

SERVICE CONTRACT

THIS CONTRACT (Contract) is made and entered into by and between the CITY OF FRESNO, a California municipal corporation (City), and EMPHASYS COMPUTER SOLUTIONS, INC, a Michigan corporation (Contractor) as follows:

1. CONTRACT DOCUMENTS. The "Notice Inviting Proposals," "Instructions to Proposers," "Proposal" and the "Specifications" including "General Conditions," "Special Conditions", "Federal Conditions", "Functional Specifications" and "Technical Requirements" for the following: Treasury Management Solution – Investments (Request for Proposals No. 12501002) copies of which are annexed hereto, together with all the documents specifically referred to in said annexed documents, including the Performance Bond, if required, are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. PRICE. For the monetary consideration of ONE HUNDRED SIXTY THREE THOUSAND ONE HUNDRED SIXTY FIVE DOLLARS AND ZERO CENTS (\$163,165.00), as set forth in the Proposal, Contractor promises and agrees to perform or cause to be performed, in a good and workmanlike manner, and in accordance with the Specifications, all of the work as set forth in the Contract Documents.

3. PAYMENT. City accepts Contractor's Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents. The Contractor agrees to accept electronic payment from the City.

4. INDEMNIFICATION AND LIMITATION OF LIABILITY. To the furthest extent allowed by law, CONTRACTOR shall defend, indemnify and hold harmless CITY from and against any and all claims, losses, liabilities, damages, costs and expenses (including losses and costs incurred by CITY and any reasonable attorney's fees and costs) which arise from CONTRACTOR's gross negligence or willful misconduct; or (ii) third-party claims that the Licensed Software and/or any related documentation infringes an intellectual property right of a third party; or CONTRACTOR's violation of a law applicable to CONTRACTOR's performance under the contract. This indemnity obligation shall not apply to the extent the alleged infringement arises from: (i) modifications made by City or any third party not authorized by Contractor; (ii) combination or use of Software with other products, processes, or materials not provided by Contractor; or (iii) City data or any third-party materials supplied by City. CITY must notify CONTRACTOR promptly in writing of the claim and give CONTRACTOR control over its defense or settlement with CITY approval, reasonable approval will not be withheld. CITY agrees to provide CONTRACTOR with reasonable assistance, cooperation, and information in defending the claim at CONTRACTOR's expense.

If CONTRACTOR subcontracts all or any portion of the services to be performed under this Agreement, CONTRACTOR will require each subcontractor to indemnify, hold harmless and defend CITY and your officers, officials, employees, agents and volunteers in accordance with this paragraph.

This section shall survive termination or expiration of this Agreement.

In no event will the Contractor be liable to the City under this Contract for any consequential, incidental, indirect, special, or punitive damages. The Contractor's total aggregate liability under this Contract shall not exceed two (2) times the total fees paid by CITY to CONTRACTOR in the twelve (12) months preceding the event giving rise to the claim, except for liability arising from third-party intellectual property infringement or

bodily injury (including death), for which no such limitation shall apply.

This section shall survive termination or expiration of this Contract.

5. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by City shall be subsequent to that of Contractor's, and this Contract shall be binding and effective upon execution by both parties.

CITY OF FRESNO,
A California municipal corporation

By: _____
Melissa Perales
Purchasing Manager

APPROVED AS TO FORM:
ANDREW JANZ

City of Fresno Signed by: _____
Sukhman Sekhon 12/2/2025
By: _____
Sukhman S. Sekhon Date
Deputy City Attorney

ATTEST:
TODD STERMER, MMC
City Clerk

By: _____
Deputy Date

Addresses:
CITY:
City of Fresno
Attention: Santino Danisi
Controllor
2600 Fresno Street, Suite 2156
Fresno, CA 93721
Phone: (559) 621-7006
E-mail: Santino.Danisi@fresno.gov

EMPHASYS COMPUTER SOLUTIONS,
INC.,
A Michigan corporation

Signed by: _____
By: _____ 11/26/2025
E4CA5F77402A49E...
Name: Tyler O'Hagan

Title: CFO
(If corporation or LLC., Board Chair,
President or Vice President)

Signed by: _____
By: _____ 11/26/2025
149A21A4F7054D9...
Name: George Rodriguez

Title: Portfolio Manager
(If corporation or LLC., CFO,
Treasurer, Secretary or Assistant
Secretary)

REVIEWED BY:
DocuSigned by: _____
Dyan Ayala 11/26/2025
43E77649143D433...

CONTRACTOR:
Emphasys Computer Solutions, Inc.
Attention: Joe DeMarco
Regional Sales Manager
1200 SW 145th Ave, Suite 310
Pembroke Pines, FL 33027
Phone: (510) 584-9015
E-mail: JDeMarco@symprom.com

III – GENERAL CONDITIONS

III. GENERAL CONDITIONS

1. DEFINITIONS: Wherever used in the Specifications, including the Instructions to Proposers, the proposal, or any of the Contract Documents, the following words shall have the meaning herein given, unless the context requires a different meaning.

- (a) "City" and "City of Fresno" shall each mean the City of Fresno, CA, unless otherwise indicated.
- (b) "City Manager" shall mean the City Manager of the City of Fresno.
- (c) "Contract" and "Contract Documents" shall each mean and refer to these Specifications, including the Instructions to Proposers, the proposal and any addenda thereto, the Contract and all City of Fresno specifications, and other papers and documents incorporated by reference into or otherwise referred to in any of the foregoing documents, whether or not attached thereto.
- (d) "Contractor" shall mean each person or entity awarded a Contract hereunder and named or to be named in the Contract with the City of Fresno to furnish the goods or services, or both, to be furnished under the Contract.
- (e) "Council" and "City Council" shall each mean the Council of the City of Fresno.
- (f) "Proposer" shall mean each person or entity submitting a proposal, whether or not such person or entity shall become a Contractor by virtue of award of a Contract by the City.
- (g) "Purchasing Manager" shall mean the Purchasing Manager of the City of Fresno.
- (h) "Specifications" shall mean the Contract Documents.

2. LICENSE GRANT: Contractor grants to City a nonexclusive, nontransferable, non-assignable license to use the software identified in Attachment A ("Licensed Software") and Contractor, as authorized agent, grants to City a nonexclusive, nontransferable, non-assignable license to use the software described in Attachment A ("Other Licensed Software"). The license is solely for City's own use for its internal data processing operations and solely on the one computer system currently used by City or purchased and delivered hereunder.

Licensed Software, including source code and standard support services ("Services"), and all documents related thereto, constitutes proprietary information and trade secrets to Contractor or to the principals for whom Contractor is the authorized agent. Title and full ownership, including any modifications or revisions thereto, shall at all times remain with Contractor or its principal.

City may not make copies of the Licensed Software except for backup, archival, emergency recovery purposes, or to replace a worn copy. If this Contract is terminated or expires, all such copies must be uninstalled or destroyed, and the Licensed Software returned to Contractor as specified hereunder.

City agrees that it will not allow others to reverse engineer, disassemble, de-compile, or in any way tamper with the Licensed Software.

City shall take all reasonable steps to ensure that all Licensed Software, in whatever form, and all documents relating thereto, are held in confidence by City, its employees, and consultants, and are not disclosed or made available to any third party not licensed by Contractor, without the prior written consent of Contractor, except as when required by law. City shall instruct in writing all parties having access to the Licensed Software of their obligations under this Article.

3. DELIVERY OF SERVICES: If Contractor is delayed providing services by (i) any acts or omissions of City or its employees, or others acting under authority of City by contract or otherwise, (ii) acts of God which Contractor could not reasonably have foreseen and provided for, (iii) illegal strikes, boycotts or like illegal obstructive action by employee or labor organizations, or (iv) any illegal general lockouts or other defensive action by employers, whether general or by organizations of employers; Contractor shall have no claim for damages against City for any such cause of delay, but shall be entitled to an extension of time as will reasonably compensate Contractor for actual loss of time occasioned thereby. Contractor may apply to the City Manager for such extension. However, no such extension of time shall be granted unless Contractor shall have notified the Purchasing Manager, in writing, within ten days after the commencement or occurrence of the condition or event which is expected to cause a delay in delivery, of such condition or event and the actual or estimated number of days of delay anticipated on account thereof. The decision of the City Manager as to the number of additional days, if any, to be allowed for completion of delivery on account of such condition or event, will be given in writing to Contractor.

4. TERMINATION FOR CONVENIENCE: Each party reserves the right to terminate this Contract for any reason, upon sixty (60) days written notice to the other party. In the event of such termination, the Contractor shall be paid for satisfactory service performed to the date of termination.

5. TERMINATION FOR CAUSE:

a. Either party may terminate this Contract if the other party materially breaches any of its obligations under this Contract and fails to commence and diligently pursue commercially reasonable efforts to cure such breach within fifteen (15) days after written notice by the other party specifically describing the breach.

b. Such termination shall be effective upon receipt by the breaching party of written notice of termination from the non-breaching party or designee, which notice shall be deemed to have been received by the breaching party, if mailed by certified mail, within forty-eight hours to the breaching party's address or, if personally delivered, upon the delivery thereof to breaching party, the authorized representative of breaching party, or to the breaching party's said address.

City acknowledges and agrees that no expiration or termination affects City's obligation to pay all fees that may have become due before such expiration or termination. City further acknowledges and agrees that all amounts payable by City to Contractor of any kind under the Contract are payable and due within thirty (30) days from the effective date of the expiration or termination of the Contract, provided the Contractor shall be paid fees for services satisfactorily performed prior to the effective date of termination. Contractor shall not be paid for any work or services performed or cost incurred which reasonably could have been avoided.

6. CONTRACT DOCUMENTS: Upon award of the Contract, the Contractor shall execute and submit all required documents to the Purchasing Manager, 2101 G Street, Bldg. A, Fresno,

California 93706, in a form acceptable to the City of Fresno within fifteen (15) calendar days (except in the event federal funding is applicable to this Contract, then 10 working days) from the date of Notice of Award. Failure to provide said documents within the designated period shall be sufficient cause to forfeit the proposal deposit and initiate a City departmental recommendation for City to award the Contract to another Proposer.

7. INSURANCE REQUIREMENTS.

(a) Throughout the life of this Agreement, CONTRACTOR shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, CONTRACTOR or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to CONTRACTOR shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY.. No action taken by CITY pursuant to this section shall in any way relieve CONTRACTOR of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by CONTRACTOR shall not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONTRACTOR, vendors, suppliers, invitees, contractors, sub-contractors, subcontractors, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."

2. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

3. Cyber Liability (Privacy and Data breach) insurance appropriate to CONTRACTOR'S profession. Coverage shall be sufficiently broad to respond to duties and obligations as is

undertaken by CONTRACTOR in this agreement and shall include but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

MINIMUM LIMITS OF INSURANCE

CONTRACTOR, or any party the CONTRACTOR subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. COMMERCIAL GENERAL LIABILITY:
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;
 - (iii) \$2,000,000 aggregate for products and completed operations; and,
 - (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.
2. WORKERS' COMPENSATION INSURANCE as required by the State of California with statutory limits.
3. EMPLOYER'S LIABILITY:
 - (i) \$1,000,000 each accident for bodily injury;
 - (ii) \$1,000,000 disease each employee; and,
 - (iii) \$1,000,000 disease policy limit.
4. CYBER LIABILITY insurance with limits of not less than:
 - (i) \$1,000,000 per claim/occurrence; and,
 - (ii) \$2,000,000 policy aggregate

UMBRELLA OR EXCESS INSURANCE

In the event CONTRACTOR purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

CONTRACTOR shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and CONTRACTOR shall also be responsible for payment of any self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability insurance policy is to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. Additional Insured status under the General Liability policy shall be broad as that contained in ISO Form CG 20 10 04 13 or CG 20 26 04 13.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims relating to this Agreement, CONTRACTOR'S insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents and volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it. CONTRACTOR shall establish primary and non-contributory status under the General Liability policy by use of ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non contributory status as broad as that contained in ISO Form CG 20 01 04 13.

All policies of insurance shall contain, or be endorsed to contain, the following provision: CONTRACTOR and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. CONTRACTOR is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, CONTRACTOR shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, CONTRACTOR shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

The Cyber Liability insurance shall cover claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information (including credit monitoring costs), alteration of electronic information, extortion and network security. Such coverage is required for claims involving any professional services for which CONTRACTOR is engaged with the City for such length of time as necessary to cover any and all claims

If the Cyber Liability insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by CONTRACTOR.
2. A copy of the claims reporting requirements must be submitted to CITY for review.
3. These requirements shall survive expiration or termination of the Agreement.

Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONTRACTOR, its principals, officers, agents, employees, persons under the supervision of CONTRACTOR, vendors, suppliers, invitees, consultants, subcontractors, or anyone employed directly or indirectly by any of them.

VERIFICATION OF COVERAGE

CONTRACTOR shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon written request of CITY, CONTRACTOR shall promptly furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy.

SUBCONTRACTORS

If CONTRACTOR subcontracts any or all of the services to be performed under this Agreement, CONTRACTOR shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, CONTRACTOR will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

8. WARRANTIES: Contractor warrants that it is the owner of the Licensed Software and any related documentation and that Contractor has the right to sublicense such Licensed Software or Other Licensed Software, as applicable. Contractor further warrants that no portion of the Licensed Software or documentation infringes on the intellectual property rights of any third party.

The warranty period commences immediately following access to Licensed Software.

These warranties will only be valid when the Licensed Software is used by City in an appropriate and reasonable manner consistent with normal usage and management of such Licensed Software. Contractor shall not be responsible or liable for damage to the Licensed Software caused by City, the tampering with or modification of the Licensed Software by anyone other than Contractor's authorized personnel, acts of God, or damage to the Licensed Software occurring by virtue of electrical malfunctions or external factors over which Contractor has no control.

These warranties do not extend to any Licensed Software to which repairs or modifications have been performed by City or persons not authorized by Contractor, unless such repairs were performed with the prior written consent of Contractor.

Contractor warrants that all Services provided pursuant to this Contract will be performed in a workmanlike manner in accordance with reasonable commercial standards. This warranty shall extend for thirty days following completion of the particular Service, and Contractor shall correct all Services not so performed if brought to Contractor's attention in writing within the warranty period.

Contractor provides no warranties for hardware equipment and related system software beyond that provided by the manufacturer.

THE WARRANTIES PROVIDED IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE HEREOF, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF

MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. PRECEDENCE OF CONTRACT DOCUMENTS: The order of precedence of documents shall be: (1) Rules and Regulations of Federal Agencies relating to the source of funds for this project; (2) Supplemental Agreements, Change Orders, or Contract the one dated later having precedence over another dated earlier; (3) Special Conditions; (4) General Conditions; (5) Scope of Work.

Whenever any conflict appears in any portion of the Contract, it shall be resolved by application of the order precedence.

10. FEDERAL IMMIGRATION REFORM AND CONTROL ACT OF 1986: As a material part of any contract for a City of Fresno project, every Contractor who has employees who will work on a City of Fresno project, is required to comply, to the extent applicable, with all of the provisions of the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603, 100 Stat. 3359). This requirement includes compliance with all of the employee documentation provisions. Furthermore, the Contractor will make any employee documentation required to comply with the Act promptly available to the City upon its written request for each individual employee working on a City of Fresno project.

11. ALTERATION OF TERMS: No alterations or variations of the terms of this Contract shall be valid unless made in writing and signed by both parties.

12. CONTRACT CHANGES: No changes or modifications to the Contract shall be made unless agreed to and signed by both parties. No prior, current or post award verbal agreement or agreements with any officer, agent or employee of the City shall affect or modify any terms or obligations of these Specifications or any Contract resulting from this procurement.

13. AMENDMENTS: Each party reserves the right to add, modify, or delete items from the Contract including Special Conditions or Scope of Work. Any changes shall be made only by means of a formal amendment signed by both the City and Contractor.

14. ASSIGNMENT: The Contract is personal to each party and there shall be no assignment, transfer, sale, or subcontracting by either party of its rights or obligations under the Contract without the prior written approval of the other party. Any attempted assignment, transfer, sale, or subcontracting by either party, its successors, or assigns, shall be null and void unless approved in writing by the other party.

15. TERMINATION BY CITY FOR NON-APPROPRIATION: In the event of non-appropriation relating to the Contract, City shall have the right to terminate the Contract at the end of any fiscal year of City, in the manner and subject to the terms specified in this paragraph. City shall endeavor to give written notice of such termination not less than sixty (60) days prior to the end of such fiscal year and shall notify Contractor of any anticipated termination. For purposes of this paragraph, "fiscal year" shall mean the twelve-month fiscal period of City which commences on July 1 in every year and ends on the following June 30. For purposes of this paragraph, "non-appropriation" shall mean the failure of the City or City's governing body to appropriate money for any fiscal year of City sufficient for the continued performance of the Contract by City.

16. INDEPENDENT CONTRACTOR: In the furnishing of the services provided for herein, the Contractor is acting as an independent contractor. Neither the Contractor, nor any of its officers, associates, agents or employees shall be deemed an employee, joint venturer, partner, or agent of the City for any purpose. However, the City shall retain the right to verify that the Contractor is performing its respective obligations in accordance with the terms of the Contract.

Because of its status as an independent contractor, Contractor and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to City employees. Contractor shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to City or to this Agreement.

17. GOVERNING LAW AND VENUE: The Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of the Contract and any rights and duties thereunder shall be Fresno County, California.

18. COMPLIANCE WITH LAW: In providing the services required under the Contract, each party shall at all times comply with all applicable laws of the United States, the State of California and the City of Fresno, and with all applicable regulations promulgated by Federal, State, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of the Contract.

19. SEVERABILITY: The provisions of the Contract are severable. The invalidity, or unenforceability of any one provision in the Contract shall not affect the other provisions.

20. INTERPRETATION: The Contractor acknowledges that the Contract in its final form is the result of the combined efforts of the parties and that, should any provision of the Contract be found to be ambiguous in any way, such ambiguity shall not be resolved by construing the Contract in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

21. ATTORNEY'S FEES: If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of the Contract, the prevailing party, to a final non-appealable decision, in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

22. EXHIBITS: Each exhibit and attachment referenced in the Contract is, by the reference, incorporated into and made a part of the Contract.

23. MAINTENANCE OF RECORDS: Records of Contractor pertaining to the services hereunder shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon reasonable written request during regular business hours throughout the life of the Contract or for the period of time required by law. In addition, all books, documents, papers, and records of Contractor pertaining to the Contract shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the

same period of time. This section shall survive expiration or termination of the Contract.

24. NOTICES: Any notice required or intended to be given to either party under the terms of this Contract shall be in writing and shall be deemed to be duly given if delivered personally or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of the Proposal in the case of the Contractor and at the address in the Special Conditions for mailing of invoices in the case of City, or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

25. BINDING: This Agreement once this Contract is signed by all parties, shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

26. WAIVER: The waiver by either party of a breach by the other of any provision of this Contract shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Contract. No provisions of this Contract may be waived unless in writing and signed by all parties to this Contract. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

27. CUMULATIVE REMEDIES: No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. NO THIRD PARTY BENEFICIARIES: The rights, interests, duties and obligations defined within this Contract are intended for the specific parties hereto as identified in the preamble of this Contract. Notwithstanding anything stated to the contrary in this Contract, it is not intended that any rights or interests in this Contract benefit or flow to the interest of any third parties.

29. EXTENT OF AGREEMENT: Each party acknowledges that they have read and fully understand the contents of this Contract. This Contract represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be modified only by written instrument duly authorized and executed by both City and Contractor.

30. HEADINGS: The section headings in this Contract are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Contract.

IV – SPECIAL CONDITIONS

IV. SPECIAL CONDITIONS

Term of Contract

This Contract shall be in effect for four (4) years from the date of the Notice to Proceed. The Contract may be extended, with the mutual written consent of both parties, for three (3) optional one-year increments with price increases/decreases in accordance with the provisions set forth herein, all other terms and conditions specified herein remaining the same. If either the City or Contractor elects not to extend the Contract, or upon expiration of the final one-year extension term, the Contractor shall aid the City in continuing, uninterruptedly, the requirements of the Contract, by continuing to perform on a temporary basis, when specifically requested to do so in writing by the Purchasing Manager, for a specified term not to exceed twelve (12) months. Such continuance shall be subject to price increases/decreases in accordance with the provisions set forth herein, and all other terms and conditions remaining the same as if the contract had been extended for such a temporary period by an amendment hereto.

Pricing Conditions

For twelve (12) months of the Contract, pricing will be fixed at the proposal pricing.

Sixty (60) days prior to the anniversary date of the Contract, the Contractor may submit proposed pricing revisions for the following year which will be subject to negotiation by the City at the City's discretion. The Purchasing Manager of the City of Fresno shall be the authorized City agent in any such negotiation. Any proposed price revisions will be subject to each party's written approval before being implemented by the Contractor.

The Contractor must provide adequate documentation to substantiate any request for price increase.

If any particular needs arise at any time during the term of the Contract, the City reserves the right to request adjustments, modifications, or additions to services to the Contract, subject to additional costs as agreed upon by both parties.

Notice to Proceed

The Contractor shall not commence any work, nor shall it enter the premises until it has received a written Notice to Proceed from the Purchasing Manager.

Changes to Contract Documents

No changes or modifications to the Contract shall be made unless agreed to and signed by both the Contractor and the Purchasing Manager. No prior, current, or post award verbal agreement or agreements with any officer, agent, or employee of the City shall affect or modify any terms or obligations of the Specifications or any Contract resulting from this procurement.

Payment

The Proposer shall invoice the City of Fresno in order to initiate the payment process and the City shall pay within thirty (30) days of receipt of invoice. Invoices shall conspicuously display the City's purchase order number and shall be submitted to:

City of Fresno
ATTN: Tricia Kelsey
Treasury Division
2600 Fresno Street, Ste 2156
Fresno, CA 93721

Contractor hereby agrees not to assign the payment of any monies due Contractor from City under the terms of this Contract to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due Contractor directly to Contractor.

**Scope of Work
Attachment A
Licensed Software and Services**

1. **SaaS Licensed Software:**

Investment Management (SaaS)
General Ledger Interface
Creation and export of journal entries to GL (Tyler Munis)
Earnings Allocation Module
Custodial Download Service – One Bank
Market Pricing – Once per month pricing of portfolio

2. **Authorized Users:** 4 user licenses

Authorize Users shall mean City and its employees and no other persons or entities; the number which is stated above and which may be changed by amendment and accepted by Contractor.

3. **SaaS and Service Fees:**
a. **SaaS and Service Fees:**

Total SaaS Fee	\$36,000
Annual Maintenance and Support Inc	
Setup, Training & Implementation*	\$8,000
Includes training & implementation.	
Total Year 1	\$44,000

* Travel expenses (if necessary) are not included

SaaS Fees

Year 2	\$37,800
Year 3	\$39,690
Year 4	\$41,675

4. **Payment Schedule:**

SaaS fees will be invoiced upon execution of this agreement.
Professional service fees and training will be invoiced as services are performed.