounts, and data during the five (5) year period following the termination of this Agreement; and Vendor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for five (5) years after the termination of this Agreement.
84. Pursuant to California Government Code § 10527, the parties to this Agreement shall be subject to the examination and audit of representatives of the Auditor General of the State of California for a period of three (3) years after final payment under this Agreement. The examination and audit shall be confined to those matters connected with the performance of this Agreement including, but not limited to, the cost of administering this Agreement.
85. Changes and Extra Work. All changes and/or extra work under this Agreement shall be performed and paid for in accordance with the following:

- a) Only the City Council or the City Manager may authorize extra and/or changed work. Vendor expressly recognizes that other City personnel are without authorization to either order extra and/or change work or waive Agreement requirements. Failure of Vendor to secure the authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in Agreement price due to such unauthorized work and Vendor thereafter shall be entitled to no compensation whatsoever for performance of such extra and/or changed work.
 - b) If Vendor is of the opinion that any work which Vendor has been directed to perform is beyond the scope of this Agreement and constitutes extra work, Vendor shall promptly notify City of the fact. The City shall make a determination as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that City determines that such work does constitute extra work, City shall provide extra compensation to Vendor on a fair and equitable basis. A change order or Agreement Amendment providing for such compensation for extra work shall be negotiated between City and Vendor and executed by Vendor and the appropriate City official.
 - c) In the event City determines that such work does not constitute extra work, Vendor shall not be paid extra compensation above that provided herein and if such determination is made by City staff, said determination may be appealed to the City Council; provided, however, a written appeal must be submitted to the City Manager within five (5) days after the staff's determination is sent to Vendor. Said written appeal shall include a description of each and every ground upon which Vendor challenges the staff's determination.
86. Business License. Vendor shall obtain a Richmond Business License before performing any services required under this Agreement. The failure to so obtain such license shall be a material breach of this Agreement and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual or extraordinary circumstances without necessitating any modification of this Agreement to reflect such waiver.
87. Conflict of Interest. Vendor acknowledges, represents, and warrants that Vendor shall avoid all conflicts of interest (as defined under any federal, state, or local statute, rule or regulation, or at common law) with respect to this Agreement. Vendor further acknowledges, represents, and warrants that no City official or employee has any economic interest, as defined in Title 2, California Code of Regulations §§ 18703.1 through 18703.5, with Vendor that would invalidate this Agreement. Vendor acknowledges that in the event that Vendor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Agreement, all consideration received under this Agreement shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Agreement for one (1) year.
88. Insurance. Insurance requirements are set forth in the City RFP 2023-03. Vendor shall abide by the insurance requirements set forth therein.
89. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Agreement.
90. Compliance with Laws. Vendor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Agreement, including without limitation environmental laws, employment discrimination laws and prevailing wage laws. Compliance under this provision includes compliance with all provisions of the Richmond Municipal Code ("Municipal Code"), including Chapters 2.50, 2.52, 2.56, and 2.60, if applicable.
91. Vendor agrees to comply with the provisions of the Richmond Sanctuary City Contracting Ordinance (SCCO, Ordinance No. 12-18). Contractor must submit the Sanctuary City Compliance Statement included herein as Exhibit F along with the bid or proposal prior to execution of the contract.
92. Vendor acknowledges that under § 2.60.070 of the Municipal Code ("Living Wage Ordinance"), Vendor shall promptly provide to City documents and information verifying its compliance with the Living Wage Ordinance. Also as prescribed in § 2.60.070, Vendor shall notify each of its affected employees with regards to the wages that are required to be paid pursuant to the Living Wage Ordinance.
93. Vendor shall comply with § 2.28.030 of the Municipal Code, obligating every Vendor or subcontractor under an Agreement or subcontract with the City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin or ancestry of any employee, any applicant for employment or any potential subcontractor.
94. Vendor acknowledges that the City's Drug Free Workplace Policy, Violence in the Workplace Policy and the Policy Against Workplace Harassment, are available on the City's website at <http://www.ci.richmond.ca.us/workplacepolicies>. Vendor agrees to abide by the terms and conditions of said policies.
95. Limitations upon Subcontracting and Assignment. This Agreement binds the heirs, successors, assigns and representatives of Vendor. The Vendor shall not enter into subcontracts for any work contemplated under this Agreement, except where expressly indicated, and shall not assign this Agreement, nor any portion hereof or monies due or to become due, without the prior written consent of the City Council or its designee.

96. With the exception of those third parties included in this Agreement, Vendor shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in City's sole and absolute discretion. In the event that City, in writing, approves any assignment or subletting of this Agreement or the retention of subcontractors by Vendor, Vendor shall provide to City upon request copies of each and every subcontract Agreement prior to the execution thereof by Vendor and subcontractor. Any assignment by Vendor of any or all of its rights under this Agreement without first obtaining City's prior written consent shall be a default under this Agreement.
97. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Vendor (if applicable), or of the interest of any general partner or joint venturer or syndicate member if Vendor is a partnership or joint-venture or syndicate, which shall result in a change of control of Vendor, shall be deemed an assignment. For this purpose, control shall mean fifty percent or more of the voting power or twenty-five percent or more of the assets of the corporation, partnership or joint-venture.
98. Integration. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Vendor and City may be used to assist in the interpretation of the Exhibits to this Agreement.
99. Modifications and Amendments. This Agreement may be modified or amended only by a change order or Agreement Amendment executed by both parties and approved as to form by the City Attorney.
100. Non-exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Vendor hereunder shall be non-exclusive, and City reserves the right to employ other Vendors in connection with the project.
101. Confidentiality. Vendor agrees to comply with, and to require its employees, agents and partners to comply with, all applicable State or Federal statutes or regulations respecting confidentially, including but not limited to, the identity of persons served under this Agreement, their records, or services provided them, and assures that:
 - a. All applications and records concerning any individual made or kept by Vendor or any public officer or agency in connection with the administration of or relating to services provided under this Agreement will be confidential, and will not be open to examination for any purposes not directly connected with the administration of such service.
 - b. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service.
102. Claims. Any claim by Vendor against City hereunder shall be subject to Government Code §§ 800 et seq. The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six months after accrual of the cause of action.
103. Interpretation. This Agreement shall be interpreted as if drafted by both parties.
104. Severability. In the event that any of the provisions or portions or applications thereof of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, City and Vendor shall negotiate an equitable adjustment in the provisions of the Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions or portions or applications thereof, shall not be affected thereby.
105. Authority. City warrants and represents that the signatory hereto (the Mayor of the City of Richmond or the City Manager) is duly authorized to enter into and execute this Agreement on behalf of City. The party signing on behalf of Vendor warrants and represents that he or she is duly authorized to enter into and execute this Agreement on behalf of Vendor, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Agreement on behalf of Vendor.
106. Waiver. The waiver by City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. Inspections or approvals, or statements by any officer, agent or employee of the City relating to the Vendor's performance, or payments therefore, or any combination of these acts, shall not relieve the Vendor's obligation to fulfill this Agreement as prescribed; nor shall the City be thereby stopped from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Agreement.
107. Precedence. Any inconsistencies in this Agreement shall be resolved in accordance with the following descending order of precedence:
 - a. This Agreement
 - b. Exhibit A – Statement of Work and Payment Schedule
 - c. Vendor response to City RFP 2023-03
 - d. City RFP 2023-03

Signatures

The individuals signing below represent that they have the authority to sign this Agreement.

City of Richmond, CA

Printed Name

Title

Signature

Date

Approved as to form:

By _____
City Attorney

Intuitive Municipal Solutions, LLC

Vance Bradshaw, President

Signature

Date

Exhibits

All Exhibits hereto are made a part of this Agreement and incorporated herein.

Exhibit A – Statement of Work and Payment Schedule

Exhibit B – Selectron End User License Agreement

Exhibit C – Functional Requirements

Exhibit CA – Payment Processing Agreement Application and Fee Schedule

Exhibit D -- Vendor response to City RFP 2023-03

Exhibit E -- City RFP 2023-03

Exhibit F – Sanctuary City Compliance Statement