



Amendment No. 5
to
Contract No. MA 5600 NS160000028
for
Versadex Software Licenses, Maintenance and Support Services
between
Versaterm, Inc
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective March 31, 2020 to March 30, 2021. No options will remain.
- 2.0 The total contract amount is increased by \$512,454 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 03/31/2016 – 03/30/2017	\$635,669.00	\$635,669.00
Amendment No. 1: Option 1 – Extension 03/31/2017 – 03/30/2018	\$468,968.00	\$1,104,637.00
Amendment No. 2: Change Invoice Address 11/13/2017	\$0.00	\$1,104,637.00
Amendment No. 3: Option 2 – Extension 03/31/2018 – 03/30/2019	\$483,037.00	\$1,587,674.00
Amendment No. 4: Option 3 – Extension 03/31/2019 – 03/30/2020	\$497,528.00	\$2,085,202.00
Amendment No. 5: Option 4 – Extension 03/31/2020 – 03/30/2021	\$512,454.00	\$2,597,656.00

- 3.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 4.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract

Sign/Date:

Printed Name: T. ROSALES S. LANGLOIS
Authorized Representative

Versaterm, Inc.
2300 Carling Avenue
Ottawa, Ontario, Canada K2B-7G1
Brendalee.kelly@versaterm.com
613-820-0311

Sign/Date:

Jim Howard
Procurement Manager

City of Austin Purchasing Office
124 West 8th Street
Austin, Texas 78701



Amendment No. 3
to
Contract No. 5600 NS160000028
for
Versadex software Licenses, Maintenance and Support Services
between
Versaterm, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be March 31, 2018 through March 30, 2019. Two options will remain.
- 2.0 The total contract amount is increased by \$483,037.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 03/31/2016 – 03/30/2017	\$635,669.00	\$635,669.00
Amendment No. 1: Option 1 – Extension 03/31/2017 – 03/30/2018	\$468,968.00	\$1,104,637.00
Amendment No. 2: Change invoice address	\$0.00	\$1,104,637.00
Amendment No. 3: Option 2 – Extension 03/31/2018 – 03/30/2019	\$483,037.00	1,587,674.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Theresa A. Wilson

Printed Name: Theresa A. Wilson
Authorized Representative January 25, 2018

Versaterm, Inc.
2300 Carling Avenue,
Ottawa, Ontario, Canada K2B-7G1

Sign/Date: [Signature]

Printed Name: JAMES T. HOWARD
Authorized Representative

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 2
to
Contract No. NS160000028
for
Versadex Software Licenses, Maintenance and Support Services
between
Versaterm, Inc.
and the
City of Austin

- 1.0 The above referenced contract is hereby amended to change the invoice address to the following:

	City of Austin
Department	Aviation Department
Attn:	Account Payable
Address	3600 Presidential Blvd.
City, State, Zip Code	Austin, TX 78719

- 2.0 Effective date of this change is 11/13/2017.

Action	Action Amount	Total Contract Amount
Initial Term: 03/31/2016 – 03/30/2017	\$635,669.00	\$635,669.00
Amendment No. 1: Option 1 – Extension 03/31/2017 – 03/30/2018	\$468,968.00	\$1,104,637.00
Amendment No. 2: Change invoice address	\$0.00	\$1,104,637.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Trosales

Printed Name: TROSALES WAREW Loomis
Authorized Representative
November 13, 2017

Versaterm, Inc
2300 Carling Avenue,
Ottawa, Ontario, Canada K2B-7G1

Sign/Date: Sai Russell

Printed Name: Sai Russell
Authorized Representative
City of Austin
Purchasing Office



Amendment No. 1
to
Contract No. NS160000028
for
Versadex Software Licenses, Maintenance and Support Services
between
Versaterm, Inc.
and the
City of Austin

- 1.0 The City hereby exercises the extension options for the above-referenced contract. Effective March 31st, 2017 the term for the extension option will be March 31st, 2017 through March 30th, 2018 and there are three (3) options remaining.
- 2.0 The total contract amount is increased by \$468,968.00 for the current extension option period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 03/31/2016 – 03/30/2017	\$635,669.00	\$635,669.00
Amendment No. 1: Option 1 – Extension 03/31/2017 – 03/30/2018	\$468,968.00	\$1,104,637.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Trosnles Waddell, 17/01/24

Printed Name: TROSNLES WADDELL
Authorized Representative

Versaterm, Inc
2300 Carling Avenue,
Ottawa, Ontario, Canada K2B-7G1

Sign/Date: Sai Purcell, 1/25/17

Printed Name: Sai Purcell
Authorized Representative

City of Austin
Purchasing Office



City of Austin

Purchasing Office, Financial Services Department

P.O. Box 1088, Austin, TX 78767

05/02/2016

Dear Brenda Lee Kelly:

The Austin City Council approved the execution of a contract with your company for Versadex Software Licenses, Maintenance and Support Services in accordance with the referenced solicitation.

Responsible Department:	Austin Police Department
Department Contact Person:	Enjole Armstrong
Department Contact Email Address:	Enjole.Armstrong@austintexas.gov
Department Contact Telephone:	(512) 974-5082
Project Name:	Versadex Software Licenses, Maintenance and Support Services
Contractor Name:	Versaterm, Inc.
Contract Number:	MA 5600 NS160000028
Contract Period:	12-month, four 12-month options
Dollar Amount	\$635,669, with four 12-month extension options in amounts not to exceed \$468,968 for the first option, \$483,037 for the second option, \$497,528 for the third option, and \$512,454 for the final option, for a total contract amount not to exceed \$2,597,656.
Requisition Number:	15101300043
Solicitation Type & Number:	Sole Source
Agenda Item Number:	11
Council Approval Date:	03/03/2016

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

Sai Xoomsai Purcell
Senior Buyer Specialist
City of Austin
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
VERSATERM, INC.
For
VERSADEX SOFTWARE LICENSES, MAINTENANCE AND SUPPORT SERVICES**

Contract Number: MA 5600 NS160000028

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Versaterm, Inc. ("Contractor"), having offices at 2300 Carling Avenue, Ottawa, Ontario, Canada K2B-7G1.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 Engagement of the Contractor. Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 Responsibilities of the Contractor. The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 Responsibilities of the City. The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 Designation of Key Personnel. The Contractor's Contract Manager for this engagement shall be Brenda Lee Kelly, Phone: (613) 820-0311, Email Address: brendalee.kelly@versaterm.com. The City's Contract Manager for the engagement shall be Sherry Goertz, Phone: (512) 974-0872, Email Address: sherry.goertz@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 Contractor's Obligations. The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 3. COMPENSATION

3.1 Contract Amount. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed \$635,669 for the initial 12 month term, an amount not-to-exceed \$468,968 for the first option, an amount not-to-exceed \$483,037 for the second option, an amount not-to-exceed \$497,528 for the third option and an amount not-to-exceed \$512,454 for the fourth option, for a total contract amount not-to-exceed \$2,597,656.

Year	Term	Maintenance & Support*	Additional Purchases	Yearly Total
03/31/16 - 03/30/17	Initial Term	\$379,424	\$256,245	\$635,669
03/31/17 - 03/30/18	Option 1	\$390,807	\$78,161	\$468,968
03/31/18 - 03/30/19	Option 2	\$402,531	\$80,506	\$483,037
03/31/19 - 03/30/20	Option 3	\$414,607	\$82,921	\$497,528
03/31/20 - 03/30/21	Option 4	\$427,045	\$85,409	\$512,454

Contract Total

\$2,597,656

*Maintenance and support will be paid annually in advance. The maintenance and support fees are detailed in Exhibit A.

3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn:	Accounts Payable
Address:	PO Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.2 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.3 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.3.2 **If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 The City may withhold or off set the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3.3 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.4 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

3.5.1 **Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

3.5.2 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>.

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:

3.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** The Contract shall be in effect on March 31, 2016 for an initial term of 12 months and may be extended thereafter for up to 4 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of

performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 Termination For Cause. In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective thirty (30) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such thirty (30) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years.

4.5 Termination Without Cause.

4.5.1 The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.5.2 Versaterm shall have the right to terminate this Agreement upon thirty (30) days written notice, upon the occurrence of any of the following events or circumstances:

4.5.2.1 The Customer breaches any of its material obligations provided for in this Agreement and such breach is not corrected or cured within thirty (30) days after receipt of written notice of such breach.

4.5.2.1 The Customer's failure to pay or a statement that it is unable to pay any amount due hereunder resulting from the non-appropriation of funds or is unable to pay its debts generally, as they shall become due.

4.6 Fraud. Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 Insurance: The following insurance requirements apply.

5.1.1 General Requirements.

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor. Contractor may charge a fee for any increased insurance requirements.

5.1.1.11 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.12 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.13 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

5.1.2.1.2 Products/Completed Operations Liability for the duration of the warranty period.

5.1.2.1.3 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

5.1.2.1.4 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

5.1.2.1.5 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned (if applicable), non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

5.1.2.3 **Worker's Compensation and Employers' Liability Insurance.** Waived (see waiver on file in the Purchasing Office)

5.1.2.4 **Professional Liability Insurance/Technology Errors and Omissions Insurance.**

5.1.2.4.1 The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract.

5.1.2.4.2 If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.

5.1 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** Relating to Contractor's US-based employees, no Contractor or Contractor's agent shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit D. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.1.2 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.2 **Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on

the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the Offeror. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

5.3 **Delays.**

5.3.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.3.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

5.4 **Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.5 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

SECTION 6. WARRANTIES

6.1 **Warranty – Price.**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor

shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. **SECTION 7. MISCELLANEOUS**

7.1 Place and Condition of Work. The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce.

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 Compliance with Health, Safety, and Environmental Regulations. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 Significant Event. The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.4.6 reorganization, reduction and/or relocation in key personnel;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Right To Audit.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

7.6 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.7 **Indemnity.** FOR PURPOSES OF THE SERVICES PERFORMED BY CONTRACTOR UNDER THIS CONTRACT, CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS EMPLOYEES ITS AGENTS, AND ITS ELECTED OFFICIALS FROM ANY DAMAGE, LOSS, LIABILITY, CLAIM, EXPENSES (INCLUDING ATTORNEY'S FEES AND COURT COSTS) AND CAUSE OF ACTION ARISING OUT OF INJURY, LOSS OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY, OR ARISING FROM PERSONAL INJURY OR DEATH, WHERE SUCH DAMAGE, LOSS, LIABILITY, CLAIM AND CAUSE OF ACTION IS CAUSED OR INCURRED IN WHOLE OR IN PART AS A RESULT OF THE NEGLIGENCE OR OTHER ACTIONABLE FAULT OF CONTRACTOR, ITS AFFILIATES, SUBSIDIARIES, EMPLOYEES, AGENTS AND ASSIGNS. THE CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION INCLUDE CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT ARISING FROM THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. CONTRACTOR'S OBLIGATIONS ARE CONTINGENT UPON THE CITY GIVING CONTRACTOR PROMPT WRITTEN NOTICE OF ANY SUCH CLAIM OR LOSS OR DAMAGE AND THE CITY SHALL FULLY COOPERATE WITH CONTRACTOR IN THE DEFENSE AND ALL RELATED SETTLEMENT NEGOTIATIONS . NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM. THE CITY MAY PARTICIPATE IN THE ABOVE MENTIONED DEFENSE AT ITS OWN EXPENSE.

7.8 **Limitation of Liability.** Contractor's maximum liability to the City for damages, losses, liabilities, claims, and causes of action shall not exceed, if the claim is covered by insurance, the limits of such insurance, or, if the

claim is not covered by such insurance, the license fees for the purchased Application Software Licenses (see Exhibit A) with the exception of damages, losses, liabilities, claims, and causes of action arising out of gross negligence, willful misconduct or infringement of copyright or patent rights for which there shall be no limitation on the amount of damages recoverable.

7.9 Claims. If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.10 Notices. Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Elisa Folco, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Versaterm, Inc.

ATTN: Brenda Lee Kelly, Contract Manager

2300 Carling Avenue, Ottawa

Ontario, Canada K2B-7G1

7.11 Confidentiality. In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.12 Advertising. The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.13 No Contingent Fees. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.14 Gratuities. The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the

Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.15 Prohibition Against Personal Interest in Contracts. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.16 Independent Contractor. The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.17 Assignment-Delegation. The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned (except to a third party acquiring all or substantially all of Versaterm's assets or by merger of Versaterm with a third party) and no obligation shall be delegated by the Contractor without the prior written consent of the City which consent shall not be unreasonably withheld. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.18 Waiver. No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.19 Modifications. The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.20 Interpretation. The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.21 Dispute Resolution.

7.21.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.21.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.22 Jurisdiction And Venue. The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.23 PURSUANT TO ARTICLE 6 OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ("UN CONVENTION"), THE PARTIES AGREE THAT THE UN CONVENTION AND ANY AND ALL IMPLEMENTING LEGISLATION THEREOF, SHALL NOT APPLY TO THIS AGREEMENT.

7.24 Invalidity. The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.25 Holidays. The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.26 Survivability of Obligations. All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.28 **Incorporation of Documents.** Section 0100, Standard Purchase Definitions, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:

https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf

7.29 **Order of Precedence.** The Contract documents include, without limitation, the Contract, Contract Exhibits, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.29.1 any amendment to the Contract accepted in writing by both parties;

7.29.2 the Supplemental Purchase Terms and Conditions, if any;

7.29.3 the Standard Purchase Terms and Conditions;

7.29.4 the body of the Contract;

7.29.5 the Contract exhibits; within the Contract, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

VERSATERM, INC.

By: T Rosales amwba
Signature

Name: T ROSALES A WILSON
Printed Name

Title: Secretary-Treasurer CTO

Date: April 19, 2016

CITY OF AUSTIN

By: [Signature]
Signature

Name: JAMES T. HOWARD
Printed Name

Title: CORPORATE Purchasing Mgr

Date: 4/20/16

List of Exhibits

Exhibit A	Pricing Agreement
Exhibit B	Software License Agreement
Exhibit C	Support Agreement
Exhibit D	Non Discrimination Certification
Exhibit E	Non-Suspension or Debarment Certification

**EXHIBIT A
Pricing Agreement**

Budgetary Quote for Versadex for Austin PD							
Five year support projection		1-Dec-15	1-Dec-16	1-Dec-17	1-Dec-18	1-Dec-19	
Submitted: March 25, 2015		30-Nov-16	30-Nov-17	30-Nov-18	30-Nov-19	30-Nov-20	
		Annual	Annual	Annual	Annual	Annual	Notes
License / Component Description	Qty	Support	Support	Support	Support	Support	
Base Versadex Application SW & Interfaces							
RMS	446	\$ 96,951	\$ 99,860	\$ 102,855	\$ 105,941	\$ 109,119	
MRE	Site	\$ 38,540	\$ 39,696	\$ 40,887	\$ 42,114	\$ 43,377	
Versadex IIR License		\$ 3,800	\$ 3,708	\$ 3,619	\$ 3,534	\$ 4,052	
Document Imaging Integration Package & Site Viewing	Site	\$ 17,654	\$ 18,184	\$ 18,729	\$ 19,291	\$ 19,870	Includes 26 Scanning Lic
Versadex RMS Import/Attach Site License	Site	\$ 5,954	\$ 6,133	\$ 6,317	\$ 6,506	\$ 6,701	
General Registration		\$ 1,740	\$ 1,792	\$ 1,848	\$ 1,901	\$ 1,958	
PDF Generator Integration Package		\$ 5,800	\$ 5,974	\$ 6,153	\$ 6,338	\$ 6,528	
VGI and Initial Street Conversion		\$ 16,996	\$ 16,887	\$ 17,394	\$ 17,916	\$ 18,453	
7x24 Support		\$ 6,960	\$ 7,166	\$ 7,384	\$ 7,605	\$ 7,833	
DPS TLETS/NETS System (TCIC/NCIC) Integrated I/F		\$ 21,380	\$ 22,021	\$ 22,682	\$ 23,362	\$ 24,063	
Regional Warrant Database Query		\$ 7,250	\$ 7,468	\$ 7,692	\$ 7,922	\$ 8,160	
Travis County Arrest Transfer via IDENTIX Livescan		\$ 4,284	\$ 4,392	\$ 4,524	\$ 4,660	\$ 4,799	
IDENTIX Response File (SID #) Interface		\$ 2,659	\$ 2,636	\$ 2,714	\$ 2,796	\$ 2,880	
Mugshot Interface (DISI)		\$ 2,965	\$ 3,074	\$ 3,187	\$ 3,262	\$ 3,380	
Electronic Pawn Slip Interface		\$ 6,536	\$ 6,735	\$ 6,937	\$ 7,145	\$ 7,359	
Tritech CAD Complaint Transfer I/F		\$ 8,529	\$ 8,785	\$ 9,049	\$ 9,320	\$ 9,600	
CAD Warrant Query to RMS		\$ 4,264	\$ 4,382	\$ 4,524	\$ 4,660	\$ 4,799	
Versadex LIMS Interface		\$ 6,586	\$ 6,794	\$ 6,996	\$ 7,208	\$ 7,424	
Tritech MDT to Versadex MRE Profile Interface	Site	\$ 14,037	\$ 14,458	\$ 14,892	\$ 15,339	\$ 15,799	
Versadex Mugshot Desktop Viewer		\$ 3,479	\$ 3,584	\$ 3,691	\$ 3,802	\$ 3,916	
Note 2 Third Party Software							
Four J's Compiler	1	\$ 3,870	\$ 3,760	\$ 3,671	\$ 3,573	\$ 3,475	
Four J's Runtime (Implementation/Training)	60	\$ 3,605	\$ 3,713	\$ 3,825	\$ 3,939	\$ 4,057	
Four J's 446 Runtime (Production)	446	\$ 32,157	\$ 33,122	\$ 34,115	\$ 35,139	\$ 36,183	
Sub-total RMS/MRE Licenses		\$ 311,908	\$ 321,265	\$ 330,903	\$ 340,830	\$ 351,855	

Budgetary Quote for Versadex for Austin PD						Optional	Optional	
Five year support projection			1-Dec-15	1-Dec-16	1-Dec-17	1-Dec-18	1-Dec-19	
Submitted: March 25, 2015			30-Nov-16	30-Nov-17	30-Nov-18	30-Nov-19	30-Nov-20	
License / Component Description	Qty		Annual Support	Annual Support	Annual Support	Annual Support	Annual Support	Notes
Mobile Data RF Licenses								
Versaterm MDT RF-Gateway	1	\$	3,980	\$ 4,099	\$ 4,222	\$ 4,349	\$ 4,479	
Versaterm/Broadbeam RF Base Integration Package	1	\$	3,411	\$ 3,514	\$ 3,619	\$ 3,728	\$ 3,840	
Versaterm RFLink for IP	Sits	\$	18,552	\$ 19,109	\$ 19,682	\$ 20,272	\$ 20,881	
Mobile Data Terminal Licenses								
MDT Licenses	460	\$	22,744	\$ 23,427	\$ 24,130	\$ 24,853	\$ 25,599	
MDT RMS-Link Base Package	1	\$	1,708	\$ 1,757	\$ 1,810	\$ 1,864	\$ 1,920	
MDT RMS Link Licenses	460	\$	2,843	\$ 2,928	\$ 3,016	\$ 3,106	\$ 3,200	
MDT Mugshot Viewing Base Package	1	\$	1,137	\$ 1,171	\$ 1,206	\$ 1,243	\$ 1,280	
MDT Mugshot Viewing Licenses	460	\$	2,843	\$ 2,928	\$ 3,016	\$ 3,106	\$ 3,200	
Sub-Total MDT Licenses			\$ 57,216	\$ 58,933	\$ 60,701	\$ 62,522	\$ 64,397	
Services								
RMS Upgrade Fee		\$	10,300	\$ 10,609	\$ 10,927	\$ 11,255	\$ 11,593	
Sub-total Versadex/MDT Licenses			\$ 379,424	\$ 390,807	\$ 402,631	\$ 414,607	\$ 427,045	
Vote1: Above numbers do not include support on additional future components								
Vote2: Third party support could be subject to a higher increase as we renew our OEM agreement with our 3rd party suppliers annually								
Vote3: RMS Upgrade Fee is charged annually regardless of whether or not an RMS upgrade is performed in that year.								
Vote4: Versaterm is providing this maintenance and support under the terms and conditions of the Maintenance And Support Service Agreement for Versaterm's Versadex product								

Budgetary Quote for Versadex for Austin PD						Optional	Optional	
Five year support projection			1-Dec-15	1-Dec-16	1-Dec-17	1-Dec-18	1-Dec-19	
Submitted: March 25, 2015			30-Nov-16	30-Nov-17	30-Nov-18	30-Nov-19	30-Nov-20	
License / Component Description	Qty		Annual Support	Annual Support	Annual Support	Annual Support	Annual Support	Notes
New License / Component Description (not yet purchased)			Licenses & Services				License	Notes
Versadex Mobile Report Entry (MRE) Licenses	Sits	\$	54,000					See support above
Tritech CAD Prefill License	Sits	\$	7,800					See support above
Versaterm RFLink for IP	Sits	\$	16,000					See support above
Versadex IBR License (NIBRS)		\$	12,000					See support above
TIBRS Labour (Dec.18/14 quote)		\$	60,500					
Sub-total New Licenses/Components			\$ 150,300	\$ -	\$ -	\$ -	\$ -	
Total by Year			\$ 529,724	\$ 390,807	\$ 402,631	\$ 414,607	\$ 427,045	
Additional Support and Maintenance 20% annual cost			\$ 105,945	\$ 78,161	\$ 80,506	\$ 82,921	\$ 85,409	
Total Requested Authorization			\$ 635,669	\$ 468,968	\$ 483,037	\$ 497,528	\$ 512,454	
Total contract not to exceed			\$ 2,597,855					

Exhibit B
Software License Agreement

This Software License Agreement is made in consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration,

BETWEEN:

VERSATERM Inc., a corporation duly incorporated under the laws of Canada and having its office located at 2300 Carling Avenue, Ottawa, Ontario, Canada
(hereinafter referred to as "**VERSATERM**")

AND:

City of Austin, a Texas home-rule corporation
(hereinafter referred to as the "**City**")

1. DESCRIPTION OF THE LICENSED PROGRAM MATERIALS.

VERSATERM owns the collection of computer programs and materials known as **VERSADEX** more particularly described in Annex A attached hereto and hereinafter collectively referred to as the "Licensed Program".

- 1.1 The term "Licensed Program" includes any upgrades, releases, or revisions of the computer programs released by **VERSATERM**.
- 1.2 The user/operation manuals, listings and other documentation and media describing the Licensed Program and its technical performance features, including all physical media upon which the information is provided by **VERSATERM** is referred to as "Documentation."
- 1.3 The Licensed Program and the Documentation supplied by **VERSATERM** under this Agreement are collectively referred to as the "Licensed Program Materials".

2. LICENSE. Subject to the terms and conditions of this License Agreement and payment of the applicable license fee, VERSATERM hereby grants to the City, and the City hereby accepts, a non-exclusive license (the "License") to:

- 2.1 use the Licensed Program Materials in source machine readable form on the configuration of machines designated in Annex B attached hereto and in conjunction therewith to store the Licensed Program Materials in, transmit them through, or display them on units associated with such designated configuration of machines;
- 2.2 utilize the Licensed Program Materials in printed form in support of the use of the Licensed Program;
- 2.3 copy or translate the Licensed Program Materials in machine readable form into any machine readable or printed form to provide sufficient copies to support the **City's** use of the Licensed Program as authorized under this License Agreement.
- 2.4 The License is non-exclusive and extends only to use in conjunction with **City's** RMS law enforcement operations. The Licensed Program Materials may only be used on the configuration of machines and at the location designated in Annex B without **VERSATERM's** written consent, except as otherwise provided herein.

- 2.5 The City cannot exceed the maximum number of workstations, simultaneous users and/or supported users, as the case may be, designated in Annex A without **VERSATERM's** written consent, which consent may be subject to payment of additional license fees.
- 2.6 The City shall not use, print, copy, translate or display the Licensed Program Materials in whole or part unless expressly authorized in this License Agreement.
- 2.7 Apart from the rights enumerated in this License Agreement, the License does not include a grant to the City of any right to use, nor any ownership right, title or other interest, in or relating to the Licensed Program Materials, nor in any copy of any part of the Licensed Program Materials.
3. **TERM AND TERMINATION OF LICENSE.** The License shall be perpetual unless terminated as provided herein. **VERSATERM** may terminate the License or this License Agreement upon written notice if the City fails to comply with any of the terms and conditions of this License Agreement. City shall have thirty (30) calendar days from receipt of such notice to cure said default or to provide a plan of action that is acceptable to **VERSATERM** to cure the default. If City fails to cure said default, **VERSATERM** shall have the right to terminate this License Agreement.
- 3.1 Upon termination for any reason, the City shall immediately cease all use of the Licensed Program Materials except as otherwise specifically provided herein.
- 3.2 In the event of termination by either party, the terminating party in its sole discretion may terminate one or more License rights divisibly without terminating other License rights.
4. **THIRD PARTY SOFTWARE.** The City acknowledges that the License does not include any right to use nor any interest in third party software such as Nettech, Informix 4GL, DBMS, Informix SQL, Pixel Translations, ESRI and the UNIX Operating System and Development System. The City acknowledges that third party software is required to execute or interface with the Licensed Program and that the City is obligated to separately acquire licenses for the required third party software.
5. **TEMPORARY LICENSE TRANSFER.** The City is authorized to use the Licensed Program Materials on:
- 5.1 a back-up configuration of machines when the designated configuration of machines is temporarily inoperable until operable status is restored and processing on the back-up configuration of machines is completed; or
- 5.2 another machine for compilation of the Licensed Program Materials if the designated configuration of machines does not provide the configuration required for compilation.
6. **PERMISSION TO MODIFY.** The City may modify the Licensed Program Materials provided in source machine readable form, or extend it into other program material to form an up-dated work for the City's own use; provided that, within 120 days of the date of termination of the License, the Licensed Program Materials shall be completely removed from the up-dated work and dealt with under this License Agreement as if permission to modify or extend had never been granted. Any portion of the Licensed Program Materials included in such an up-dated work will continue to be subject to all terms and conditions of this Software License Agreement.

7. **PROTECTION AND SECURITY OF THE LICENSED PROGRAM MATERIALS.** The City will take appropriate action, by instruction, Software License Agreement or otherwise, with any persons permitted access to the Licensed Program Materials so as to ensure that the City satisfies its obligations under this License Agreement.
- 7.1 All copies of the Licensed Program Materials provided by **VERSATERM** or made by the City including translations or compilations or partial copies within modifications, derivative works and up-dated works are the property and information of **VERSATERM** and may not be distributed or disclosed by the City to any person, including other licensees of the Licensed Program, without **VERSATERM's** prior written consent.
- 7.2 The City will reproduce and include the copyright notice on any such copies made by the City in accordance with **VERSATERM's** copyright instructions as provided with the Licensed Program Materials.
- 7.3 The City will maintain records of the number and location of all copies of the Licensed Program Materials and notify **VERSATERM** in writing if the original or any copy of the Licensed Program Materials will be kept at a location other than that of the configuration of machines designated in this License Agreement.
- 7.4 The City will ensure, prior to disposing of any media, that any Licensed Program Materials contained thereon have been erased or otherwise destroyed.
- 7.5 The City will not provide or otherwise make available any Licensed Program Materials in any form without **VERSATERM's** prior written consent except to City, **VERSATERM** employees, or to other persons during the period such other persons are on the City's premises, for purposes specifically related to the City's authorized use of the Licensed Program Materials.
- 7.6 It is further agreed that the City will not disclose the information to third parties without **VERSATERM's** prior written consent with the sole exception that the City is permitted to demonstrate the Licensed Program Materials to other Public Safety personnel who are potential licensees of the Licensed Program Materials.
8. **WARRANTY OF TITLE AND INTELLECTUAL PROPERTY INDEMNIFICATION.** **VERSATERM** warrants that it has good and defensible title to all software provided under this Agreement, and that these products are free and clear of all liens, claims, security interests, and encumbrances. **VERSATERM** will at its expense indemnify and hold harmless the City and defend against any claim, action or proceeding by a third party ("Action" herein) for infringement by the Licensed Program Materials of copyright or trade secrets or other intellectual property right of any third party, provided that City immediately notifies **VERSATERM** in writing of such action and cooperates fully with **VERSATERM** and its legal counsel in the defense thereof. In the event of any infringement of the intellectual property rights of any third party by **VERSATERM's** Licensed Program Materials provided under this Agreement, **VERSATERM** may in its discretion and at its sole expense (i) contest, (ii) settle, (iii) procure for City the right to continue using the Licensed Program Materials by obtaining all required licensing from the third party so infringed, or (iv) modify or replace the Licensed Program Materials so that it no longer infringes (provided the functionality and performance described in the then-current U.S. Records Management Functional Specifications substantially remains following such modification or replacement). **VERSATERM** shall then make available to City any resulting software modifications or releases at no expense to City. City may participate in the defense of such Action at its own expense. If **VERSATERM** concludes in its sole judgment that none of the foregoing options are commercially reasonable, and City's use of the Licensed Program Materials is permanently enjoined as a result of a judgment of a court of competent jurisdiction in such Action, then **VERSATERM** shall pay the City a declining percentage of the license fee paid by the City for that portion of the Licensed Program Materials namely, 100% of the license fee during the first year of the term of this License Agreement; 80%, 60%, 40% and 20% of the license fee in the second,

third, fourth and fifth years, respectively, of this License Agreement; and 0% thereafter.

VERSATERM shall make said payment to the **City** within ten business days of the **City's** notice of termination or court order of permanent injunction, whichever is earlier. In addition, in the event such Action results in a money judgment against **City** which does not arise, wholly or in part, from the actions or omissions of **City**, its officers, directors, employees, contractors, agents, or elected officials, or a third party, **VERSATERM** will defend, indemnify, and hold the **City** harmless from any such judgment.

9. **DISCLAIMER OF ALL OTHER WARRANTIES AND REPRESENTATIONS.** The express warranties and express representations set forth in this License Agreement or otherwise agreed to by **VERSATERM** and the **City**, in writing, in connection with this License, are in lieu of, and **VERSATERM DISCLAIMS, ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE LICENSED PROGRAM MATERIALS OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT VERSATERM KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, VERSATERM EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CITY WITH RESPECT TO THE LICENSED PROGRAM MATERIALS OR ANY PART THEREOF.**
10. **EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES.** Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this License Agreement, **VERSATERM WILL NOT BE LIABLE TO THE CITY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE CITY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND - including lost profits, loss of business or other economic damage, and further including incidental or consequential damages for injury to third party property, but specifically excluding the Warranty of Title and Intellectual Property Indemnification, as set forth in paragraph 8 herein- AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER TERM OF THIS LICENSE AGREEMENT, REGARDLESS IF VERSATERM WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.**
11. **MAXIMUM AGGREGATE LIABILITY.** Except for the Warranty of Title and Intellectual Property Indemnification as set forth in this Agreement, independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this License Agreement, **IN NO EVENT SHALL VERSATERM'S AGGREGATE LIABILITY TO CITY (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY CITY), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM, OR RELATED TO, THE SUBJECT MATTER OF THIS LICENSE AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE LICENSE FEES PAID BY THE CITY PURSUANT TO THE CONTRACT.**
12. **GENERAL**
 - 12.1 **Assignment.** No party may assign or transfer any right under this License Agreement, and any purported assignment or transfer will be null and void and a breach of this License Agreement, except for the following, or as otherwise provided herein. Either party may assign some or all of its rights and/or delegate some or all of its obligations under this License Agreement with the express prior written consent of the other party, which may be granted or withheld in the other party's sole discretion. Provided the **City's** prior written consent is granted, **VERSATERM** may assign this License Agreement and all of its rights and obligations

hereunder to a third party in connection with the acquisition by such third party of all or substantially all of the assets of **VERSATERM Inc.** or its **VERSATERM SYSTEMS** division. **VERSATERM** may otherwise assign any of its rights and obligations under this License Agreement to any company or corporation related directly or indirectly with **VERSATERM** with the express prior written consent of the City, which shall not be unreasonably withheld. This License Agreement shall enure to the benefit of, and be binding upon, the successors and permitted assigns of the City and **VERSATERM**.

- 12.2 Notices.** Notices shall be as set forth in the Contract.
- 12.3 Modifications.** No modification or amendment of this License Agreement will be valid or binding unless reduced to writing and duly executed by the party or parties to be bound.
- 12.4 Jurisdiction and Venue.** The Agreement is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Agreement shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.
- 12.5 UN CONVENTION. PURSUANT TO ARTICLE 6 OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ("UN CONVENTION"), THE PARTIES AGREE THAT THE UN CONVENTION SHALL NOT APPLY TO THIS LICENSE AGREEMENT.**
- 12.6 Limitation of Waivers.** The failure of either party at any time to require performance by the other party of any provision of this License Agreement shall in no way affect the right of such party to require performance of that provision. Any waiver by either party of any breach of any provision of this License Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself or a waiver of any right under this License Agreement.
- 12.7 Severability.** Any provision of this License Agreement or part thereof found to be illegal or unenforceable shall be deemed severed and the balance of this License Agreement shall remain in full force and effect.
- 12.8 Agreement Counterparts.** This License Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages, any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photocopy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties.
- 12.9 Entire Agreement, Interpretation.** This License Agreement, together with the Contract entered into between the parties, including all annexes attached hereto and thereto, all documents incorporated by reference herein and therein and all instruments supplemental hereto or thereto or in amendment or confirmation hereof or thereof, constitutes the entire agreement between the parties concerning the subject matter hereof. No prior or contemporaneous representations, inducements, promises, proposals, or agreements, oral or otherwise, between the parties, with reference thereto, will be of any force or affect except as may be expressly set forth herein or therein. Although the Software License Agreement may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by

the State of Texas, is used in the Agreement, the UCC definition shall control, unless otherwise defined in the Agreement.

12.10 The following Annexes attached hereto are incorporated into this License Agreement by reference and deemed to be a part hereof:

- (a) Annex A - Licensed Program(s)
- (b) Annex B - Designated Configuration of Machines

**Software License Agreement
Annex A - Licensed Program(s)**

1. Definitions

In this Annex,

- 1.1** "User(s)" means simultaneous user with the unique combination of one login on one display device with no more than five processes running.
- 1.2** "Install(s)" means the installation of the software on a designated PC, server or device.
- 1.3** "Site License" means unrestricted use or installation for the City.

2. Licenses

<u>Licensed Program/Function</u>	<u>License Description</u>
Versadex Base RMS for Oracle	350 Concurrent Users
Versadex Property Subsystem	350 Concurrent Users
Property Bar-Code Support	Site License
Property Bar-Coding Mobile Scanner Support	Site License
Versadex Arrest Booking	350 Users
Versadex General Registration	350 Users
Versadex Document Imaging Licenses	26 Installs
Versadex Document Imaging Import/Attach Licenses	64 Installs
PDF Generator Integration Package	Site License
Mobile Report Integration License	Site License
Mobile Report Licenses	200 Installs
DB-Lexicon Data Dictionary	Site License
Versaterm Message Controller	Site License
Street/GEO Code Update	1 Install
Versadex Mugshot Desktop Viewer	Site License
Versadex NCIC Interface	350 Users
Regional Warrant Query Interface	Site License
Travis County Arrest Transfer Interface	Site License
Identix Response File Interface	Site License
Mugshot Interface	Site License
Electronic Pawn Slip Interface	Site License
Tritech CAD Complaint Transfer Interface	Site License
CAD Warrant Query to RMS Interface	Site License
Versadex LIMS Interface	Site License
Tritech MDT to Versadex MRE Prefill Interface	400 Installs
Versaterm MDT RF-Gateway	Site License
Broadbeam RF Base Integration Package	Site License
Broadbeam RFLink for Public Radio	450 Installs
Versadex MDT Licenses for Report Transfer	Site License
MDT RMS Link Base Package	Site License
MDT RMS Link Licenses	Site License
MDT Mugshot Viewing Base Package	Site License
MDT Mugshot Viewing Licenses	Site License

Software License Agreement
Annex B - Designated Configuration of Machines

Configuration machine to be provided by the City:

IBM p750 (two servers/LPAR on each server)

1 Power7 processor running at 3.0 GHz

~20GB memory

AIX 6.1 (or latest level at time of installation)

PowerHA 6.1 (or latest level) in Active-Passive

IBM p570 (three servers/LPAR on each server)

3 Power7 processors shared pool running at 3.0 GHz

~10-30GB memory

Oracle RAC 11g in three-node cluster

Configuration machine(s) located at:

CTECC, City of Austin, Texas

Exhibit C
Support Agreement

This Agreement is made in consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration,

BETWEEN:

VERSATERM Inc., a corporation duly incorporated under the laws of Canada having its office located at 2300 Carling Avenue, Ottawa, Ontario (hereinafter referred to as "**Versaterm**")

AND:

City of Austin, a Texas home-rule corporation (hereinafter referred to as the "**City**")

1.0 Definitions. In this Support Agreement,

- 1.1 **"License"** means the license in respect of the Product granted by **Versaterm** pursuant to the Software License Agreement.
- 1.2 **"Product"** means the computer programs and documentation provided by **Versaterm** and which the **City** is authorized under the Software License Agreement to use in the course of their normal operations, including Product Update(s) and Product Upgrade(s) used by the City.
- 1.3 **"Product Update"** means a change or new release of the Product then in use by the City or related documentation designed to correct Problem(s).
- 1.4 **"Product Upgrade"** means a change or new release of the Product then in use by the City containing new functions, features and enhancements that have become part of the standard RMS System and which are made available to **Versaterm** customers who have a current support agreement in place for such Products.
- 1.5 **"Problem"** means defective Product distribution media and/or failure of the Product to function substantially in accordance with the documentation but does not include compatibility problems on hardware components and other systems software components or new releases that **Versaterm** has not supplied and/or has not pronounced "acceptable" or "supported".
- 1.6 **"Critical Priority Error"** means complete RMS System failure where the Product is not available for use.
- 1.7 **"High Priority Error"** means a serious problem that materially affects the operational use of the Product.
- 1.8 **"Software License Agreement"** means the Software License Agreement between **Versaterm** and the **City** concerning the license of the Product.
- 1.9 **"Support"** means services which are provided by **Versaterm** to the **City**, as described herein, regarding Problem(s) encountered with standard, unmodified Product, and with

Versaterm's modifications to or interfaces with the Products, and which are necessary to:

- (i) resolve Problems and provide temporary "work around" solutions, if necessary;
- (ii) assist with data manipulation, duplication or restoration where data has been affected by defects under paragraph (i) immediately above but not by hardware defects or operator error or misuse of any of the software or hardware;
- (iii) periodically review all Products to identify and resolve Problems on a preventative basis; and
- (iv) provide, in a timely manner, all Product Updates and Product Upgrades.

1.10 "Support Agreement" means this maintenance and support service agreement, all annexes attached hereto, all documents incorporated by reference herein and all instruments supplemental hereto or in amendment or confirmation hereof.

1.11 "Support Authority" means the City's designated employee (or employees) authorized to approve additional, separately billable time and materials support work, beyond that included within this Support Agreement.

1.12 "Support Contact" means City's designated employee, a consultant providing services directly to the City or another designated City representative with whom **Versaterm** will communicate when providing Support. The Support Contact must be knowledgeable about how the Product is being used and the language in which it is written and be competent to do system administration of the operating system under which it is being used.

1.13 "Support Period" has the meaning set forth in the Contract.

1.14 Other Terms. Other terms are defined in the Sections in which they are used.

2.0 Versaterm Support Obligations

21 Product Support. During the Support Period, **Versaterm** may make Support available through newsletter(s), access to **Versaterm's** Web Page / Bulletin Board System and direct contact with the City. Such Support may consist of the periodic review of current outstanding questions and usage issues, new and upcoming releases of Product Update(s) and Product Upgrade(s) and potential environment changes that could impact the use of the Product.

22 Regular Telephone Support. During the Support Period, **Versaterm** will make Support available by telephone to the Support Contact at substantially all times from 7:30 a.m. (Eastern time) until 5:30 p.m. (City local time) each day except Saturdays, Sundays, and legal holidays in the jurisdiction of the City. To the extent possible by telephone and modem or Internet communications, **Versaterm** will attempt to identify and provide a workaround for the Problem and will use reasonable efforts to provide a final solution for the Problem, if that applies. **Versaterm** will normally respond to a telephone request for Support within thirty (30) minutes of receipt of the call.

2.3 7x24 Telephone Support.

This support coverage extends Support for problems identified as High Priority Error and Critical Priority Error to include all hours not already provided for within Regular Telephone Support.

In selecting the Limited Emergency or Full Emergency 7x24 Telephone Support option, the City agrees to the annual subscription fee and hourly charges (if applicable) as identified under the corresponding option. The 7X24 Support fee structure is subject to annual review.

In the event a Customer without the optional 7x24 Telephone Support coverage requests Support outside of the hours provided for under Regular Telephone Support, they will be notified that they do not have 7x24 Telephone Support and, if Versaterm is authorized to continue, they will be charged the then prevailing rates for 7x24 Support for those Customers without 7x24 Telephone Support coverage.

- 2.4 On-Site Emergency Support.** During the Support Period, in the extreme event of a complete RMS System failure (Critical or High Priority Error) and a determination that telephone and modem communications can not identify the Problem or provide a workaround, then a Versaterm representative will be dispatched to the City's site within a reasonable period of time, not to exceed three business days from the City's notification of the error. Such period of time will depend, among other things, upon the proximity of the City and the availability of transport. The City shall reimburse Versaterm for reasonable travel and living expenses incurred as a result of any such declared Emergency site visit.
- 2.5 Termination of Corrective Action.** Versaterm may, but need not, terminate its corrective efforts under this Section 2 at any time if, in its business judgment:
- (a) the City fails to perform its obligations under this Support Agreement; or
 - (b) the City is not using the then current unmodified version of the Product or other Versaterm customized versions of the Product then supported by Versaterm; or
 - (c) Versaterm is not able to reproduce the Problem in the applicable operating environment and verify that the Problem is in fact in the Product and not elsewhere; or
 - (d) the Problem does not impede the City's use of the product; or
 - (e) further corrective efforts are not appropriate because the Problem has been identified and is caused by an external factor (e.g. bug in system software such as Informix, MS Windows, etc.) not within Versaterm's control; or
 - (f) Versaterm has declared the problem as probably being caused by something external to the supplied software, such as aberrations within the clients network (LAN and/or WAN and/or related network equipment). Versaterm will terminate work on this problem unless the City authorizes further diagnosis effort that may be billable, separately under this Support Agreement when and if the suspected external problem source is confirmed. If confirmed as being caused by an external source, then such work will be billed on a time and materials basis at then prevailing hourly rates for support (whether within or outside normal support hours) and can be authorized by FAX or E-mail by the designated Support Authority or other as designated in writing to Versaterm as having that authority.
- 2.6 Product Update(s).** During the Support Period, Versaterm will offer copies of Product Update(s), if any, to the City at no additional charge.
- 2.7 Product Upgrade(s).** During the Support Period, Versaterm will offer copies of Product Upgrade(s), if any, to the City at no additional charge. Versaterm will provide, at no additional costs, all associated documentation including, but not limited to, end-user release notes, technical release notes and database schema and diagrams (where appropriate). The upgrade will also include corrections for reported defects.

- 2.8 **License Agreement.** Product Update(s) and Product Upgrade(s) are provided subject to and in accordance with the license rights, restrictions, terms, covenants, conditions, warranties, limitations, exclusions and other provisions set forth in the Software License Agreement.

30 City Support Obligations

- 3.1 **Support Contact.** By notice to **Versaterm**, the **City** shall designate one qualified individual as its Support Contact to provide routine end user support for the **City** personnel concerning the Product. The **City** may designate substitutes for such individual from time to time by notice to **Versaterm**. The Support Contact will be equipped by aptitude and training to fulfill the duties identified. The **City** shall also identify a Support Authority who can authorize **Versaterm** to perform separately billable support work and authorize payment of the related expenses for any work requested outside of that provided by this Support Agreement or as a result of an "out of normal hours" support call.

- 3.2 The **City** shall take appropriate steps to educate its end users about the need to contact the Support Contact (rather than **Versaterm** directly) when support is needed. The **City** shall appropriately publicize the name, telephone number, and/or fax number and/or electronic mail address if applicable, of the Support Contact.

- 3.3 As a matter of policy, **Versaterm** will ordinarily still attempt to respond promptly and courteously to Support requests from any end user, but it shall always have the right to require the caller to work through the designated Support Contact instead of directly with **Versaterm**.

- 3.4 **City agrees:**

- (a) to limit use of Support to occasions when the Product fails to function as described in the documentation or the **City** requires clarification of the documentation.
- (b) to furnish descriptions of Problem(s) in the form reasonably requested by **Versaterm's** Support representatives.
- (c) to assist **Versaterm's** efforts to reproduce the Problem in the applicable operating environment.
- (d) to make available qualified, trained staff on-site to carry out **Versaterm** instructions.

- (e) to provide modem or Internet access to their server, with appropriate "access rights", to enable **Versaterm's** Support representatives to remotely analyze and diagnose reported Problem(s); and
- (f) to install any Product Update or Product Upgrade at its own expense and in accordance with **Versaterm's** instructions. **Versaterm** will, *at the request and expense of the City*, install any such Product Update or Product Upgrade in which event the **City** shall pay **Versaterm** its then prevailing per diem rates plus travel and living expenses.

4.0 Support Period

- 4.1** Within or after the sixty (60) day period prior to the expiration of the Support Period, **Versaterm**, or its designated reseller, may send the **City** an invoice for a "Renewal Support Fee". The sending of any such invoice will constitute an irrevocable offer to extend the Support Period for the period and fees set forth in the invoice, which may be accepted by the **City** in its sole discretion as hereinafter set forth.
- 4.2** The **City's** payment of a Support Fee in response to an invoice prior to (i) the expiration date of the Support Period, or (ii) thirty (30) days after the date of **Versaterm's** invoice, whichever is later, will extend the Support Period for:
 - (a) one year from its previous expiration date, or
 - (b) if the invoice specifies that the invoice is for a prorated Support Fee to cover an interim period (e.g., to adjust subsequent expirations dates of the Support Period), until the new expiration date indicated in the invoice.
- 4.3** **Versaterm** shall provide the **City** with thirty (30) days written notification prior to canceling the Maintenance and Support Services Agreement for non-payment.
- 4.4** If the Support Period is allowed to expire, **Versaterm** may condition any subsequent reinstatement of the Support Period on payment by the **City** of an additional fee set by **Versaterm** in its sole discretion but not to

exceed **Versaterm's** then-current license fee for the Product. Such reinstatement will be effective as of its date and will not be retroactive.

5.0 Support Fee and Payment Terms

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5.1 The Support Fee for the initial Support Period is set out in Exhibit **C**. Payment is due prior to the commencement of the Support Period.

5.2 Purchases of deliverables for City use are usually exempt from City, State, and most Federal Taxes. Prices should not include exempted taxes. A Tax Exemption Certificate will be provided to Contractor upon request from the Purchasing Office. Under no circumstances shall the City be liable to pay exempt taxes under this Agreement. The City will not be required to pay or reimburse **Versaterm** for taxes based upon the net worth, capital, net income, or franchise of **Versaterm**, nor taxes imposed upon **Versaterm** solely by reason of **Versaterm's** doing business in or being incorporated in the jurisdiction imposing such taxes.

5.3 Payment terms are set forth in the Contract.

6.0 Disclaimer of all other Warranties and Representations. The express warranties and representations set forth in this Support Agreement or otherwise agreed to in writing by **Versaterm** and the City in writing in connection with the provision of the provision of support are in lieu of, and **Versaterm** **DISCLAIMS, ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE PRODUCT AND SUPPORT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT Versaterm KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, Versaterm EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CITY WITH RESPECT TO THE PRODUCT OR SUPPORT OR ANY PART THEREOF.**

7.0 Exclusion of Incidental and Consequential Damages. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Support Agreement, **Versaterm WILL NOT BE LIABLE TO THE CITY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE CITY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND - INCLUDING LOST PROFITS, LOSS OF BUSINESS, LOSS OF DATA, OR OTHER ECONOMIC DAMAGE, AND FURTHER INCLUDING INCIDENTAL AND CONSEQUENTIAL DAMAGES AS A RESULT OF INJURY TO PROPERTY OR PERSONS - AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER TERM OF THIS SUPPORT AGREEMENT, REGARDLESS IF Versaterm WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.**

8.0 Maximum Aggregate Liability. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Support Agreement, **IN NO EVENT SHALL Versaterm's AGGREGATE LIABILITY TO CITY (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY CITY), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM, OR RELATED TO, THE SUBJECT MATTER OF THIS SUPPORT AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE MOST RECENT SUPPORT FEE PAID BY THE CITY TO Versaterm.**

EXHIBIT D
City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations subject to their not conflicting with the laws of Versaterm's incorporation and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations subject to their not conflicting with the laws of Versaterm's incorporation.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 19TH day of April, 2016

CONTRACTOR

Authorized
Signature

Title

VERSATERM INC.

T. Rosale

Secretary-Treasurer

Exhibit E

City of Austin, Texas
Section 0805
NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: VERSATERM INC.

Signature of Officer or
Authorized
Representative: T Rosales Date: April 19, 2014

Printed Name: T ROSALES

Title: Secretary Treasurer



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 11/12/2015

DEPT: City of Austin Police Department

TO: Purchasing Officer or Designee

FROM: Enjolé Armstrong

BUYER: Terry Nicholson

PHONE: (512) 974-5082

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

- ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
- ☐ a procurement necessary to preserve or protect the public health or safety of municipality's residents
- ☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
- ☐ a procurement for personal, professional, or planning services
- ☐ a procurement for work that is performed and paid for by the day as the work progresses
- ☐ a purchase of land or right-of-way
- ☐ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for

equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits

- ☐ a purchase of rare books, papers, and other library materials for a public library
- ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
- ☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for
 - cooperative purchasing administered by a regional planning commission established under Chapter 391
 - services performed by blind or severely disabled persons
 - goods purchased by a municipality for subsequent retail sale by the municipality
 - electricity
 - advertising, other than legal notices
 - Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

The exemption request is for the purchase of a 12-month requirements service agreement in the amount of \$635,669 with four 12-month extension options in the amounts of \$468,968, \$483,037, \$497,528, and \$512,454 respectively for a total contract amount not to exceed \$2,597,655 with Versaterm, Inc for software licenses, maintenance, support and services for the Austin Police Department (APD) Record Management System.

4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).


APD has been using the Versadex System for Records Management since 2001 when it replaced/consolidated a number of separate databases. Versadex interfaces with numerous databases and is used by police officers in the office and in the field to input and extract incident/case information. All versions of the Versadex system are proprietary and Versaterm is the only authorized party to provide interfaces, additional licenses, training or support.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Versaterm which will cost approximately \$ 2,597,655.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification

 11/12/15
Originator Date

Approved
Certification

 11/18/15
Department Director or designee Date

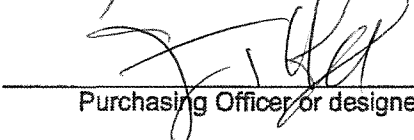
 11/19/15
Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)

 1/13/14
Buyer Date

 2/25/16
Manager Initials

Exemption Authorized
(if applicable)

 2/25/16
Purchasing Officer or designee Date

02/26/2013



2300 Carling Avenue
Ottawa, Ontario, Canada
K2B 7G1
Tel: 613-820-0311
Fax: 613-596-5884
www.versaterm.com

September 14, 2015

Ms Colleen Waters

Re: Sole source letter for Versadex Product annual support.

Dear Ms. Waters,

The City of Austin has requested a budgetary quote to provide annual support for the Versadex system that is installed in Austin Police Department.

This letter also serves to inform that all versions of the Versadex system are proprietary and Versaterm is the only experienced and authorized party to work on upgrading/extending/migrating/supporting Versaterm's application code and data. No vendor is authorized to provide these licenses for proprietary Versaterm code.

Best Regards,

BrendaLee Kelly
Austin PD Account Manager
Versaterm Inc

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Versaterm Inc.
Ottawa Ontario Canada

Certificate Number:
2016-29891

Date Filed:
03/23/2016

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Austin

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

MA 5600 NS160000028
Maintenance and support and other computer services.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Fedscan Enterprises Ltd.	Ottawa Ontario Canada	X	
	Meyer, Ron	Ottawa Ontario Canada	X	
	Labarge, Paul	Ottawa Ontario Canada	X	
	Goudge, David	Vancouver British Columbia Canada	X	
	Goudge, Bernice	Ottawa Ontario Canada	X	
	Wilson, Allan	Ottawa Ontario Canada	X	
	Langlois, Susanne	Ottawa Ontario Canada	X	
	Loomis, Warren	Ottawa Ontario Canada	X	
	Rosales, Theresa	Ottawa Ontario Canada	X	

5 Check only if there is NO Interested Party.

☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

T Rosales

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

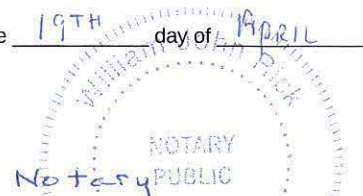
Sworn to and subscribed before me, by the said THERESA ROSALES, this the 19TH day of April, 2016, to certify which, witness my hand and seal of office.

[Signature]

Signature of officer administering oath

William John Rick

Printed name of officer administering oath



Title of officer administering oath