

*CobbleStone Systems* 

**CobbleStone Systems  
Contract Insight Contract Management Software**

# Contract **Insight**



**MANAGING CONTRACTS JUST GOT EASIER**



June 3, 2016– Confidential Pricing Offer Letter

City of Tempe

Thank you for contacting CobbleStone Systems Corp. and inviting us to present Contract Insight™ Enterprise Contract Management Software to you and your team. It is a pleasure to present the attached quotation for Contract Insight that includes; Contract Tracking, e-mail alerts, calendaring, authoring, workflow tasks, security, document management, scanning, searching and reporting. Attached is the full agreement with pricing as well.

The attached proposal and license is for the client installed options of Contract Insight™ , contract management software. Full pricing is in Exhibit A towards the back. ***Please let me know if we should price other options if your organization's requirements change.***

CobbleStone has been providing contract management solutions since 1995 and has years of client feedback and industry knowledge. CobbleStone is trusted by over 580 clients and thousands of users.

Contract Insight™ is a great addition to an organization's needs and offers: contract tracking, user-defined fields, custom reports, e-mail alerts, tasks and checklists, security, document scanning and management, workflow, financials, searching, full text indexing, web platform, web calendaring, and more. We feel that our expertise and product may be a good match for your requirements and look forward to present our system to you and your team. Please contact me if there are any questions or if you would like to proceed. To proceed, please sign and fax this agreement to my attention. We look forward to working with you and your team.

Sincerely,

Brittany McShane

CobbleStone Systems Corp.—Leaders in Contract Software!

856-504-6802 tel. | 609-482-8023 fax. | [bmcshane@cobblestonesystems.com](mailto:bmcshane@cobblestonesystems.com)

**To proceed:**

1. Complete signature block information located at the end of this document
2. Return the signed agreement to your sales representative.
3. Upon our acceptance of your executed copy of the contract, Company will countersign this document and fax it back to you and schedule the pre-installation conference call and implement sessions if required.

## Software License Agreement

**THIS LICENSE AGREEMENT** (this “Agreement”) is made and entered into as of this 23 day of June, 2016, (the “Effective Date”) by and between, **CobbleStone Systems Corp.**, a New Jersey corporation, with principal offices at 918 South White Horse Pike, Somerdale, NJ 08083 United States of America (“Company”, “Contractor”), and **City of Tempe** (“Licensee” / “Customer” / “City”) (each a “Party” and collectively the “Parties”).

## BACKGROUND

**Whereas**, CobbleStone Systems Corp provides commercial off-the-shelf (out of the box) contract management software entitled Contract Insight and Licensee seeks to license use of Contract Insight; and Company has experience in Contract Insight software and is willing to provide licensing and related services to Licensee based on this background; and this Agreement is to grant Licensee and those of its employees and consultants whose offices are located at Licensee’s facilities (“End-Users”) to utilize the compiled code form of the Company product described on Exhibit A hereto (the “Licensed-Software”). Licensee may only use the Licensed-Software for its business purposes and may not try to resell or redistribute the Licensed-Software outside of Licensee’s corporation.

### 1. License

**1.1 License Grant.** Subject to the terms and conditions set forth in this Agreement, Company hereby grants to Licensee a nonexclusive, nontransferable, concurrent end-user, perpetual license during the term of this Agreement to install the number of copies and to utilize the number of Licenses of the Licensed-Software ordered under Section 2.1. Licensee may only distribute the Licensed-Software electronically over its network. End-Users may remotely access the network.

**1.1.1 License.** This software program (the “Licensed-Software”) (“Program”) and the accompanying documentation (the “Documentation”) are licensed, not sold, to Licensee. The term “Licensed-Software” shall also include any Updates of the Licensed-Software licensed to Licensee by Company. Subject to the terms of this Agreement, Licensee has a non-exclusive and nontransferable right to use the Licensed-Software and Documentation. Licensee may use this Licensed-Software as one production instance located in the United States and its territories or any other country to which this Licensed-Software is legally exported or otherwise permitted herein. This Licensed-Software is “in use” and considered “one copy” on a computer when it is loaded into the temporary memory (i.e. RAM) or installed into the permanent memory (e.g. hard drive, CD-ROM or other storage device) of one computer or if Licensee permanently installs the Licensed-Software on the hard disk or other storage device of a computer or a network server or accessed by another computer. Licensee agrees to use reasonable efforts to prevent and protect the contents of the Licensed-Software and Documentation from unauthorized disclosure or use. Company reserves all rights not expressly granted to Licensee. Licensee shall not add more named end-users on the Licensed-Software than the

number of named Licenses for which it has paid a License Fee as defined in Section 2.1. Licensee shall not exceed the scope of the license granted in **Sections 1.1 and 1.2**. Licensee shall not export the Licensed-Software or Documentation, or any copies thereof, to any End-User in violation of applicable laws and regulations. This Agreement does not and shall not be construed as transferring ownership rights in the Licensed-Software, Documentation, any modifications thereto or any related materials to Licensee or to any third Party. Company and its licensors own and shall retain all right, title and interest in such materials except as specifically granted herein. Licensee shall retain all markings on Licensed-Software and Documentation, including but not limited to, Company name, copyright and trademark notices and as otherwise necessary to protect Company intellectual property rights.

- 1.1.2 Limitations of Use.** Licensee may not rent, lease, sell or otherwise transfer or distribute copies of the Licensed-Software, Licensed-Software dependencies, or documentation to others. Licensee may not reverse assemble, reverse compile or otherwise attempt to create or modify the source code, or Licensed-Software dependencies.
- 1.1.3 Backup and Transfer.** Licensee may make copies of the Licensed-Software for backup and archival, including disaster recovery and testing purposes. Licensee may backup Data where necessary to ensure the safety and integrity of Licensed-Software and Data. This includes tape drive and off-site backups. Licensee may physically transfer the Licensed-Software from one network server to another, and Licensee may hold a copy of Licensed-Software on another network server for reasons of testing and development, provided that Licensee does not retain any additional copies of the Licensed-Software other than purchased, (Exhibit A) which are being utilized (1.1.1) by Licensed End Users.

- 1.2 Definitions.** For the purposes of this agreement, the following shall apply:
  - (i) Update.** The term “Update” means (i) any engineering patch intended to fix bugs and errors in the Licensed-Software and modules purchased in Exhibit A and (ii) any new version of the Licensed-Software that replaces the existing functionality of Licensed-Software and modules purchased in Exhibit A. Updates do not include new modules or a new product by virtue of different features or functionality.
  - (ii) Maintenance/Support.** The term “Maintenance” or “Maintenance and Support” means all support and Updates provided during the Maintenance and Support Period.
  - (iii) Maintenance and Support Period.** The term “Maintenance Period” or “Maintenance and Support Period” means any one-year period commencing on purchase of the Licensed-Software or any anniversary thereof. The first Maintenance Period and any Maintenance Period for which Licensee has paid the Maintenance and Support fee for each copy



of Licensed-Software ordered on or before the beginning of such period shall be a "Paid Maintenance Period".

- (iv) **Named End Users.** For purchases of a named user license, a "Named End User" ("Named User") is defined as the total number of users activated in their user profile regardless if they are actively logged in.
- (v) **End Users.** For purchases of a concurrent end-user license an "End User" ("Concurrent End-User") is defined as the total number of users accessing the Licensed-Software within a specified Server Session time-out period and may be.
- (vi) **Server Session.** A Server Session is the time period set on the Licensed-Software server that defines the length in time a user can remain in the system during a user active and in-active periods.
- (vii) **Data.** Any content, including the selection, arrangement and organization of such information, entered or uploaded to the Licensed-Software by authorized End User.

**1.3 Documentation.** Licensee is hereby granted the right to reproduce the user manuals and other written materials created by Company to describe the functionality and use of the Licensed-Software (the "Documentation") and to distribute copies of the Documentation in soft form or in print to End-Users.

**1.4 Licensee Responsibility.** Licensee expressly agrees to be fully responsible for compliance by the End-Users with the applicable terms of this Agreement.

**1.5 Modification.** Licensee shall not have the right to modify the Licensed-Software or merge it with other software it owns or licenses ("Modification") without the express written consent of CobbleStone.

## 2. PRICING, PAYMENT AND DELIVERY TERMS

### 2.1 License Fees.

**Initial Order.** Licensee agrees to pay Company for the sum of the items specified in Exhibit A (attached). Licensee agrees to pay for additional services and fees provided and specified in Exhibit A. Licensee shall deliver Company a purchase order referencing this Agreement on the Effective Date in the amount set forth in this Exhibit A.

- (a) **Subsequent Orders.** Licensee agrees to pay Company per user license by obtaining an additional user pricing from Company and submitting to Company a purchase order referencing this Agreement and price quoted to Licensee by Company.
- (b) **License Fees.** All fees for Licensed-Software modules paid under this Section 2.1 shall be defined as "License Fees".



**2.2 Deliverables.** Upon receipt of a valid contract award notice or purchase order and the signed Agreement, Company and Licensee agrees to schedule delivery of Licensed-Software within thirty (30) days of receipt of purchase order and signed Agreement unless otherwise mutually agreed to. Additionally, Company will provide Documentation accessible electronically.

**2.3 Payment.** Company shall invoice Licensee promptly following the delivery of Licensed-Software. All payments hereunder (including services performed in Exhibit A) are due to Company within thirty (30) days of the date of receipt of a correct invoice. Interest charges of 1.50% per month (or the highest rate permissible under applicable law, if less) may accrue daily on all amounts not received when due.

All invoices submitted by Contractor for the City's review and approval shall be in itemized form to identify the specific item(s) and/or services being billed. Items/services must be identified by the name, model number, and/or serial number most applicable. Only invoices with items/services resulting from this Request for Proposal will be accepted for review and approval by the City.

**2.4 Records and Audits.** Licensee agrees to keep all proper records and books of account and all proper entries therein relating to its reproduction and/or distribution of the Licensed-Software and serial numbers under this Agreement, including, at a minimum, the following information as to each copy: the name of the individual, company and, department using or reproducing the Licensed-Software for distribution, the date of delivery of the copy to an End-User, and the name and location of the End-User. Company reserves the right to engage a third Party, independent auditor to conduct audits in order to verify that the terms of this Agreement are being met. On no less than 10 days' prior written notice and no more than once annually, Company may retain an independent certified public accountant, assisted by an independent computer expert reasonably acceptable to both parties, to audit the computers and applicable records of Licensee in order to verify that Licensee is in compliance with the terms of the License granted under this Agreement. At Company request, Licensee will provide a knowledgeable employee to assist in such audit; provided, however, that if such audit reveals that Licensee has underpaid amounts owing to Company hereunder, the underpaid amounts (the "Shortfall") shall be considered due and payable as of the day each of the payments should have been made under the Agreement and shall bear interest from such date at a rate of **1.5%** per month or the maximum allowed by law, whichever is less ("Interest").

**2.5 Delivery.** Licensed-Software and Documentation will be delivered electronically. Other services, if applicable will be mutually scheduled between the parties.

### **3. SUPPORT**

#### **3.1 Support**

**(a) Primary Support.** Licensee agrees to assume full responsibility for providing first line support to its End-Users and/or to third parties to whom Licensee has distributed the Licensed-Software.

- (b) **Secondary and Tertiary Support.** During each twelve-month period for which the Maintenance and Support fee (as defined in Section 3.3 below) has been paid (each such period being a “Maintenance Period”), Company shall provide technical support to the Contacts (defined in Exhibit B). : Company will provide support to Licensee related to the Contract Insight product features. This will consist of responding to support tickets as reasonably required to make Licensed-Software application perform as per Product documentation. The first Maintenance and Support period shall commence upon the purchase of the software and shall expire on the first anniversary of such period. Upon receipt of a support ticket and verification of the Contact’s account number, Company shall provide no later than the next business day response time for standard support to the Contacts between the hours of **9:00 a.m.** and **8:00 p.m. EST** time, Monday through Friday (excluding public holidays). Company will provide support only to the Contacts and no other individuals within the Company or third parties to whom Licensee has distributed the Licensed-Software. Company will only provide support for versions of the Licensed-Software modified and supplied by Company. Company will only provide support related to Company licensed products and functionality related to such licensed products. Support excludes training and formal consulting services unless otherwise purchased in Exhibit A. All other support shall be excluded from this agreement and provided on a fee basis.
- (c) **Contacts.** Upon payment of the Maintenance and Support fee as per Exhibit A, Licensee shall be entitled to support for the contacts defined in Exhibit B. Company hereby grants the Contacts the right to make unlimited email support calls and telephone support calls during operational hours as defined in Section 3.1 above. Licensee may change Contacts at any time by providing written notice to Company.

## 3.2 Maintenance and Updates.

- (a) **Delivery of Updates.** For any period in which Licensee has paid the Maintenance and Support fee (or the relevant pro-rata portion thereof in accordance with Section 3.3), Company shall deliver Licensee electronically each Update for each copy of Licensed-Software.
- (b) **License to Updates.** Company hereby grants Licensee a nonexclusive, nontransferable license during the term of this Agreement to use the Updates delivered under this Section 3.2 to provide primary technical support and training to End Users and to reproduce and distribute the Updates to End Users, provided that the License and annual support and Maintenance and Support fees for the Licensed-Software have been paid.
- (c) **Future Compatibility.**

Unless otherwise communicated in writing between Parties, Company warrants



that all updates, upgrades, and revisions to the Software furnished hereunder will be implemented in such a manner as to maintain backward compatibility with the previous version or release of the Software furnished hereunder, under the Agreement, or under any other agreement issued pursuant to this Agreement, so that such previous versions or releases shall continue to be operable with the Software as updated, upgraded, or revised, in materially the same manner and with materially equivalent performance.

Company shall provide to City any and all modifications to each Application that may be required to enable such application to operate in conjunction with any new generally available releases and versions of the operating system, database and other computer programs with which the installed version of the Applications is designed to operate as soon as Licensor has installed and operated said modification for its own internal use or for the use of any one of Licensor's other commercial customers, or as agreed to in writing between Parties.

- (d) **Response Time.** Company agrees to next day response time on all support and Maintenance calls and emails during Company's normal work week, Monday thru Friday, 9:00am to 8:00pm Eastern Standard Time, excluding U.S. Federal Holidays.

### 3.3 Maintenance and Support fees

**Payment.** The Maintenance and Support fee is defined in Exhibit A. Licensee is entitled to support and the right to receive and distribute Updates during the Paid Maintenance and Support Period as outlined in Exhibit A. If Licensee orders additional copies or users licenses of Licensed-Software during any Paid Maintenance and Support Period, Licensee shall submit a purchase order in the amount of a pro-rata portion of the Maintenance and Support fee for each additional copy of the Licensed-Software concurrently with the purchase order for such new copies of the Licensed-Software. The pro-rata portion of the Maintenance and Support fee shall be calculated by multiplying the full Maintenance and Support fee for each new copy of Licensed-Software by a fraction equal to the remaining amount of time in the Paid Maintenance and Support Period.

**Rate Increases.** For the initial to fifth renewal term, pricing shall follow pricing in Exhibit A. Company reserves the right to increase annual Maintenance and Support fees with 90 days written notice via invoice prior to renewal. Increases shall not exceed six (6) percent per year after year six (6) agreement/contract maintenance and support renewal has ended.

## 4. REQUIRED MARKINGS AND TRADEMARKS

- 4.1 **Trademarks.** Company and its licensors shall have and retain sole ownership of Company logo, trade names and trademarks ("Trademarks"), Copyrights, including the goodwill pertaining thereto.



- 4.2 Required Markings.** Licensee shall not remove the Company name and logo, and any other Company trademarks and trade names reasonably requested by Company on each screen, disk or CD which contains the Licensed-Software or Documentation and each package label. Licensee shall not remove any proprietary rights notices from the Licensed-Software or Documentation.

## **5. WARRANTY**

- 5.1 Licensee Warranty.** Licensee hereby represents and warrants that (i) Licensee is duly organized and validly existing under the laws of the state of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions hereof; (ii) this Agreement is a legal and valid obligation binding upon Licensee and enforceable in accordance with its terms; and (iii) the execution, delivery and performance of this Agreement by Licensee does not conflict with any agreement, instrument or understanding, oral or written, to which Licensee is a Party or by which Licensee may be bound and does not violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.
- 5.2** Company represents and warrants that it has all the necessary right, title and interest in and to the Licensed-Software and related documentation to enter into this License Agreement. Company warrants that for a period of one (1) year months following delivery of the Licensed-Software by Company, the Licensed-Software shall perform in all material respects in accordance with its Documentation or other written representation made for it by Company and the Master Files shall be free from all known material defects in materials and workmanship. In the event of any such defects, Company agrees to, if technically possible, attempt correct the defect within 90 days or refund Licensee's payment in full for License Fees; provided, however, that Company is notified in writing of such defects within 30 calendar days of installation of the Licensed-Software by CobbleStone. Company warrants that the Licensed-Software will perform in accordance with the Company related documentation, specifications, descriptions, standards and objectives set forth in Exhibit E. Company warrants that the Licensed-Software is compatible with the hardware and software specifications listed in Exhibit D. Due to the complex nature of computer software and computer systems, Company does not warrant that the Licensed-Software is completely error-free, will operate without interruption, or is compatible with all equipment and software equipment and software configurations. Licensee expressly assumes all risk for such use.
- 5.3** COMPANY MAKES NO OTHER WARRANTIES, EXCEPT AS EXPRESSLY SET FORTH HEREIN, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE LICENSED SOFTWARE, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE.

## 6. INDEMNITY

Licensee agrees to indemnify, defend and hold Company, its Affiliates, their agents, customers, officers, directors and employees harmless from any and all costs, liabilities and damages (including reasonable attorney's fees) caused by or arising out of a claim brought or threatened against Company, its agents and employees for Licensee's mis-use of the Licensed-Software, Modifications, and Updates, as delivered by Company.

Company agrees to indemnify and hold the City harmless from and against all claims, liability, losses, damages and expenses, including, reasonable legal fees and costs, arising from or due to any actual or claimed trademark, patent or copyright infringement, intellectual property infringement, and any litigation based thereon, with respect to any work, services and/or materials contemplated in this Agreement. Company agrees to pay to defend any and all such actions brought against the City. Company's obligations hereunder shall survive acceptance by the City of all covenants herein as well as the term of the Agreement

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless the City, its agents, officer, officials, and employees from and against all claims, damages, losses and expenses (including but not limited to reasonable attorney's fees, court costs, and the costs of appellate proceedings), arising out of, or alleged to have resulted from the negligence or willful misconduct of the Company, its agents, employees, or any other person (not the City) for whose acts the Company may be legally liable in the performance of this Agreement. Company duty to hold harmless and indemnify the City, its agents, officers, officials and employees shall arise in connection with any claim for damage, loss or expenses that is attributable to bodily injury, sickness disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting from, caused by negligence or willful misconduct in the performance of this Agreement by Company or any employee of the Company or any other person (not the City) for whose acts may be legally liable. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph. This provision shall survive the term of this Agreement.

## 7. LIMITATION OF LIABILITY/INSURANCE

**7.1 Waiver of Consequential Damages.** IN NO EVENT WILL COMPANY LIABLE TO LICENSEE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION ANY LOSS OF INCOME, LOSS OF PROFITS OR LOSS OF DATA, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE GRANT OF THE LICENSE HEREUNDER.

**7.2 Limitation of Liability.** COMPANY TOTAL LIABILITY TO LICENSEE OR ANY THIRD PARTY HEREUNDER SHALL NOT EXCEED \$1,000,000.00.

## 7.3 Insurance:

- A. Insurance Required: Prior to commencing services under this Agreement, Company shall procure and maintain for the duration of the Agreement insurance against claims for injuries (including death) to persons and damages to property, which may arise from or in connection with the performance of the work hereunder by the Company, its agents, representatives, employees, subcontractors, or sub-subcontractors.

A Contract Award Notice or Purchase Order will not be issued to Company until receipt of all required insurance documents by the City Procurement Office with such documents meeting all requirements herein. In addition, before any Agreement renewal, all required insurance must be in force and on file with the City Procurement Office. Company must submit required insurance within ten (10) calendar days after request by the City Procurement Office or the award may be rescinded and another Vendor selected for award.

- B. Minimum Limits of Coverage: Without limiting any obligations or liabilities, the Company, at its sole expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance and with forms satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc., rating of not less than A-VII. Use of alternative insurers requires prior approval from the City.

- i. Minimum Limits of Insurance. Company shall maintain limits no less than:

a. Commercial General Liability

Commercial general liability insurance limit of not less than \$1,000,000 for each occurrence, with a \$2,000,000 general aggregate limit. The general aggregate limit shall apply separately to the services under this Agreement or the general aggregate shall be twice the required per occurrence limit. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual coverage, including but not limited to the liability assumed under the indemnification provisions of this Agreement which coverage will be at least as broad as insurance service officer policy form CG2010 11/85 edition or any replacement thereof.

In the event the general liability policy is written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the services as evidenced by annual certificates of insurance.

Such policy shall contain a "severability of interests" provision.

b. Worker's Compensation

The Company shall carry worker's compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Company employees engaged in the performance of services; and employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

In case services are subcontracted, the Company will require the subcontractor to provide worker's compensation and employer's liability to at least the same extent as provided by Company.

c. Automobile Liability

Commercial business automobile liability insurance with a combined single life or bodily injury and property damages of not less than \$1,000,000 per accident regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the Company services. Coverage will be at least as broad as coverage Code 1 "any auto". Insurance Service Office policy form CA0001 Y87 or any replacements thereof. Such coverage shall include coverage for loading and unloading hazards.

C. Additional Insured. The insurance coverage, except for workers compensation and professional liability coverage, required by this Agreement, shall name the City, its agents, representatives, directors, officials, employees, and officers, as additional insureds, and shall specify that insurance afforded the Company shall be primary insurance. This provision and the naming of the city as an additional insured shall in no way be construed as giving rise to responsibility or liability of the City for applicable deductible amounts under such policy(s).

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Agreement is satisfactorily completed and formally accepted by the City. Failure to do so shall constitute a material breach of this Agreement.

E. Primary Coverage. Company's insurance shall be primary insurance to the City, and any insurance or self insurance maintained by the City shall not contribute to it.

F. Claim Reporting. Any failure to comply with the claim reporting provisions of the policies or any breach of a policy warranty shall not affect coverage afforded under the policy to protect the City.

G. Waiver. The policies, including workers' compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents,



representatives, directors, officers, and employees for any claims arising out of the work or services of the Company.

- H. Deductible/Retention. The policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self insured retentions shall be disclosed by the company and shall not be applicable with respect to the coverage provided to the City under such policies. Company shall be solely responsible for deductible and/or self-insurance retention and the City, at its option, may require Company to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- I. Certificates of Insurance. Prior to commencing work or services under this Agreement, Company shall furnish the City with certificates of insurance, or formal endorsements as required by the Agreement, issued by the Company's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Agreement are in full force and effect. Such certificates shall identify this Contract/Agreement number or name and shall provide for not less than thirty (30) days advance notice of cancellation, termination, or material alteration. Such certificates shall be sent directly to: Contract Administrator, City of Tempe, P. O. Box 5002, Tempe, AZ 85280.
- J. Copies of Policies. The City reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the above policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Company of any deficiencies in such policies and endorsements, and such receipt shall not relieve Company from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Company's obligations under this Agreement.
- K. Professional Liability: The Company shall maintain professional liability insurance covering errors and omissions arising out of the services performed by the Company and/or any person(s) employed by it, with an unimpaired limit of not less than \$1,000,000 each claim and \$1,000,000 all claims. In the event the insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of services as evidenced by annual certificates of insurance provided by Company to the City. In addition, Company shall maintain property coverage on an all-risk, replacement cost basis in an amount established by the City with valuable papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of the Company used in the completion of this Agreement.

## 8. TERM AND TERMINATION

- 8.1 Term:** The License and related obligations of confidentiality and grant of use is perpetual. The term of the Agreement shall commence on the date of award and shall continue through completion and final acceptance by the City of the entire scope of the contract and one year (1) warranty period. The Agreement is non-transferable and cannot be assigned by the contractor without the approval of the City Procurement Office, and then only when all prices, discounts, terms and conditions of the original proposal documents and contract award remain unchanged.
- 8.2 Renewal:** The City reserves the right to unilaterally extend the period of any resultant Contract/Agreement for ninety (90) days beyond the stated term. In addition, the City at its option may renew for supplemental terms of up to a maximum of six (6) additional years. The period for any single renewal increment shall be determined by the City Procurement Office. Such increment shall not be for more than a period of two (2) year each, unless the City is eligible to obtain a significant cost and/or supply advantage by a longer Contract/Agreement renewal period.
- 8.3 Return Period.** There shall be a period of ninety (90) days commencing with the date of delivery of the Licensed-Software, to determine, in its sole discretion and to its sole satisfaction, whether the Licensed-Software is suitable for Licensee's intended use thereof. Company further warrants that, during this ninety (90) period, where Licensee is not satisfied with Licensed-Software, Licensee may notify the Company in writing, return Licensed-Software, and receive a full refund for License Fees excluding professional services provided such as training, data transfer, Installation, and service fees.
- 8.4 Termination for Cause/Events of Default and Termination:**
- A. The occurrence of any or more of the following events shall constitute a material breach of and default under the Agreement. The City reserves the right to terminate the whole or any part of the Agreement due to Company's failure to fully comply with any term or condition herein.
- i. Any failure by Company to furnish materials, services and/or goods that fail to conform to any requirement of this Agreement or provide personnel that do not meet Agreement requirements, which remains uncured for ninety (90) days or more;
  - ii. Any failure by Company to observe, perform or undertake any provision, covenant or condition of this Agreement to be observed or performed by Company herein, including but not limited to failing to submit any report required herein, which remains uncured for ninety (90) days or more;
  - iii. Any failure to make progress in the performance required pursuant to the Agreement and/or gives the City reason to believe that Company cannot or will not perform to the requirements of the Agreement, which remains uncured for ninety (90) days or more; or,
  - iv. Any failure of Company to reasonably commence work or services within the time specified herein, and to diligently undertake



Company's work to completion, which remains uncured for ninety (90) days or more.

- B. Upon and during the continuance of an event of default, the City, at its option and in addition to any other remedies available by law or in equity, without further notice or demand of any kind to Company, may do the following:
  - i. Terminate the Agreement;
  - ii. Pursue and/or reserve any and all rights for claims to damages for breach or default of the Agreement; and/or,
  - iii. recover any and all monies due, excluding License fees for delivered software from Company, including but not limited to, the detriment proximately caused by Company's failure to perform its obligations under the Agreement, or which in the ordinary course would likely result there from, including, any and all costs and expenses incurred by the City in: (a) maintaining, repairing, altering and/or preserving the premises (if any) of the Project; (b) reasonable attorneys' fees and costs in pursuing any remedies under the Agreement and/or arising there from. All remedies shall be between the parties shall be settled in a court of competent jurisdiction.
- C. The exercise of any remedies as set forth herein shall not preclude subsequent or concurrent exercise of further or additional remedies. In addition, the City shall be entitled to terminate this Agreement at any time, in its discretion. The City may terminate this Agreement for default, non-performance, breach or convenience, or pursuant to A.R.S. § 38-511, or abandon any portion of the project for which services have not been fully and/or properly performed by the Company.
- D. Termination shall be commenced by delivery of written notice to Company by the City personally or by certified mail, return receipt requested. Upon notice of termination, Company shall immediately stop all work, services and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease work pursuant to the Agreement. Company shall not be paid for work or services performed or costs incurred after receipt of notice of termination, nor for any costs incurred that Company could reasonably have avoided.
- E. With thirty (30) notice, the City, in its sole discretion, may terminate or reduce the scope of this Agreement if available funding is reduced for any reason.

**8.5 Effect of Termination.** Upon termination Licensee shall be entitled to distribute the Licensed-Software over their business network to End Users for a period not to exceed ninety (90) days from the date of termination, but shall have no right to receive a refund of any of the fees paid hereunder, except for termination during Return Period as outlined in 8.3. Except, as specifically set forth in this Section 8.5, the termination of this Agreement, for whatever reason, shall act to terminate the licenses granted in Section 1.1 and 1.2 of this Agreement. Upon expiration or termination of the Agreement, Company shall have and hereby reserves all rights and remedies that it has by operation



of law or otherwise to enjoin the unlawful or unauthorized reproduction, distribution or use of the Licensed-Software and Documentation.

## 9. CONFIDENTIALITY

**9.1 Confidentiality of Company's Information.** Subject to the Arizona Public Records laws, each Party will maintain in confidence any confidential or proprietary information, including, without limitation, any information regarding scientific, engineering, manufacturing, marketing, business plan, financial or personnel matter, whether in oral, written, graphic or electronic form ("Confidential Information"). Each Party will not use, disclose or grant use of any Confidential Information except as expressly authorized by disclosing Party. To the extent either Party authorizes any disclosure, receiving Party will obtain prior agreement from its employees, agents or consultants to who Licensee intends to disclose such information. Such employees, agents and consultants shall hold such information in confidence and shall not make use of such information for any purpose other than those permitted by authorized use. The Parties will use at least the same standard of care as it uses to protect its own similar Confidential Information to ensure that such employees, agents or consultants do not disclose or make any unauthorized use of such Confidential Information. Each Party will promptly notify other Party upon discovery of any unauthorized use or disclosure of the Confidential Information.

**9.2 Confidentiality of Licensee's Information.** Company agrees that any and all information in any form that is provided to Company or any Company representative by Licensee as part of this Agreement or learned by Company or any Company representative during the course of this Agreement is provided and received in confidence, and Company will at all times preserve and protect the confidentiality of such information, and of any other proprietary or non-public information of or relating to Licensee, its employees, agents or its related companies of which Company or any Company representative becomes aware or acquires during the performance of this Agreement. Company also agrees that it will take all necessary steps to ensure that such confidential information will not be disclosed to, or used by any person, association or entity except Company's own employees, and then only to the extent necessary to permit Company to perform this Agreement. Further, Company agrees to keep this Agreement and all its terms and conditions strictly confidential. The confidentiality and non-disclosure obligations contained herein will survive and continue after termination of this Agreement or any related Agreements the parties may execute, and will bind Company's legal representatives, successors and permitted assigns.

**9.3 Exceptions.** The obligations of confidentiality will not apply to the extent that either Party can establish by competent proof that such Confidential Information:

- (a) was already known to the receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the disclosing Party;

- (b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving Party;
- (c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement;
- (d) was disclosed to the receiving Party, other than under an obligation of confidentiality, by a third Party who had no obligation to the disclosing Party not to disclose such information to others.

9.4 **Remedy.** An infringement or other violation of a Party's proprietary rights by the other Party, including disclosure of any of a Party's Confidential Information in violation of the terms of this Agreement ("Proprietary Rights Violation"), may cause immediate and irreparable injury, loss and/or damage to the non-disclosing Party for which an adequate remedy at law may not exist. Therefore, in the event of an actual or threatened Proprietary Rights Violation by a Party, through any means whatsoever, the other Party may obtain from a court of competent jurisdiction specific performance and/or temporary or permanent injunctive relief to prevent a Proprietary Rights Violation without the necessity of showing irreparable harm.

## 10. MISCELLANEOUS

### Modification and Amendment.

- 10.1 This Agreement may only be modified by a written contract modification issued by the City Procurement Office and counter-signed by the Company.
- 10.2 **Survival.** Sections 1.3, 2.3, 2.4, 6, 7, 8, 9, and 10 shall survive termination of this Agreement.
- 10.3 **Governing Law.** This Agreement shall be governed by, and the City and Company shall have all remedies afforded each by the Uniform Commercial Code as adopted in the State of Arizona, except as otherwise provided in the RFP and this Agreement, and all statutes or ordinances pertaining specifically to the City, unless such remedies are in conflict with the terms and conditions set forth in this Agreement. This Agreement shall be governed by State of Arizona law and suits pertaining to this Agreement may only be brought in courts located in Maricopa County, Arizona.
- 10.4 **Partnership of Joint Venture.** No agency, employment, partnership, joint venture, or other joint relationship is created hereby, it being understood that Licensee and Company are independent contractors vis-à-vis one another and that neither has any authority to bind the other in any respect whatsoever. Company shall have the right to use Licensees name and to disclose Licensee as a customer in press releases and other publications.
- 10.5 **Force Majeure.**



- A. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under the Agreement only in the event that and to the extent that such party's performance of the Agreement is prevented by reason of force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions, failures or refusal to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- B. Force majeure shall not include the following occurrences:
  - i. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
  - ii. Late performance by a subcontractor, excluding performance items that are late due to City failure to perform, provide information, data or input as required for Contractor to meet its obligations under this Agreement.
- C. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours of the commencement thereof and shall specify the causes of such delay in the notice. Such notice shall be hand delivered or sent via certified mail and shall make a specific reference to this clause, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing by hand delivery or certified mail when it has done so. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with the Agreement.

**10.6 Export Control.** The parties acknowledge that the Licensed-Software may be subject to the export control laws of the United States of America, including the U.S. Bureau of Export Administration regulations, and hereby agree to obey any and all such a laws. The parties agree to comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and with all applicable foreign laws relating to the use, importation, licensing or distribution of the Licensed-Software.

**10.7 Notices.** All notices, demands, or consents required or permitted under this Agreement shall be in writing or sent by postal to the other Party at the address set forth below (or such other address as indicated by Company from time to time).

**COMPANY:**

CobbleStone Systems Corp.  
Attn: Legal  
918 South White Horse Pike  
Somerdale, NJ 08083

**LICENSEE:**

City of Tempe  
Attn: Procurement  
20 East 6<sup>th</sup> Street

- 10.8 Assignment.** Neither Party may assign this Agreement or any of its rights, duties or obligations under this Agreement to any third Party without the other Party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign its rights and delegate its obligations under this Agreement without the consent of the other Party to a purchaser of all or substantially all of its voting stock or capital assets or to an entity with which such Party merges or is consolidated or, in the case of Licensee, in whole or in part, to any Affiliate of Licensee upon written notice to Company specifying the name of the assignee and its location, whereupon the assignor shall no longer be entitled to any rights or benefits or incur any obligations under the Agreement for those copies of the Licensed-Software.
- 10.9 Severability and Waiver.** In the event any provision of this Agreement is held to be invalid or unenforceable, the valid or enforceable portion thereof and the remaining provisions of this Agreement will remain in full force and effect. Any waiver (express or implied) by any Party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.
- 10.10 Parties Advised by Counsel.** This Agreement has been negotiated between unrelated parties who are sophisticated and knowledgeable in the matters contained in this Agreement and who have acted in their own self-interest. In addition, legal counsel has represented each Party. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the parties. This Agreement shall not be interpreted or construed against any Party to this Agreement because that Party or any attorney or representative for that Party drafted this Agreement or participated in the drafting of this Agreement.
- 10.11 Entire Agreement.** This Agreement, the RFP inclusive of RFP responses provided by Company and all Exhibits referred to herein embody the entire understanding of the parties with respect to the subject matter thereof and shall supersede all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter thereof.
- 10.12 Headings.** The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any such section nor in any way affect this Agreement.
- 10.13 Successors and Assigns.** All provisions of the Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective successors and permitted assigns of Company and Licensee.
- 10.14 Priority.** To the extent that the terms and conditions of this Agreement conflict with any written statements or representations made by Company including, but not limited to, those contained in any license agreement contained in shrink-wrapped packages of the Licensed-Software or in electronic on-line license agreements, the terms and provisions of this Agreement shall be controlling.



10.15. **Dispute Resolution.** This Agreement is subject to arbitration to the extent required by law. If arbitration is not required by law, the City and the Company agree to negotiate with each other in good faith to resolve any disputes arising out of the Agreement.

## 11.0 Miscellaneous

11.1 **Publicity.** Neither Party shall publicize the nature of any disputed matters, or the proceedings or outcomes of any good faith negotiation pursuant to this section.

11.2 **Relationship of Parties:** It is clearly understood that each party to this Agreement will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other party. The Company is an independent Company and shall be solely responsible for any unemployment or disability insurance payments, or any social security, income tax or other withholdings, deductions or payments that may be required by federal, state or local law with respect to any compensation paid to Company. An employee or agent of one party shall not be an employee or agent of the other party for any purpose whatsoever.

11.3 **Availability of Funds for the Next Fiscal Year:** The City's obligation for performance of the Agreement is contingent upon the availability of City, state and federal funds that are allocated or appropriated for payment obligations of the Agreement. If funds are not allocated by the City or available for the continued use or purchase of services, work and/or materials set forth herein, the City may terminate this agreement. The City will use reasonable efforts to notify Company of such non-allocation affecting the obligations of the Company and/or City. The City shall not be penalized or adversely affected for exercise of its termination rights. Further, the City shall in no way be obligated or liable for additional payments or other damages as a result of such termination. No legal liability on the part of the City for any payment may arise for performance under this Agreement.

11.4 **Certification:** By signing the "RFP form 201-B, Company certifies:

- A. Company agrees that it will comply with section 2-603(5) of the Tempe City Codec ("TCC") dated April 2016, and will not refuse to hire or employ or bar or discharge from employment any person or discriminate against such person in compensation, conditions, or privileges of employment because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status.
- B. Company has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.
- C. Company expressly warrants that it has and will continue to comply in all respects with Arizona law concerning employment practices and working conditions, pursuant to A.R.S. § 23-211, et seq., and all laws, regulations, requirements and duties relating thereto. Company further warrants that to the extent permitted by law, it will fully indemnify the City for any and all losses arising from or relating to any violation thereof.

- D. Company agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Agreement, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Legal Arizona Workers Act (LAWA), and all amendments thereto, along with all attendant laws, rules and regulations. Company acknowledges that a breach of this warranty is a material breach of this Agreement and Company is subject to penalties for violation(s) of this provision, including termination of this Agreement. City retains the right to inspect the documents of any and all Company's contractors and sub-subcontractors performing work and/or services relating to this Agreement to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Company. Company hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.

**11.5 Specially Designated Nationals and Blocked Persons List:** Company represents and warrants to the City that neither Company nor any affiliate or representative of Company:

- A. Is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order no. 13224, 66 Fed. Reg. 49079 ("Order");
- B. Is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s);
- C. Is engaged in activities prohibited in the Order; or,
- D. Has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

**11.6 Administration:** Company must notify the designated Procurement Officer from the City's Procurement Office for guidance or direction of matters of Agreement interpretation or problems regarding the terms, conditions or scope of this Agreement.

**11.7 Gratuities:** The City may elect to terminate this Agreement if it is found that gratuities in any form were offered or given by the Company or agent thereof, to any employee of the City in event the Agreement is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from Company the amount of gratuity.

**11.8 Key Personnel:** Company shall provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Agreement during the Agreement term and any renewal periods. The Company must agree to assign specific individuals to the key positions.

- A. The Company agrees that, once assigned to work under this Agreement, key personnel shall not be removed or replaced without prior written notice to the



City. If reasonable notice cannot be made, replacement of personnel will be made within a reasonable amount of time.

- B. If key personnel are not available for work under this Agreement for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Company shall immediately notify the City, and shall replace each person with personnel of substantially equal ability and qualifications upon prior City approval.

**11.9 Unauthorized Firearms & Explosives:** No person conducting business on City property is to carry a firearm or explosive of any type. All Company and Company's subcontractors shall honor this requirement at all times and failure to honor this requirement shall result in Agreement termination and additional penalties. This requirement also applies to any and all persons, including those who maintain a concealed weapons permit. In addition to Agreement termination, anyone carrying a firearm or explosive device will be subject to further legal action.

**11.10 Shipping Terms:** Prices shall be F.O.B. Destination to the delivery location(s) designated herein. Company shall retain title and control of all goods until they are delivered and the Agreement of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of Company. The City will notify the Company promptly of any damaged materials and shall assist the Company in arranging for inspection. Shipments under res

#### **11.11 Database Specifications**

The City of Tempe has several data base management system platforms installed on site, but has standardized only on three. The Oracle database engine is primarily used to support the city's enterprise level software applications. Microsoft SQL Server is used to support the city's departmental and work group level software applications, but is often being evaluated for enterprise level software applications too. Microsoft Access is primarily used for the city's desktop applications. The data management team currently supports Oracle and SQL Server. All other data base repositories such as Microsoft ACCESS are supported by the application development teams or the city department personnel themselves.

#### **11.12 Networking Infrastructure Requirements**

The City of Tempe Local Area Network (LAN) infrastructure consists of a 10GB/s switched fiber backbone, using the Ethernet standards (IEEE 802 RFC) to connect computing equipment together for sharing resources and information. A switched mesh topology transmits data from the central server farm to the distribution frames in each building making up the City's central campus network. Each distribution frame contains another switch for chaining conventional 100BaseT or 1GB switches to the end node. The Wide-Area Network (WAN) utilizes a mix of dedicated private microwave, COX Ethernet services and city-owned fiber circuits with three main hubs – Police, Fire and Library. Cisco Systems routers connect the LAN and WAN to transport TCP/IP traffic.

The operating system infrastructure is a mix of HP UNIX, Linux, and Microsoft Windows (version 2008R2 and 2012). All Tempe's data and applications reside on one of these platforms. Microsoft Active Directory is utilized for printing, user authentication and data storage needs. TCP/IP is the protocol used to connect the dissimilar systems into one



homogeneous network. All user and application authentication must use Microsoft Active Directory or Lightweight Directory Access Protocol (LDAP).

Desktop PC's utilize Microsoft Windows 7 on both desktops and officer assigned laptops. Local applications are deployed using VMWare ThinApp. Any local client installation MUST either use Microsoft's current Web browser or an application that does not use kernel mode drivers. Microsoft's TCP/IP stack, and Oracle SQL\*Net are loaded at each workstation to communicate with the network and servers. All server infrastructure is based upon Hewlett-Packard hardware as a standard and VMware as the virtualized server environment of choice.

#### **11.13 Security Requirements**

The City of Tempe is committed to protecting its information resources from accidental or intentional intrusion. To accomplish this, the City will require Information Security features be included with software/hardware purchases, (e.g. Role Based Access Controls and permissions, data encryption) along with any security audits or certification levels awarded to the provider for restricted data and data that passes from trusted to untrusted networks (SFTP, RDP, SSL, SSH, etc.), common authentication (Active Directory) and Active Directory Federated Services (ADFS for single sign-on functionality). Specific Information Security procedures and standards can be supplied upon request.

#### **11.14 Compatibility**

Company warrants that the Software will be compatible with the City's technical environment, including hardware, operating system(s), software application(s), CPU's, and networks specified by City in the applicable Request for Proposal.

#### **11.15 Latest Versions**

With current and paid to date Maintenance and Support, All Software as delivered will be the most current release or version that Company has made commercially available to its City, unless City, after being advised by Company of the availability of a newer release or version, expressly elects to acquire and deploy an older one.

With current and paid to date Maintenance and Support, City is making a significant resource commitment in order to acquire the Software and that City does not want to move involuntarily to a new version or system for at least two years after formal acceptance of the solution. Having acknowledged the foregoing, Company represents and warrants to City that it will continue to enhance the Software (meaning adding new features and functionality, in addition to ordinary course defect corrections), as long as City continues to receive Software support services from Company.

#### **11.16 Software Enhancements and Coverage**

With current and paid to date Maintenance and Support, Company will supply City with any improvements or modifications ("Enhancements") to the software which are announced by the Company to be generally available with or without charge to users of the Software, including all related user documentation. City will furnish access to City's equipment and Software for the installation or loading of the enhancements, which will be accomplished by the Company in cooperation with the City.



With current and paid to date Maintenance and Support, Company will provide its reasonable effort to correct or replace software and to remedy any programming error, which is attributed to the Company and which significantly affects performance of the software. Such correction, replacement and service will be promptly accomplished after City has identified and notified Company or any such error in accordance with agreed reporting procedures.

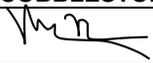
City agrees to provide Company with audit trails and other data, and with sufficient support and test time on City's computer system to duplicate the problem and to verify that the error has been fixed.

**11.17 Maintenance and Support Services**

Software maintenance and support shall commence upon delivery of the software. The City expects that all maintenance and support services shall be included as part of the annual fees paid for Maintenance and Support. Maintenance and support will be paid commencing with the delivery of the software and optionally, annually thereafter. With current and paid to date Maintenance and Support, Software fixes, patches and service pack releases must be supplied at no additional charge to the City and should be performed by the Company.

Company warrants to City that it shall perform the services and provide the deliverables required by resulting contract in a workmanlike manner, in accordance with the standards of care and diligence and the level of skill, knowledge, and judgment normally practiced by nationally recognized information technology services firms in performing services of a similar nature. Further, Company represents, warrants, and covenants that it shall provide the services or create any deliverables using only proven current technology or methods unless otherwise mutually agreed by the parties

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement in one or more counterparts as of the date first above written above.

COBBLESTONE SYSTEMS CORP.	CITY OF TEMPE, AZ
By: 	By: _____
Print: <u>Mark Nastasi</u>	Print: _____
Title: <u>Vice President</u>	Title: _____
Date: _____	Date: <u>06/23/2016</u>
June 15 2016	ATTEST:
	By: _____
	Print: <u>Brigitta M. Kuiper, City Clerk</u>
	Date: <u>6/23/2016</u>
	APPROVED AS TO FORM:
	By: _____
	Print: <u>Judith R. Baumann, City Attorney</u>
	Date: <u>06/23/2016</u>



**EXHIBIT A - LIST OF LICENSED SOFTWARE**

The following programs and associated documentation are defined as “Licensed-Software” under Agreement and will be provided electronically for replication and distribution per the terms of this Agreement. Unless otherwise noted, the Licensed-Software will be delivered electronically in Microsoft Windows™ server format.

Item - Contract Insight Enterprise Client-Deployed (On-premise)	Qty	Unit Price	Year 1	Year 2	Year 3	Year 4	Year 5	5 Year Est.
<b>Licenses (One-Time Perpetual)</b>								
Contract Insight Enterprise Perpetual/Deployed <b>Core</b> License	1	\$ 7,775.00	\$ 7,775.00					\$ 7,775.00
Contract Insight Enterprise Perpetual/Deployed Concurrent <b>Admin</b> User License	3	\$ 1,460.00	\$ 4,380.00					\$ 4,380.00
Contract Insight Enterprise Perpetual/Deployed Concurrent <b>Super</b> User License	17	\$ 1,012.00	\$ 17,204.00					\$ 17,204.00
Contract Insight Enterprise Perpetual/Deployed Concurrent <b>Standard</b> User License	10	\$ 868.00	\$ 8,680.00					\$ 8,680.00
Contract Insight Enterprise Perpetual/Deployed Concurrent <b>Read-Only</b> User License	7	\$ 438.00	\$ 3,066.00					\$ 3,066.00
<b>Optional Solution Add-ons (One-Time Perpetual based on user licenses)</b>								
Add On Module: <b>Document Collaboration &amp; eSign</b> Module Add-On License	1	\$ 12,565.01	\$ 12,565.01					\$ 12,565.01
Add On Module: <b>Solicitation/eSourcing</b> Module Add-On License	0	not selected	\$ -					not selected
Add On Module: <b>Client/Vendor Collaboration Gateway</b> Module Add-On License	0	not selected	\$ -					not selected
Add On Module: <b>Purchase Order/Spend</b> Management Module Add-On License	0	not selected	\$ -					not selected
Add On Module: <b>Database Integration</b> Manager Module Add-On License(s)	1	\$ 12,565.01	\$ 12,565.01					\$ 12,565.01
Add On Module: <b>DocuSign Connection</b> Manager Module Add-On License	0	not selected	\$ -					not selected
Add On Module: <b>Data Synchronization</b> Manager Module Add-On License	0	not selected	\$ -					not selected
One Time First Year License Discount	1		\$ (3,311.75)					\$ (3,311.75)
<b>Annual Support/Maintenance:</b> Contract Insight Annual Support/Maintenance	1	\$ 13,247.00	\$ 13,247.00	\$ 14,306.76	\$ 15,451.31	\$ 16,687.41	\$ 18,022.40	\$ 77,714.89
<b>Optional Annual Services</b>								
Annual Application Software Escrow	0	not selected	\$ -	\$ -	\$ -	\$ -	\$ -	not selected
Annual Application Configuration Escrow	0	not selected	\$ -	\$ -	\$ -	\$ -	\$ -	not selected
<b>Optional Professional Services</b>								
Recommended: Training Hours (Online up to 10 connections per session):	24	see svcs dtls	\$ 7,200.00					\$ 7,200.00
Work Sessions:	30	see svcs dtls	\$ 4,200.00					\$ 4,200.00
Technical Services:	60	see svcs dtls	\$ 9,000.00					\$ 9,000.00
Integration Services:	0	not selected	\$ -					not selected
Integration Annual Support:	0	not selected	\$ -	\$ -	\$ -	\$ -	\$ -	not selected
SaaS Single Sign-on Services (SAML 2.0 Compliant w/ WS Federation):	1	see svcs dtls	\$ 1,500.00					\$ 1,500.00
SaaS Single Sign-on Annual License (SAML 2.0 Compliant w/ WS Federation):	1	\$ 1,250.00	\$ 1,250.00	\$ 1,350.00	\$ 1,458.00	\$ 1,574.64	\$ 1,700.61	\$ 7,333.25
Other Services:	0	\$ -	not selected					
<b>Total (does not include tax or travel unless specified above):</b>			\$ 99,320.27	\$ 15,656.76	\$ 16,909.31	\$ 18,262.05	\$ 19,723.01	\$ 169,871.41

**Notes\*:**

CobbleStone reserves the right to adjust pricing if there is a pricing mistake mutually agreed to by both parties. All travel, lodging, taxes, and destination fees (if applicable) are not included and will be invoiced directly to client; all services not specified in this agreement is invoiced on a per hour (time and material) basis. Requires MS SQL Server & Windows IIS (not priced in the offer). Features can be found at: [http://www.cobblestonesystems.com/Compare\\_Versions.aspx](http://www.cobblestonesystems.com/Compare_Versions.aspx)



**Professional Services Details**

<b>Optional Professional Services Hours</b>	<b>Qty</b>	<b>Unit Price</b>	<b>Extended Price</b>
<b>Training Services - Recommended</b>			
Application Admin Hours (Online up to 10 connections per session): - Onsite	16.00	\$ 300.00	\$ 4,800.00
Super/Standard User Hours (Online up to 10 connections per session): - Onsite	8.00	\$ 300.00	\$ 2,400.00
<b>Work Sessions</b>			
CMS (Contract Management) Application Configuration - Remote Web	20.00	\$ 135.00	\$ 2,700.00
CMS (Contract Management) Project Management / System Planning - Remote Web	10.00	\$ 150.00	\$ 1,500.00
<b>Technical Services</b>			
Data Migration - Contracts - Source 1 - Online Services Up to 5000 Records with up to 15 user-defined fields Assumes structured/spreadsheet format for data/field mapping Estimated pending final CobbleStone review of data	30.00	\$ 150.00	\$ 4,500.00
Data Migration - Attachment Files/Documents - Remote Web Up to 5000 electronic Contract Files/Attachments Assumes unique, logical identifier to match contract electronic file with contract metadata record Estimated pending final CobbleStone review of data	30.00	\$ 150.00	\$ 4,500.00
<b>Integration Services</b>			
<b>Single Sign-on (SaaS) Setup &amp; Configuration Services (Remote Only)</b>			
Single Sign-on Authentication with Active Directory Federated Services (ADFS)	1.00	\$ 1,500.00	\$ 1,500.00
<b>Optional Professional Services Hours Sub-Total</b>	<b>115.00</b>		<b>\$21,900.00</b>



## **EXHIBIT B - AUTHORIZED CONTACT LIST FOR SUPPORT PURPOSES**

As set forth in Section 3 of the Agreement, the following three individuals shall be Licensee's designated support contacts until changed by Licensee's written notice to Company at any time individual contact names may be changed by providing written notice to Company.

### **AUTHORIZED CONTACTS**

1. The authorized contacts shall include all active End-User of Licensed software.

### **EXHIBIT C**

Intentionally Left Blank

## **EXHIBIT D – HARDWARE AND SOFTWARE SPECIFICATIONS**

### **Hardware Specifications Minimal (provided by Customer/Licensee):**

1. Pentium Class or higher server class machine
2. 2 GHZ CPU Processor or better
3. 4 GB RAM or better
4. 100 Gigabytes of free Disk Space (Raid 5 Configurations or Storage Area Networks recommended) after operating system and database installed.
5. Backup (Grandfather /Father/Son backup routine)
6. Network connectivity by way of IP Protocol

### **Other Software & installation requirements (provided by Customer/Licensee):**

1. Windows 2008 Server (or better) running IIS (Internet Information Service)
2. MS SQL Server 2005, 2008, 2012, 2014 Database (or better)
3. Licensed-Software utilizes a modern Web Browser for End User Access via Port: 80 (or alternative port) must be open on the Server.
4. Licensed-Software also utilizes SMTP services for email notifications and requires a Task Scheduler.
5. We recommend a brief interface with between the technical staff of Company and Licensee to outline any specific requirements for installation. This is included with support.



## EXHIBIT E – FUNCTIONAL SPECIFICATIONS

This Licensed-Software is for the purpose of electronically managing contract related Data and Files. For a full description of the functional aspects of this program please see the Contract Insight Enterprise user manual. The Software is a commercial off-the-shelf product, and with configuration, training, work sessions and related professional services shall generally function as per the RFP with RFP responses (for which, the RFP shall not be interpreted separately without the RFP responses).