

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Office of the Chief Financial Officer

AGENDA DATE: October 18, 2016

CONTACT PERSON/PHONE: Mark Sutter, Ph.D., Chief Financial Officer, 212-1063
Bruce D. Collins, Purchasing Director, 212-1181

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: NO. # 6: Set the Standard for Sound Governance and Fiscal Management

SUBJECT:

The Office of the Chief Finance Officer recommends authorizing the Purchasing Director for Purchasing & Strategic Sourcing Department to issue Purchase Order(s) to ADP, LLC, a contractor under The Cooperative Purchasing Network (TCPN), Contract No. R151901 (Managed Business/Operational Services and Solutions) for the purchase of Human Resource Administration, Payroll, Time and Attendance and Benefit Services. (see Exhibit "A" for Pricing Schedule). The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

BACKGROUND / DISCUSSION:

The City of El Paso considered implementing ADP services in 2010 but research and evaluation did not result in adoption of the service package offered at that time. In 2015, ADP approached management again to propose a package of services. Review and analysis of the services offered began in October 2015, as a third party consultant began working with City staff to collect data on all the processes and resource inputs utilized by the City to provide maintenance of Human Resources Administration, Payroll, Time and Attendance and Benefits services. The results were compared to the ADP proposal and presented to management in January 2016. Staff checked references in April and May 2016 to verify qualifications and customer satisfaction with the ADP service. During the summer, Management contacted ADP to follow upon issues pending. After concluding that there will be cost savings, reduced risk, and better information reporting, negotiations on the Master Services Agreement were conducted in September and October, resulting in the contract for consideration by Council on October 18, 2016.

SELECTION SUMMARY:

This cooperative contract was competitively bid.

PROTEST

No protest received for this requirement.

Protest received.

COUNCIL REPRESENTATIVE BRIEFING:

Was a briefing provided? Yes or No
If yes, select the applicable districts.

- District 1
- District 2
- District 3
- District 4
- District 5
- District 6
- District 7
- District 8
- All Districts

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Total estimated annual fee \$1,393,211 for year one, first five year estimated total \$7,162,775.00 and estimated second five-year option \$7,720,362, for a total estimated award of \$15,028,137 including maximum \$145,000 travel and per diem for the implementation, (funding sources – various funds depending on numbers of employees paid from the general fund and enterprise funds)

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



EXHIBIT "A"
PRICING SCHEDULE

Implementation Period:	12 months (\$145,000.00 NTE - Travel Reimbursement)
Initial Term:	5 year
Option:	5 (one-year options)
Year 1:	\$1,393,211.00
Year 2:	\$1,421,075.00 (2% increase)
Year 3:	\$1,421,075.00
Year 4:	\$1,463,707.00 (3% increase)
Year 5:	\$1,463,707.00
Total Estimated Initial Term:	\$7,162,775.00 (5 years)
Option Year 6:	\$1,507,618.00 (3% increase)
Option Year 7:	\$1,507,618.00
Option Year 8:	\$1,552,847.00 (3% increase)
Option Year 9:	\$1,552,847.00
Option Year 10:	\$1,599,432.00 (3% increase)
Total Estimated 5-year Option:	\$7,720,362.00 (5 years)
Total Estimated Award:	\$15,028,137.00 (10 years plus the 12-month implementation travel reimbursement)

**COUNCIL PROJECT FORM
(COOPERATIVE CONTRACT)**

Please place the following item on the **REGULAR** agenda for the Council Meeting of **OCTOBER 18, 2016**.

STRATEGIC GOAL: NO.6: Set the Standard for Sound Governance and Fiscal Management

Discussion and action on the Request that the Purchasing Director for Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to ADP, LLC, a contractor under The Cooperative Purchasing Network (TCPN), Contract No. R151901 (Managed Business/Operational Services and Solutions) for the purchase of Human Resource Administration, Payroll, Time and Attendance and Benefit Services. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

The participation by the City of El Paso in the Cooperative Purchasing Network (TCPN) was approved by Mayor and City Council on March 27, 2007.

Department: Office of the CFO
Award to: ADP, LLC
Roseland, NJ

Implementation Period: 12 months (\$145,000.00 NTE - Travel Reimbursement)

Initial Term: 5 year
Option: 5 (one-year options)
Year 1: \$1,393,211.00
Year 2: \$1,421,075.00 (2% increase)
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Option Year 10: \$1,599,432.00 (3% increase)
Total Estimated 5-year Option: \$7,720,362.00 (5 years)

Total Estimated Award: \$15,028,137.00 (10 years plus the 12-month implementation travel reimbursement)

Account No.: Various
Funding Source: Various
District(s): All
Reference No.: 2017-430

This is a Cooperative, service contract.

This award includes the authority for travel reimbursement as incurred and billed by ADP, LLC in accordance with the City's Travel Policy in an amount NTE \$145,000.00 for the 12-month implementation period from the effective date of the contract.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

In accordance with this award the City Manager or designee is authorized to exercise future options if needed.

*******ADDITIONAL INFO BELOW*******



Purchasing & Strategic Sourcing Department

Mayor
Oscar Leoser

City Council

District 1
Peter Svarzbein

District 2
Jim Tolbert

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Claudia Ordaz

District 7
Lily Limón


District 8
Cortney C. Niland

City Manager
Tommy Gonzalez

To: Bruce D. Collins, CPPO, Director
Purchasing & Strategic Sourcing Department

From: Mark Sutter, Chief Financial Officer
Office of the Chief Financial Officer

Date: 10/10/16

Signature: 

Re: Human Resource Administration, Payroll, Time and Attendance, and Benefit Services-2017-430

The Office of the Chief Finance Officer recommends authorizing the Purchasing Director for Purchasing & Strategic Sourcing Department to issue Purchase Order(s) to ADP, LLC, a contractor under The Cooperative Purchasing Network (TCPN), Contract No. R151901 (Managed Business/Operational Services and Solutions) for the purchase of Human Resource Administration, Payroll, Time and Attendance and Benefit Services. (see Exhibit "A" for Pricing Schedule)

The following are the factors used to evaluate the use of this procurement program as the best approach:

- 1. Is there an urgent need for the product/service? In other words, is time of the essence? These services are being acquired to replace existing systems to cause significant reductions in cost, reductions in risk, and improvements in reporting of key payroll and human resource information. These benefits cannot be realized by the City until the new services are implemented.***
- 2. Does the purchase through the Program promote the standardization of equipment? The purchase outsources services that include using a hardware and software platform that is maintained by the vendor, thus relieving the City of data base administration responsibilities, disaster recovery responsibility, and other significant hardware and software maintenance and upgrade and support responsibilities. The new system provides for standardization across City departments for time management, payroll processing, and benefits administration.***

Bruce D. Collins, CPPO
City 1 | 300 N. Campbell Street | El Paso, Texas 79901 | (915)
212-0043



Purchasing & Strategic Sourcing Department

Mayor

Oscar Leeser

City Council

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Peter Svarzbein

District 2

Jim Tolbert

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District 4

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District 6

Claudia Ordaz

District 7

Lily Limón

District 8

Cortney C. Niland

City Manager

Tommy Gonzalez

3. *Does the purchase through the Program support local business? If not, is there a comparable product/service available locally?*

ADP has an office and operating presence in El Paso that employs approximately 2,000 local staff.

4. *Do the available vendors have prior work experience and/or familiarity with the City?*

Although the proposed vendor does not have prior work experience with the City, it is very familiar with the requirements of the City since it has other large municipal clients such as New Orleans, Seattle, Baltimore, and Maricopa County. It also has the results of a comprehensive analysis of City systems performed by a third party consultant, based on input from City staff.

5. *Is the pricing reasonable as compared to other similar products/work performed for the City of El Paso in the past or as quoted from other companies?*

Compared to existing internal costs as computed by a third party consultant and based on input by City staff. the proposed contract will reduce the cost to the City.

6. *Is the proposed vendor on the City's wage theft data base? No.*

Bruce D. Collins, CPPO

City 1 | 300 N. Campbell Street | El Paso, Texas 79901 | (915)
212-0043

"Delivering Outstanding Services"



Purchasing & Strategic Sourcing

Mayor

Oscar Leeser

EXHIBIT "A" PRICING SCHEDULE

City Council

District 1

Peter Svarzbein

District 2

Jim Tolbert

District 3

Emma Acosta

District 4

Carl L. Robinson

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Total Estimated Award: \$15,028,137.00 (10 years plus the 12-month implementation travel reimbursement)



VENDOR WEBSITE

Overview

Contract Documents ▶

Contact

Managed
Business/Operational
Services and Solutions

**Contract: R151901 -
Managed
Business/Operational
Services and
Solutions**

May 1, 2016 to Apr 30, 2019

Master Agreement Documents

- Contract
- Award Letter
- Contract Board Minutes,
Recommendation

Response Evaluation

- Evaluation Summary

Solicitation Process

- Region 4 Intent to Solicit
- Determination for RFP
- Proof of Publication
- RFP
- RFP Addendum 1
- Notification List
- RFP Receipt List and Stamped
Responses
- Proposal Sign In Sheet

GLOBAL MASTER SERVICES AGREEMENT



Effective Date: October 18, 2016

ADP, LLC
(Referred to in this agreement as "ADP")
One ADP Boulevard
Roseland, New Jersey, 07068



ADP and Client agree that ADP shall provide Client with the following services in accordance with the terms set forth in this Global Master Services Agreement.

- Human Resource Administration Services – delivered via ADP Vantage HCM
- Payroll Services – delivered via ADP Vantage HCM
- Time & Attendance Services – delivered via ADP Vantage HCM
- Benefit Services – delivered via ADP Vantage HCM
- ADP Marketplace
- Business Intelligence

City of El Paso
(Referred to in this agreement as "Client")
300 N Campbell
El Paso, Texas 79901



ADP, LLC.

CITY OF EL PASO

Signature of Authorized Representative

Signature of Authorized Representative

Printed Name, Title

Printed Name, Title



List of Appendices:

Appendix 1: Pricing and Financial Terms

Appendix 2: Hackett Advisory Services

Appendix 3: HIPAA Business Associate Agreement

Appendix 4: Enterprise eTime License Agreement

Appendix 5: ADP Vantage HCM Recommended Client
Training Curriculum

Appendix 6: Title VI of the Civil Rights Act of 1964

Global Master Terms and Conditions

1. Definitions

1.1. ADP HCM Services

1.1.1. **Human Resource Administration Services.** Administration of human resource functions using an integrated system to process and audit employee lifecycle events, provide compliance tracking and reporting including new hire reporting, and automate notification and approval processes via self-service / direct access.

1.1.1.1. **Hackett-Certified Advisory Program.** Access to the ADP Vantage HCM Hackett-Certified Best Practice Advisory Program, which provides HCM advice and guidance, including, without limitation, best practice accelerators (scorecard, implementation guide, configuration guide, and process flows), best practice research, performance studies, inquiry support, and peer events. Provision of this Service is limited to the United States.

1.1.1.2. **Document Cloud.** Integrated solution to support maintenance and retrieval of employee-specific documents via cloud-based technology.

1.1.1.3. **I-9 Compliance Services.** Electronic I-9 administration services to help facilitate and manage I-9 and related employment eligibility verification processes.

1.1.2. **ADP Marketplace.** Enable Client to build applications and/or identify available applications via online store. Client decision to purchase any such application would be subject to Client's purchasing process in accordance with applicable procurement law. Should Client elect to purchase an application listed in the ADP Marketplace, ADP shall provide access to certain Client data stored in ADP systems via industry-standard Application Programming Interfaces (APIs).

1.1.3. **Payroll Services.** Administration and processing of payroll including performing gross-to-net calculations and generating and/or transmitting of payment instructions, and also including:

1.1.3.1. **Employment Tax Services.** Coordination of payroll-related tax and/or regulatory agency deposits, filings, and reconciliations on behalf of employers.

1.1.3.2. **Wage Payment Services.** Payment of wages, commissions, consulting fees, or similar compensation or work-related expenses in the employment context to employees and independent contractors via direct deposit, check, or payroll debit cards, in each case to the extent the method of payment delivery is in scope, and online posting of pay statements to the extent applicable. Such services may be provided via ADPCheck Services, ADP Direct Deposit Services, and ALINE Card Services.

1.1.3.3. **Print and Online Statement Services.** Print and distribution of payroll checks, pay statements, and/or year-end statements, as well as online posting of pay statements and/or year-end statements.

1.1.3.4. **Wage Garnishment Payment Services.** Garnishment payment processing and disbursement of payments to appropriate payees as directed by client.

1.1.4. **Time & Attendance Services.** Administration of time-related services, including time data collection, employee scheduling, timecard reviews and approvals, and consistent application of time-related policies. Additional options include solutions to assist with more advanced scheduling management, absence management, and activity tracking.

1.1.5. **Benefit Services.** Benefit-related services made up of the following:

1.1.5.1. **Health and Welfare Administration Services.** Administration of employee benefits, including the following to the extent in scope: calculating eligibility, managing the annual enrollment process, facilitating online enrollment and changes, calculating payroll deductions, providing data to carriers, and supporting employer-sponsored private exchange offerings.

1.1.5.2. **COBRA Services.** Administration of federal COBRA continuation coverage, including required notification and billing.

1.1.5.3. **Direct Bill Services.** Coordination of billing employees on leaves of absence and/or retiree populations for benefits coverage.

1.1.5.4. **Employee Communication Services.** Design, development and production of online and/or printed materials to support employee benefit communication efforts.

1.1.5.5. **Health Compliance Services.** A comprehensive solution, including technology and services, to assist in managing compliance needs related to the Affordable Care Act (ACA), including eligibility calculation, affordability determination, and regulatory management (notices of coverage, exchange notice management, IRS annual reports, and penalty management).

1.1.5.6. **Consumer Health & Spending Accounts.** Administration of the process to reimburse eligible expenses related to health care, dependent care, and/or commuter travel; such spending account management services may include flexible spending accounts (FSAs), health reimbursement arrangements (HRAs), health savings accounts (HSAs), and commuter spending accounts (CSAs).

1.1.6. **Business Intelligence.** Provide tools to analyze and understand data.

1.1.6.1. **Analytics.** Enables an employer to gain insight from data for key Human Capital Management (HCM) metrics.

1.1.6.2. **Benchmarks.** Enables comparison of an employer's performance with other companies in the same industry and/or region to facilitate insight into business performance against industry averages for key Human Capital Management (HCM) metrics.

1.2. **General**

1.2.1. **"ADP"** has the meaning set forth on the cover page.

1.2.2. **"ADP Application Programs"** means the computer software programs and related Documentation, including any updates, modifications or enhancements thereto, that are either

delivered or made accessible to Client through a hosted environment by ADP in connection with the Services.

- 1.2.3. **"ADPCheck"** means checks printed and distributed by ADP to Payees pursuant to Client's direction.
- 1.2.4. **"ADPCheck Services"** refers to ADP's payment of Client's Payees for Permitted Payments through ADPCheck.
- 1.2.5. **"ADP Direct Deposit Services"** means ADP's full service direct deposit services which includes ADP's payment of Client's Payees who have elected to receive Permitted Payments by direct deposit into an account at a financial institution of such Payee's selection.
- 1.2.6. **"ADP I-9 System"** means ADP's I-9 web based system.
- 1.2.7. **"ALINE Card"** means the pre-paid card issued to Client's Payees for Permitted Payments.
- 1.2.8. **"ALINE Card Services"** refers to ADP's payment of Client's Payees through an ALINE Card issued by the Issuing Bank.
- 1.2.9. **"ALINE Cardholder"** means the Payees of Client who receive an ALINE Card.
- 1.2.10. **"Affiliate"** means, with respect to any entity, any other entity that controls, is controlled by or under control with such first entity. For purposes of this Agreement, "control" (or variants of it) means the ability, whether directly or indirectly, to direct the management and action of an entity by means of ownership, contract or otherwise.
- 1.2.11. **"Agreement"** means this Global Master Services Agreement, consisting of the signature pages, the Global Master Terms and Conditions, all exhibits, annexes, appendices and schedules, and each Amendment, if any. This Agreement is supplemental to ADP's TCPN Agreement, as defined herein.
- 1.2.12. **"Amendment"** means a written amendment to this Agreement modifying, supplementing or amending the terms and conditions of this Agreement.
- 1.2.13. **"Approved Country"** means each country in which, subject to the terms of this Agreement, Client is authorized to use or receive the Services. A list of Approved Countries for each Service is set forth in Appendix 1.
- 1.2.14. **"Benefit Services Client Guide"** shall mean the guide, as revised from time to time, that sets forth key portions of ADP's process for administering the Consumer Health & Spending Accounts or COBRA Services, as applicable.
- 1.2.15. **"Business Day"** means any day, except a Saturday, Sunday or a day on which ADP's bank is not open for business in the applicable jurisdiction where services are provided by ADP.
- 1.2.16. **"Client"** has the meaning set forth on the cover page.
- 1.2.17. **"Client ACA Liaison"** has the meaning set forth in Section 14.8.1.

- 1.2.18. **“Client Benefits Liaison”** has the meaning set forth in Section 14.2.1.
- 1.2.19. **“Client Content”** means all information and materials provided by Client, its agents or employees, regardless of form.
- 1.2.20. **“Client Group”** means Client and Client’s Affiliates listed in Appendix 1 who are authorized to receive the Services.
- 1.2.21. **“Client Infringement Event”** means (i) any change, or enhancement in the Services made by Client or any third party on behalf of Client other than at the direction of ADP, (ii) Client’s use of the Services except as contemplated by this Agreement, or (iii) to the extent ADP Application Programs include computer software programs, Client’s use of other than the most current release or version of such computer software programs included in the ADP Application Programs, or Client’s failure to use corrections or enhancements to such computer software programs included in the Application Programs, in each case provided by ADP to Client at no charge, that results in a claim or action for infringement that could have been avoided by use of such current release or version, or by such corrections or enhancements.
- 1.2.22. **“Confidential Information”** means all trade secrets, processes, proprietary data and documentation and any pricing and product information, Personal Information, the terms of this Agreement, and any other information that is confidential or proprietary provided by the disclosing party to the receiving party for use in connection with the Services or this Agreement, but does not include information that (i) the receiving party already knows prior to its disclosure by the disclosing party, (ii) becomes generally available to the public, except as a result of disclosure by the receiving party in violation of this Agreement or (iii) becomes known to the receiving party on a non-confidential basis from a source other than the disclosing party.
- 1.2.23. **“Cost Reimbursement Fee”** means those amounts set forth in Appendix 1 to be paid to ADP in the event Client terminates this Agreement prior to the expiration of the Initial Term, other than for material breach pursuant to Section 12.2.
- 1.2.24. **“Deferred Fee”** means those amounts set forth in Appendix 1 to be paid to ADP in the event Client terminates this Agreement prior to the expiration of the Initial Term for any reason. **“Documentation”** means all manuals, tutorials and related materials that may be provided or made available to Client by ADP in connection with the Services.
- 1.2.25. **“DHS”** means the U.S. Department of Homeland Security.
- 1.2.26. **“Effective Date”** has the meaning set forth on the cover page.
- 1.2.27. **“ERISA”** means Employee Retirement Income Security Act of 1974, as amended.
- 1.2.28. **“E-Verify”** means the DHS’s employment eligibility verification program which allows participating employers to electronically verify the employment eligibility of each newly hired employee and/or employee assigned to a covered federal contract.
- 1.2.29. **“Form I-9”** means the employment eligibility verification form issued by the DHS.
- 1.2.30. **“Global Master Terms and Conditions”** means the terms and conditions contained in the main body of this document following the signature pages.

- 1.2.31. **“Go Live Date”** means the first date of live processing of the Services.
- 1.2.32. **“I-9 Handbook”** has the meaning set forth in Section 14.3.1.2.
- 1.2.33. **“I-9 Paper Conversion”** has the meaning set forth in Section 14.3.2.
- 1.2.34. **“Identity Verification Documents”** means the documents that meet the federal requirements for verifying a Payee’s identity and eligibility to work in the U.S. (e.g., (i) a passport, (ii) a U.S. issued driver’s license or picture identification card issued by a state or U.S. federal agency and social security card, or (iii) a U.S. issued driver’s license and birth certificate).
- 1.2.35. **“Improvements”** has the meaning set forth in Section 5.4.
- 1.2.36. **“Incident”** has the meaning set forth in Section 10.1.
- 1.2.37. Reserved.
- 1.2.38. **“Initial Term”** has the meaning set forth in Section 12.1.
- 1.2.39. **“Intellectual Property Rights”** means all rights, title and interest to or in patent, copyright, trademark, service mark, trade secret, business or trade name, know-how and rights of a similar or corresponding character.
- 1.2.40. **“Internal Business Purposes”** means the usage of the Services solely by the Client Group for its own internal business purposes, without the right to provide service bureau or other data processing services, or otherwise share or distribute the Services, to any party outside the Client Group, unless expressly contemplated by this Agreement.
- 1.2.41. **“Issuing Bank”** means the financial institution selected by ADP that issues the ALINE Card.
- 1.2.42. **“NACHA”** means the National Automated Clearing House Association.
- 1.2.43. **“Payee”** means any intended recipient of payments under the Payment Services and may include Client’s employees, taxing authorities, governmental agencies, suppliers, benefit carriers and/or other third parties; provided that in the case of Wage Payment Services, Payee shall be limited to Client’s employees and independent contractors.
- 1.2.44. **“Payment Services”** means Services that involve electronic or check payments being made by ADP to third parties on Client’s behalf and at its direction.
- 1.2.45. **“Permitted Payment”** means the legal payment of wages, commissions, consulting fees or similar compensation or work-related expenses in the employment context.
- 1.2.46. **“Personal Information”** means any information relating to an identified or identifiable natural person. An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to such person’s physical, physiological, mental, economic, cultural or social identity.
- 1.2.47. **“Plan”** means Client’s plan, including a group health plan, as identified by Client for the applicable Services.

1.2.48. **“Plan Administrator”** means the appropriate plan administrator as defined in Section 3(16)(A) of ERISA and Section 414(g) of the Internal Revenue Code of 1986, as amended.

1.2.49. **“Prior Year Run-Out Period”** has the meaning set forth in Section 14.2.4.

1.2.50. **“Regulation E”** means the Federal Reserve Board, Regulation E (12 CFR 1005).

1.2.51. **“Renewal Term”** has the meaning set forth in Section 12.1.

1.2.52. **“Services”** means the services listed on the cover page of this Agreement (including implementation services related thereto), and such other services as the parties may agree to be performed from time to time.

1.2.53. **“SOC 1 Reports”** has the meaning set forth in Section 9.1.

1.2.54. **“TCPN Agreement”** means ADP’s contract with The Cooperative Purchasing Network awarded to ADP on May 1, 2016, by the Region 4 ESC Board of Directors pursuant to TCPN Request for Proposals No. 15-19 for Managed Business/Operational Services and Solutions.

1.2.55. **“Termination Event”** means with respect to any party, the occurrence of any of the following: (i) under the applicable bankruptcy laws or similar law regarding insolvency or relief for debtors, (A) a trustee, receiver, custodian or similar officer is appointed for a party’s business or property, (B) a party seeks to liquidate, wind-up, dissolve, reorganize or otherwise obtain relief from its creditors, or (C) an involuntary proceeding is commenced against a party and the proceeding is not stayed, discharged or dismissed within 30 days of its commencement, or (ii) a party’s Standard and Poor’s issuer credit rating falls to or below BB.

1.2.56. **“Term”** means the Initial Term together with each Renewal Term, if any

1.2.57. **“Time & Attendance Hardware”** means timeclocks and other time collection devices provided to Client by ADP in connection with the Time & Attendance Services. Hardware may be purchased or provided on a subscription basis

1.2.58. **“Transition Services”** has the meaning set forth in Section 13.1.

1.2.59. **“User”** means any single natural person who, subject to the terms of this Agreement, is authorized by Client to use, access or receive the Services.

2. Provision and Use of Services

2.1. **Services and Fees.** ADP, or one of its Affiliates, will provide the Services to Client Group in accordance with the terms of this Agreement and the TCPN Agreement. ADP will provide the Services in a good, diligent and professional manner in accordance with industry standards, utilizing personnel with a level of skill commensurate with the Services to be performed. ADP’s performance of the Services (including any applicable implementation activities) is dependent upon the timely completion of Client’s responsibilities and obligations under this Agreement. Without limitation of the foregoing, Client will timely provide the Client Content necessary for ADP to provide the Services. Client is the owner of the information provided to ADP for the performance of the Services.

- 2.2. **Cooperation.** ADP and Client will work together to implement the Services pursuant to the scope of work in Appendix 1. Client will cooperate with ADP and execute and deliver all documents, forms, or instruments necessary for ADP to implement and render the Services. Client will provide ADP with all reasonable and necessary Client Content in the format requested by ADP, and will otherwise provide all reasonable assistance required of Client in order for ADP to successfully implement the Services.
- 2.3. **Use of Services.** Client will use the Services in accordance with the terms of this Agreement and solely for its own Internal Business Purposes in the Approved Countries. Client will be responsible for the use of the Services by the Client Group and the Users in accordance with the terms of this Agreement. Client is responsible for the accuracy and completeness of the Client Content provided to ADP.
- 2.4. **Errors.** Client will promptly review all documents and reports produced by ADP and provided or made available to Client in connection with the Services and promptly notify ADP of any error, omission, or discrepancy with Client's records. ADP will promptly correct such error, omission or discrepancy and, if such error, omission or discrepancy was caused by ADP, then such correction will be done at no additional charge to Client.
- 2.5. **Records.** Unless expressly included as a part of the Services, ADP does not serve as Client's record keeper and Client will be responsible for retaining copies of all documentation received from or provided to ADP in connection with the Services to the extent required by Client. ADP understands that Client is a public entity subject to the Texas Public Information Act. ADP shall cooperate with Client to comply with the law.

3. Compliance

- 3.1. **Applicable Laws.** Each party will comply with all applicable federal, state, and municipal laws and regulations that affect its business generally, including any applicable anti-bribery, export control and data protection laws. For clarity, Client represents that Personal Information transferred by Client or at Client's direction to ADP has been collected in accordance with applicable privacy laws, and ADP agrees that it shall only process the Personal Information as needed to perform the Services, or as required or permitted by law.
- 3.2. **Design of the Services.** ADP will design the Services, including the functions and processes applicable to the performance of the Services, to assist the Client in complying with its legal and regulatory requirements applicable to the Services, and ADP will be responsible for the accuracy of such design. Client and not ADP will be responsible for (i) how it uses the Services to comply with its legal and regulatory requirements and (ii) the consequences of any instructions that it gives to ADP, including as part of the implementation of the Services, provided ADP follows such instructions. Services do not include any legal, financial, regulatory, benefits, accounting or tax advice.
- 3.3. **Online Statements.** If Client instructs ADP to provide online pay statements, Forms W2, or Forms 1099 without physical copies thereof, Client will be exclusively responsible for determining if and to what extent Client's use of online pay statements, Forms W2 or Forms 1099 satisfies Client's obligations under applicable laws and the consequences resulting from such determinations.
- 3.4. **ALINE Card Services.** Notwithstanding anything to the contrary in Section 3.2, ADP shall be responsible for compliance with requirements of Regulation E applicable to financial institutions

with respect to payroll card accounts, provided Client will fulfill the compliance responsibilities of Regulation E that Client controls, including: (a) Client will distribute to its Payees all documentation (including without limitation, ALINE Card fee schedule and ALINE Cardholder Terms and Conditions) that ADP makes available to Client for distribution purposes, and (b) Client will not mandate or unduly influence that any Payee receive Permitted Payments only on the ALINE Card; in lieu of such mandate, Client will provide to Payees other legally permissible options for payment of Permitted Payments. Client agrees that it will not rely solely on its use of the ALINE Card Services in complying with any laws and governmental regulations and that it will comply with the financial industry rules and compliance standards imposed by various card/payment networks or associations (e.g., related to such things as card security and fraudulent or impermissible use of ALINE Cards).

4. Confidentiality

4.1. **General.** All Confidential Information disclosed under this Agreement will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose to any third party the Confidential Information of the disclosing party and will use at least the same degree of care, discretion and diligence in protecting the Confidential Information of the disclosing party as it uses with respect to its own confidential information. The receiving party will limit access to Confidential Information to its employees with a need to know the Confidential Information and will instruct those employees to keep such information confidential. ADP may disclose Client's Confidential Information on a need to know basis to (i) ADP's subcontractors who are performing the Services, provided that ADP shall remain liable for any unauthorized disclosure of Client's Confidential Information by those subcontractors, (ii) employees of ADP's Affiliates, provided such employees are instructed to keep the information confidential as set forth in this Agreement and (iii) social security agencies, tax authorities and similar third parties, to the extent strictly necessary to perform the Services. ADP may use Client's and its employees' and other Services recipients' information in an aggregated, anonymized form, such that neither Client nor such person may be identified, and Client will have no ownership interest in such aggregated, anonymized data. Client authorizes ADP to release employee-related data, and such other data as required to perform the Services, to third party vendors of Client as designated by Client from time to time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (x) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it, (y) as appropriate to respond to any summons or subpoena or in connection with any litigation and (z) to the extent necessary to enforce its rights under this Agreement.

Furthermore, notwithstanding anything in Section 4 or any other provision in this Agreement, ADP acknowledges that Client is a governmental entity subject to the Public Information Act, Chapter 552, Texas Government Code (the "Act"). Client will maintain the confidentiality of the proposed confidential and proprietary information to the extent permitted by law and agrees that, as required by the Act, it will notify ADP if a request relating to such proprietary information is received. ADP represents that it understand that the Act excepts from disclosure trade secrets and confidential commercial information and that it will need to assert its own proprietary interest as a basis for nondisclosure.

4.2. **Return or Destruction.** Upon the request of the disclosing party or upon the expiration or earlier termination of this Agreement, and to the extent feasible, the receiving party will return or destroy all Confidential Information of the disclosing party in the possession of the receiving party, provided that each party may maintain a copy if required to meet its legal or regulatory obligations and may maintain archival copies stored in accordance with regular computer back-

up operations. To the extent that any portion of Confidential Information of a disclosing party remains in the possession of the receiving party following a request for return or destruction of same from the disclosing party, such portion of the disclosing party's Confidential Information shall remain subject to the generally applicable statutory requirements and the confidentiality protections contained in Section 4.1.

5. Intellectual Property

- 5.1. **Client IP Rights.** Except for the rights expressly granted to ADP in this Agreement, all rights, title and interests in and to Client Content, including all Intellectual Property Rights inherent therein and pertaining thereto, are owned exclusively by Client or its licensors. Client hereby grants to ADP for the Term a non-exclusive, worldwide, non-transferable, royalty-free license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy and display the Client Content for the sole purpose of performing the Services; provided Client has the right to pre-approve the use by ADP of any Client trademarks or service marks.
- 5.2. **ADP IP Rights.** Except for the rights expressly granted to Client in this Agreement, all rights, title and interest in and to the Services, including all Intellectual Property Rights inherent therein and pertaining thereto, are owned exclusively by ADP or its licensors. ADP grants to Client for the Term a personal, non-exclusive, non-transferable, royalty-free license to use and access the ADP Application Programs solely for the Internal Business Purposes in the Approved Countries and solely up to the maximum number of Users (if any) indicated in Appendix 1. The ADP Application Programs do not include any Client-specific customizations unless otherwise agreed in writing by the parties. Client will not obscure, alter or remove any copyright, trademark, service mark or proprietary rights notices on any materials provided by ADP in connection with the Services, and will not copy, recompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, such ADP materials.
- 5.3. **Ownership of Reports.** Client will retain ownership of the content of reports and other materials that include Client Content produced and delivered by ADP as a part of the Services, provided that ADP will be the owner of the format of such reports. To the extent any such reports or other materials incorporate any ADP proprietary information, ADP (i) retains sole ownership of such proprietary information and (ii) provides the Client a fully paid up, irrevocable, perpetual, royalty-free license to access and use same for its Internal Business Purposes without the right to create derivative works (other than derivative works to be used solely for its Internal Business Purposes) or to further distribute any of the foregoing rights outside the Client Group. Upon Client request, ADP will furnish Client's data in the reporting format utilized throughout the term of the Agreement.
- 5.4. **Improvements.** ADP will make available to Client, at no additional cost, software improvements, enhancements, or updates to any ADP Application Programs that are included in the Services (collectively "**Improvements**") if and as they are made generally available by ADP at no additional cost to ADP's other clients using the same ADP Application Programs as Client and receiving the same Services as Client. All Improvements provided under this Section 5.4 shall be considered part of the ADP Application Programs. If Client fails to implement Improvements provided or made available to Client by ADP, ADP shall be relieved of any responsibility for errors or degradation in the Services and shall have no obligation to provide support for the ADP Application Programs.
- 5.5. **Third Party Software.** Notwithstanding Sections 5.1 through 5.4, Enterprise eTime shall be subject additional licensing or access terms set forth in Appendix 4 attached hereto.

6. Indemnities

- 6.1. **ADP Indemnity.** Subject to the remainder of this Section 6.1, and Sections 6.2 and 7, ADP will defend Client against any third party claims and will indemnify and hold Client harmless from any resulting damage awards or settlement amounts in any cause of action to the extent such cause of action is based on a claim alleging that the Services or ADP Application Programs, as provided by ADP and used in accordance with the terms of this Agreement, infringe upon any Intellectual Property Rights of a third party in an Approved Country. The foregoing infringement indemnity will not apply and ADP will not be liable for any damages assessed in any cause of action to the extent resulting from a Client Infringement Event or ADP's use of Client Content as contemplated by this Agreement. If any Service is held or believed to infringe on any third-party's Intellectual Property Rights, ADP may, in its sole discretion, (i) modify the Service to be non-infringing, (ii) obtain a license to continue using such Service, or (iii) if neither (i) nor (ii) are practical, terminate this Agreement as to the infringing Service and return to Client any unearned fees prepaid by Client to ADP.
- 6.2. **Indemnity Conditions.** The indemnity set forth in this Agreement is conditioned on the following: (i) the Client claiming indemnification shall promptly notify ADP of any matters in respect of which it seeks to be indemnified, and shall give ADP full cooperation and opportunity to control the response thereto and the defense thereof, including without limitation any settlement thereof, (ii) ADP shall have no obligation for any claim under this Agreement if Client makes any admission, settlement or other communication regarding such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld, and (iii) Client's failure to promptly give notice to ADP shall affect ADP's obligation to indemnify Client only to the extent ADP's rights are materially prejudiced by such failure. Client may participate, at its own expense, in such defense and in any settlement discussions directly or through counsel of its choice.

7. Limit on Liability

- 7.1. **Ordinary Cap.** Notwithstanding anything to the contrary in this Agreement and subject to the remainder of this Section 7, neither party's aggregate limit on monetary damages in any calendar year shall exceed an amount equal to the greater of 24 times the average ongoing monthly Services fees paid or payable to ADP by Client during such calendar year for all Services (the "**Ordinary Cap**").
- 7.2. **Extraordinary Cap.** As an exception to Section 7.1(i), if damages arise from a breach of Section 4 (Confidentiality) or Section 9.3 (Data Security), the Ordinary Cap will be increased by the greater of an additional 12 times the average ongoing monthly Services fees paid or payable to ADP by Client during such calendar year for all (the "**Extraordinary Cap**"). For the avoidance of doubt, in no case shall either party's aggregate limit on monetary damages in any calendar year under this Agreement exceed an amount equal to the greater of 36 times the average monthly ongoing Services fees paid or payable to ADP by Client during such calendar year for all Services.
- 7.3. **Matters not Subject to the Cap.** The foregoing limits on liability shall not apply to the following:
- 7.3.1. Either party's gross negligence, or willful, criminal or fraudulent misconduct. For purposes of this provision, "gross negligence" is defined as (1) willful, wanton, careless or reckless conduct, misconduct, failures, omissions, or disregard of the duty of care towards

others of a risk known or so obvious that the actor must be taken to have been aware of it, and with an intent to injure or so great as to make it highly probable that harm would follow and/or (2) failure to use even the slightest amount of care, or conduct so reckless, as to demonstrate a substantial lack of concern for the safety of others. For the avoidance of doubt, gross negligence must be more than any mere mistake resulting from inexperience, excitement, or confusion, and more than mere thoughtlessness or inadvertence or simple inattention.;

7.3.2. The infringement indemnity set forth in Section 6.1 and **Error! Reference source not found.**;

7.3.3. Client's obligations to pay the fees for Services;

7.3.4. ADP's obligations to provide credit monitoring as set forth in Section 10.2;

7.3.5. Client's funding obligations in connection with the Payment Services;

7.3.6. Loss or misdirection of Client funds in possession or control of ADP due to ADP's error or omission; and

7.3.7. In connection with the Employment Tax Services in the United States and the Tax Filing Services Canada, (i) interest charges imposed by an applicable tax authority on Client for the failure by ADP to pay funds to the extent and for the period that such funds were held by ADP and (ii) all tax penalties resulting from ADP's error or omission in the performance of such Service. The provisions of this Section 7.3.7 shall only apply if (x) Client permits ADP to act on Client's behalf in any communications and negotiations with the applicable taxing authority that is seeking to impose any such penalties or interest and (y) Client assists ADP as reasonably required by ADP.

7.4. **No Consequential Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW, NONE OF ADP, CLIENT OR ANY BANK WILL BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS OR PROFITS, BUSINESS INTERRUPTIONS OR HARM TO REPUTATION) THAT ANY OTHER PARTY OR ITS RESPECTIVE AFFILIATES MAY INCUR OR EXPERIENCE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The foregoing exclusion shall not apply to claims for consequential damages arising from ADP's or Client's (i) willful, criminal or fraudulent misconduct, or (ii) breach or breaches of Section 4.1 or Section 9.3 under this Agreement; provided however, that any consequential damages recovered by Client or ADP in a calendar year for claims pursuant to 7.4(ii) will be subject to the Extraordinary Cap set forth in Section 7.2 above.

7.5 **Insurance.** ADP shall have **seven (7) calendar days** from date of award to obtain sufficient insurance as required herein. ADP shall not commence work under this Agreement until ADP has obtained the required insurance and such insurance has been approved by the Client. ADP shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

7.5.1 **WORKERS' COMPENSATION INSURANCE.** ADP shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable

Texas law for all of the Consultant's employees to be engaged in work under this Agreement. ADP shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

7.5.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. ADP shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and ADP's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this Agreement, whether such operations be by ADP or by anyone directly or indirectly employed by ADP. The minimum limits of liability and coverages shall be as follows:

- a) **COMMERCIAL GENERAL LIABILITY**
 - \$1,000,000.00 Per Occurrence
 - \$2,000,000.00 General Aggregate
 - \$2,000,000.00 Products/Completed Operations Aggregate
 - \$1,000,000.00 Personal and Advertising Injury

Personal Injury or Death & Property Damage
\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

General Aggregate
\$1,000,000.00
- b) **AUTOMOBILE LIABILITY**
 - Combined Single Limit**
\$1,000,000.00 per accident
- c) **PROFESSIONAL LIABILITY INSURANCE**
 - Errors and Omissions coverage with a limit of \$10,000,000.

7.5.3 CLIENT AS ADDITIONAL INSURED. Client shall be named as an additional insured party on the Commercial General Liability and Automobile Liability Policies set forth above.

7.5.4 RIGHT TO SELF-INSURE. Notwithstanding the foregoing, ADP reserves the right to self-insure coverage, in whole or in part, in the amounts and categories designated above, in lieu of ADP's obligations to maintain insurance as set forth above, at any time. Promptly upon Client's written request for same, ADP shall deliver certificates of insurance to confirm what coverage is in place.

8. Warranties and Disclaimer

8.1. **Warranties.** Each party warrants that (i) it has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and (ii)

this Agreement has been duly and validly executed and delivered and constitutes the valid and binding agreement of the parties, enforceable in accordance with its terms.

- 8.2. **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL SERVICES, ADP APPLICATION PROGRAMS AND EQUIPMENT PROVIDED BY ADP OR ITS SUPPLIERS ARE PROVIDED "AS IS" AND ADP AND ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM ANY WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERRUPTION OF USE, AND FREEDOM FROM PROGRAM ERRORS, VIRUSES OR ANY OTHER MALICIOUS CODE, WITH RESPECT TO THE SERVICES, THE ADP APPLICATION PROGRAMS, ANY CUSTOM PROGRAMS CREATED BY ADP OR ANY THIRD-PARTY SOFTWARE DELIVERED BY ADP AND RESULTS OBTAINED THROUGH THE USE THEREOF.

9. Security and Controls

- 9.1. **Service Organization Control Reports.** Following completion of implementation of any applicable Services, ADP will, at Client's request and at no charge, provide Client with copies of any routine Service Organization Control 1 reports ("**SOC 1 Reports**") (or any successor reports thereto) that are both directly related to those Services provided hereunder for Client and already released to ADP by the public accounting firm producing the report. SOC 1 Reports are ADP Confidential Information and Client will not distribute or allow any third party (other than its independent auditors) to use any such report without the prior written consent of ADP. Client will instruct its independent auditors or other approved third parties to keep such report confidential and Client will remain liable for any unauthorized disclosure of such report by its independent auditors or other approved third parties.
- 9.2. **Business Continuity; Disaster Recovery.** ADP maintains a commercially reasonable business continuity and disaster recovery plan and will follow such plan.
- 9.3. **Data Security.** ADP has an established information security program containing appropriate administrative, technical and physical measures to protect Client data (including Personal Information) against accidental or unlawful destruction, alteration, unauthorized disclosure or access consistent with applicable laws. In the event ADP suspects any unauthorized access to, or use of, the Services, ADP may suspend access to the Services to the extent ADP deems necessary to preserve the security of the Client's data.

10. Data Security Incident

- 10.1. **Notification.** If ADP becomes aware of a security breach (as defined in any applicable law) or any other event that compromises the security, confidentiality or integrity of Client's Personal Information (an "**Incident**"), ADP will take appropriate actions to contain, investigate and mitigate the Incident. ADP shall notify Client of an Incident as soon as reasonably possible.
- 10.2. **Other ADP Obligations.** In the event that Incident is the result of the failure of ADP to comply with the terms of this Agreement, ADP shall bear the actual, reasonable costs of notifying affected individuals and providing one year of credit monitoring to individuals in jurisdictions where monitoring is available. ADP and Client shall mutually agree on the content and timing of any such notifications, in good faith and as needed to meet applicable legal requirements. Notwithstanding the preceding, the parties agree that ADP shall have no obligation to send

notification letters or provide credit monitoring for Client unless such letters are legally required or otherwise needed to alert the individuals of potential harm.

11. Payment Terms

Client will pay to ADP the fees and other charges for the Services as set forth in Appendix 1 pursuant to Chapter 2251 of the Texas Government Code.

12. Term; Termination; Suspension

12.1. **Initial Term.** This Agreement is effective upon the Effective Date and will remain in effect until the 5th anniversary of the Go Live Date (the “**Initial Term**”). After the Initial Term expires, Client will have the option to extend the Agreement for an additional five-year period (the “**Renewal Term**”) with administrative approval by Client’s City Manager or his designee, unless terminated by either party upon at least 180 days prior written notice to the other party prior to the end of the Initial Term or Renewal Term, as applicable.

12.2. **Termination.** Either party may terminate this Agreement for the other’s material breach of this Agreement if such breach is not cured within 60 days following notice thereof or in the event either party is the subject of a Termination Event. In addition: (i) ADP may terminate this Agreement in the event Client fails to timely pay fees for Services performed within 10 days following notice that such fees are past due and (ii) Client may terminate this Agreement for any reason for its convenience upon 180 days’ notice and payment of the Cost Reimbursement Fee (if applicable) and Deferred Fee (if applicable), each as set forth in Appendix 1. Further, the discretion of whether or not to budget and appropriate funds is within the discretion of Client’s governing body. This Agreement shall terminate and Client should not be obligated to make any payments to ADP, including Cost Reimbursement fees, if sufficient funds are not appropriated by Client to make the payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated.

12.3. **Suspension.** Without limiting the foregoing, the parties agree that Payment Services involve credit risk to ADP. Payment Services may be suspended by ADP (**A**) immediately following notice to Client (i) that Client has failed to remit sufficient, good and available funds within the deadline and via the method of delivery set forth in Appendix 1 as it relates to the applicable Payment Services, or (ii) if Client breaches any rules promulgated by the NACHA as it relates to ADP conducting ACH transactions on behalf of Client, and (**B**) with 24 hour notice if: (i) a bank notifies ADP that it is no longer willing to originate debits from Client’s account(s) or credits for Client’s behalf for any reason or (ii) the authorization to debit Client’s account is terminated or ADP reasonably believes that there is or has been fraudulent activity on the account. Upon ADP confirmation that the Client has rectified the funding or banking deficiencies as described in subsections A and B above, ADP shall end the suspension of services. If the Payment Services are terminated or suspended pursuant to Sections 12.2 or 12.3, Client acknowledges that ADP shall be entitled to allocate any funds in ADP’s possession that have been previously remitted or otherwise made available by Client to ADP relative to the Payment Services in such priorities as ADP may determine appropriate, including reimbursing ADP for payments made by ADP on Client’s behalf to a third party. If the Payment Services are terminated by ADP, Client understands that it will (x) immediately become solely responsible for all of Client’s third party payment obligations covered by the Payment Services then or thereafter due (including, without limitation, for Employment Tax Services, any and all penalties and interest accruing after the date of such termination, other than penalties and interest for which ADP is responsible under

Section 7.3.7), and (y) reimburse ADP for all payments properly made by ADP on behalf of Client to any payee, which has not been paid or reimbursed by Client. If the Payment Services remains suspended for 30 days, the affected Payment Service shall be deemed terminated on the 31st day following suspension.

12.4. Additional Termination Provisions.

12.4.1. **Additional Termination Provisions for ALINE Card Services.** In addition to any other terms and conditions of the Agreement, ADP may terminate the ALINE Card Services as follows: (i) the ALINE Card Services (or any feature thereof) in any designated jurisdiction may be terminated on 60 days' notice to Client if ADP or the Issuing Bank believes that any changes in any card network rules or NACHA rules, or changes to, or interpretations of, applicable law by any federal, state or local governmental authority, or any formal or informal order, instruction or directive communicated to ADP or the Issuing Bank by such authority make it commercially impractical to continue to provide the ALINE Card Services (or any feature thereof) in such jurisdiction; or (ii) the Issuing Bank cancels the ALINE Cards issued on behalf of Client (e.g., due to Client's non-compliance with its obligations) or advises ADP that it is no longer willing to service the ALINE Card, provided that in such later instance ADP shall take commercially reasonable steps to engage a successor Issuing Bank, and provided further that ADP shall not be liable for any delay in providing the ALINE Card Services during such search for a successor Issuing Bank.

12.4.2. **Additional Termination Provisions for Employment Tax Services.** If the Employment Tax Services are terminated, Client's access to ADP websites containing Client's data will expire 90 days from the effective date of the termination, and Client will be responsible for downloading all relevant data, including Statements of Deposit (SODs) prior to the expiration of such access.

13. Transition Services.

13.1. **Scope.** Upon expiration or termination of the Services, subject to Section 13.2, ADP shall provide Client and its designee(s) with reasonable transition services ("**Transition Services**") consisting of continuation of the terminated Services and, if requested by Client and mutually agreed by the parties in an Amendment, any additional services (including technical assistance) that will be delivered at ADP's then prevailing rates. In connection with the Transition Services, ADP will not be required to provide any third party with access to ADP's systems, intellectual property or any Confidential Information of ADP.

13.2. **Performance of Obligations.** During the provision of Transition Services, ADP and Client shall continue to perform their respective obligations under this Agreement, including, with respect to ADP, the provision of ongoing Services to Client and with respect to Client, the payment of all fees for such Services specified in Appendix 1.

13.3. **Past Due Amounts.** If ADP has terminated this Agreement due to Client's failure to pay fees, ADP's provision of Transition Services will be subject to Client's payment of all past due amounts and ADP may require Client to prepay for any Transition Services.

14. Additional Terms

14.1. **Employment Tax Services.** The following additional terms and conditions apply to the Employment Tax Services:

14.1.1. **Important Tax Information (IRS Disclosure).** Notwithstanding Client's engagement of ADP to provide the Employment Tax Services in the United States, please be aware that Client remains responsible for the timely filing of payroll tax returns and the timely payment of payroll taxes for its employees. The Internal Revenue Service recommends that employers enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System (EFTPS) to monitor their accounts and ensure that timely tax payments are being made for them, and that online enrollment in EFTPS is available at www.eftps.gov; an enrollment form may also be obtained by calling (800) 555-4477; that state tax authorities generally offer similar means to verify tax payments; and that Client may contact appropriate state offices directly for details.

14.2. **Benefit Services.** The following additional terms and conditions apply to the Benefit Services:

14.2.1. **Benefits Liaison.** Client shall designate in writing to ADP one or more contacts for the Benefit Services ("**Client Benefits Liaison**"), and such Client Benefits Liaison shall have the authority to (i) provide information, instructions and direction on behalf of the Client, each Plan Administrator and, if applicable, each "fiduciary" as defined in Section 3(21) of ERISA) of each separate Plan, and (ii) grant or provide approvals (other than Amendments) required or permitted under the Agreement in connection with the Benefit Services.

14.2.2. **Compliance of Benefit Plans.** Client shall furnish to ADP all necessary information and data for each Plan. Client shall be responsible for the final preparation, approval and submission of Plans and related amendments to applicable governmental authorities. Client is responsible for, and shall take measures required under state and federal law to assure the qualification and compliance of the Benefits Plans with such laws.

14.2.3. **Disclaimer.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN THE SCOPE OF SERVICES, CLIENT EXPRESSLY ACKNOWLEDGES THAT ADP IS NOT THE "ADMINISTRATOR" OR "PLAN ADMINISTRATOR" AS DEFINED IN SECTION 3(16)(A) OF ERISA AND SECTION 414(g) OF THE CODE, RESPECTIVELY, NOR IS ADP A "FIDUCIARY" WITHIN THE MEANING OF ERISA SECTION 3(21), NOR IS ADP A "HEALTH CARE CLEARINGHOUSE" WITHIN THE MEANING OF SECTION 1171 OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, AS AMENDED ("HIPAA") AND CLIENT SHALL NOT REQUEST OR OTHERWISE REQUIRE ADP TO ACT AS SUCH. ADP SHALL NOT EXERCISE ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OF ANY PLAN OR MANAGEMENT OR DISPOSITION OF ANY PLAN ASSETS. ADP SHALL NOT RENDER INVESTMENT ADVICE FOR A FEE OR OTHER COMPENSATION, DIRECT OR INDIRECT, WITH RESPECT TO ANY MONIES OR OTHER PROPERTY OF ANY PLAN, NOR DOES ADP HAVE ANY AUTHORITY OR RESPONSIBILITY TO DO SO. ADP HAS NO DISCRETIONARY AUTHORITY OR DISCRETIONARY RESPONSIBILITY IN THE ADMINISTRATION OF THE PLAN(S).

14.2.4. Processing Spending Account Claims For Certain Run-Out Periods. This Section 14.2.4 shall apply if ADP is providing Consumer Health & Spending Accounts as part of the Benefit Services. If ADP fulfills a Client request to process spending account claims for a run-out period that relates to a plan year or any portion of a plan year during which ADP was not Client's service provider for the applicable benefit plan ("Prior Year Run-Out Period"), Client shall retain full responsibility for the accuracy and overall compliance of its Plan with respect to the claims processing during the Prior Year Run-Out Period. ADP will process and reimburse such claims upon Client request, using each participant's remaining balance Prior Year Run-Out Period, as provided by Client, and make any adjustments to such balance as needed. ADP shall not be responsible or liable for any consequences relating to processing and reimbursing spending account claims per Client direction from Client's previous plan year (or any portion thereof) which was not fully administered by ADP.

14.2.5. COBRA Services.

14.2.5.1. Operating Guidelines. ADP's performance of COBRA Services shall be in accordance with the operating guidelines, including the Benefit Services Client Guide, developed by ADP, as amended from time to time, a copy of which will be provided to Client upon request.

14.2.5.2. Use of Name. Except for references to ADP as a service provider in IRS Form 5500 or a similar filing as required by ERISA, Client shall not use ADP's name without ADP's prior written consent.

14.2.5.3. Retention of Administrative Fee and Interest. Client agrees that ADP shall retain the 2% administrative fee allowed by COBRA which shall be added to the premium due. ALL AMOUNTS EARNED ON FUNDS REMITTED TO ADP IN CONNECTION WITH THE SERVICES PENDING DISBURSEMENT TO CLIENT (OR CLIENT'S DESIGNEE) SHALL BE RETAINED BY ADP AS COMPENSATION. AMOUNTS DISBURSED TO ADP ARE HELD BY ADP FOR APPROXIMATELY 15 DAYS PRIOR TO DISBURSEMENT BY ADP. ADP's current process for disbursement of funds provided by participants is described in Appendix 1.

14.3. I-9 Compliance Services. The following additional terms and conditions apply to the I-9 Compliance Services.

14.3.1. Use of Services. Client shall, and cause the members of the Client Group, receiving the I-9 Compliance Services to do the following:

14.3.1.1. Review and comply with the guidelines contained in ADP's I-9 Client Administrator's Guide, available to Client on the ADP I-9 System, and any superseding guidelines issued by ADP from time to time.

14.3.1.2. Review the instructions contained in the current Form I-9, any superseding Form I-9 instructions, and the guidelines in the Handbook for Employers: Instructions for Completing Form I-9 (M-274) (the “**I-9 Handbook**”), and any superseding guidelines, each of which is available to Client on the ADP I-9 System. Client certifies that it has read the I-9 instructions and the I-9 Handbook and agrees to comply with the applicable policy and procedures set forth therein, and any future new or amended policies or procedures. Client will ensure availability of the most recent version of the I-9 Handbook to all employees authorized to complete the Form I-9 on behalf of Client and/or its Affiliates.

14.3.1.3. Client is responsible for reviewing reports available to Client on the ADP I-9 System and for resolving (or causing the applicable employee to take action to resolve) missing or incomplete Form I-9s. This includes communicating with the employee in question and the submission or resubmission of the missing or incomplete Form I-9.

14.3.1.4. To the extent Client has not provided to ADP the minimally required employee data for the I-9 Compliance Services through an integration with ADP or another third party product, load such data to the ADP I-9 System on no less than a monthly basis.

14.3.1.5. If Client elects to enroll in E-Verify through ADP:

14.3.1.5.1. Notify ADP (i) the location(s) where Client elects to enroll; and (ii) whether the employer is a federal contractor or a federal, state or local government organization.

14.3.1.5.2. Execute a Memorandum of Understanding with the DHS and ADP (as its E-Verify employer agent), and comply with the terms and conditions set forth therein.

14.3.1.5.3. Review and comply with the policy and procedures contained in the E-Verify User Manual for Employers, and any superseding policy and procedures, available to Client on the ADP I-9 System.

14.3.1.5.4. To the extent the Client elects to have more than one company location participate in E-Verify, ensure all authorized users in each location have complied with all requirements of Section 14.3.1.5.

14.3.1.5.5. Ensure all of Client’s authorized users (i) complete the mandated E-Verify training course and any applicable update

courses administered by ADP and (ii) pass a knowledge test with the required score.

14.3.1.5.6. Immediately notify ADP of any updates/changes to its E-Verify employer status (e.g., Client becomes a federal contractor or Client ceases being a federal contractor).

14.3.2.I-9 Paper Conversion. If Client requests ADP to convert paper Form I-9s and files to electronic format (the "I-9 Paper Conversion"), Client shall provide to ADP legible and readable photocopies of the completed paper Form I-9s and ADP will scan such forms into the ADP I-9 System. Once ADP verifies that the photocopied Forms I-9s are entered into the ADP I-9 System, ADP will destroy such forms. Client understands and agrees that ADP is not responsible for storing or maintaining any original paper Form I-9s. Client further understands and agrees the I-9 Paper Conversion is not a part of and shall not be included in any implementation/set up services.

14.3.3.Form I-9 Retention. During the term of the Agreement, and subject to Client's compliance Section 14.3.1.4, ADP will store electronic copies of Form I-9s in the ADP I-9 System for a minimum of three years from the employee's hire date or until one year after the employee ceases to be employed by Client (or the applicable Affiliate), whichever is later (or as otherwise required by changes to federal regulations that come into effect hereafter). Upon termination or expiration of the Agreement, (i) ADP shall use commercially reasonable methods to transfer all electronically stored Form I-9s to Client in accordance with ADP's current security policies; and (ii) Client shall arrange to retrieve, at Client's expense, any original paper Form I-9s in ADP's possession. If Client has not retrieved such original paper Form I-9s within 90 days after termination or expiration of this Agreement, ADP shall have no obligation to retain any such paper Form I-9s further and may destroy such original paper Form I-9s in its possession after such 90 day period.

14.4. Payment Services. The following additional terms and conditions apply to the Payment Services:

14.4.1.Client Credentialing. Client understands and acknowledges that the implementation and ongoing provision of Payment Services are conditioned upon Client passing (and continuing to pass) a credentialing process that ADP may deem necessary in connection with the provision of Payment Services.

14.4.2.Additional Requirements. Payment Services may be subject to the rules and standards of any applicable clearing house, payment and/or card networks or associations. Client and ADP each agree to comply with all such rules and standards applicable to it with respect to the Payment Services.

14.4.3.Funding Obligations. Client acknowledges that ADP is not a lender. As such, as a condition to receiving services, Client will remit or otherwise make available to ADP sufficient, good and available funds within the agreed-to deadline and via the agreed-to method of delivery to satisfy all of Client's third-party payment obligations

covered by the Agreement. ADP will apply such funds to satisfy such third-party payment obligations. ADP will not be required to provide Payment Services if ADP has not received all funds required to satisfy Client's third-party payment obligations. Client will immediately notify ADP if it knows or should know that it will not have sufficient funds to satisfy the amounts required in connection with the Payment Services. If Client has a material adverse change in its condition, ADP may modify the funding method or deadline by which funds must be made available to ADP for payment to Payees. Client agrees to pay to ADP upon demand any amounts that have been paid by ADP to satisfy Client's third party payment obligations prior to receiving such amounts from Client.

14.4.4. Investment Proceeds; Commingling of Client Funds. IF ADP RECEIVES CLIENT'S FUNDS IN ADVANCE OF THE TIME ADP IS REQUIRED TO PAY SUCH FUNDS TO THIRD PARTIES, ALL AMOUNTS EARNED ON SUCH FUNDS, IF ANY, WHILE HELD BY ADP WILL BE FOR THE SOLE ACCOUNT OF ADP. ADP may commingle Client's funds with similar funds from other clients and with similar ADP and ADP-administered funds. ADP utilizes a funds control system that maintains general ledger entries by client and/or by jurisdiction.

14.4.5. Recovery of Funds; Stop Payment Requests. Client agrees to cooperate with ADP and any other third parties to recover funds erroneously issued or transferred to any Payee or credited to any Payee's account. If Client desires to stop payment on any check or to recall or reverse any electronic payment, Client will provide ADP with a stop payment request in the form required by ADP. Client acknowledges that ADP's placement of a stop order request is not a guarantee that such stop payment will occur.

14.5. Wage Payments Services. The following additional terms and conditions apply to Wage Payments Services:

14.5.1. ADP Check Services. Client agrees not to distribute any ADP Checks to Payees in a manner that would allow Payees to access the associated funds before pay date. With respect to ADP Checks drawn on an ADP bank account, to request a stop payment, Client shall provide ADP with a written stop payment order request in the form provided by ADP and ADP shall place a stop payment order in accordance with its standard operating procedures.

14.5.2. ALINE Card Services. To the extent received, Client will be responsible for securing all welcome kits to prevent unauthorized access or use.

14.5.2.1. ALINE Cardholder Set-Up. Client will set-up (or cause ADP to set-up) each Payee as a ALINE Cardholder using data and procedures required by the Issuing Bank or ADP. Client shall obtain all necessary consents of each Payee included in submitted set-up data that is required under applicable law and rules, including NACHA, for Payee to (i) receive payments from Client on its ALINE Card and (ii) participate in the ALINE

Card Services, and Client is responsible for reviewing and confirming that all enrollment information supplied to ADP is accurate and complete.

Prior to set-up of any Payee on the ALINE Cardholder database and distribution of an ALINE Card to the Payee, Client will verify the Identity Verification Documents. Client shall obtain from the Payee and provide to ADP the following information: (a) name; (b) residential address (a P.O. Box is not acceptable); (c) date of birth; (d) social security number; and (e) personal telephone number. Client agrees to provide any additional information as may be required by ADP or the Issuing Bank. Client will not provide ALINE Card to individuals outside the United States without the express written consent of ADP. Client further agrees that ADP or Issuing Bank (directly or through a subcontractor) may seek identity information and legal documentation directly from the Payee to verify the identity of any Payee and that a Payee may be denied ALINE Card Services for several reasons, including failure to validate the personal information of the Payee. For each ALINE Cardholder, Client will make and preserve either of the following: (1) a copy of the Identity Verification Documents; or (2) a description of the Identity Verification Documents, noting the date reviewed, type of document, and if applicable, the document's identification number, place of issuance and issuance and expiration date, provided Client will preserve a copy of all Identity Verification Documents for Payees who are form 1099 independent contractors. Client shall retain such documentation during the time that such Payee is a ALINE Cardholder until the earlier of (x) five years from termination of Client's obligation to make payments to such Payee or (y) five years from termination of such Payee's ALINE Card account; provided, however, that in the event a longer retention period is required for the Issuing Bank or ADP to meet its legal obligations, as a result of a change in applicable law or official interpretations thereof, ADP shall provide notice of such longer retention period and Client shall retain such documentation for such longer retention period.

14.5.2.2. **Enrolling Employees for Cards.** Prior to providing Payee's information to ADP to issue a permanent ALINE Card or Client enrolling a Payee for an instant issue ALINE Card, Client shall provide each Payee with the notice required under the USA Patriot Act which reads as follows: **"IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW PREPAID CARD ACCOUNT.** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open a prepaid card account, we may require your name, address, date of birth, social security number, tax identification number and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents." The USA Patriot Act notice may be updated from time to time by ADP or the Issuing Bank.

Prior to or in conjunction with distributing an ALINE Card to any Payee, Client shall remove the account routing information from the card kit. Client shall not, disclose or make available the account routing (ABA/DDA) number to any Payee and shall always direct Payees to the ALINE Cardholder services telephone number to obtain such account routing (ABA/DDA) number. Payees must accept the ALINE Cardholder Terms and Conditions, and the ALINE Card may be cancelled by ADP or the Issuing Bank at any time in accordance with the ALINE Cardholder Terms and Conditions. Client will provide ALINE Cardholders with any other information and materials regarding the ALINE Card Services provided to it from time to time as determined by ADP. The amounts to be loaded to each ALINE Cardholder's ALINE Card will be provided to ADP by Client through one of ADP's standard payroll transmission methods available to Client or another means agreed to by ADP and Client.

14.5.2.3. **ALINE Card Status, Services and Communications.** Client is responsible for ensuring that ALINE Cardholders are paid via an alternate pay method in such instances where a ALINE Cardholder's ALINE Card has not been activated, has terminated, cancelled or is in inactive status and even if a Payee has consented to receive their Permitted Payments by the ALINE Card. Client will direct ALINE Cardholders to ADP's ALINE Cardholder services with respect to any Card inquiries, to resolve all disputes regarding ALINE Card and to report any lost or stolen ALINE Cards, provided Client will resolve disputes by ALINE Cardholders regarding amounts credited or debited to the ALINE Cards at the request of Client (e.g., credits as a result of payroll). Client understands that it is not entitled to access or review any ALINE Cardholder transaction information and that it has no right to draw back any amounts funded to the ALINE Card other than due to an error. Notwithstanding the foregoing, in limited circumstances (e.g., where necessary to investigate or prevent fraud) and consistent with the applicable ALINE Cardholder privacy notice, ADP may provide certain ALINE Cardholder transaction information to Client. ALINE Cardholders may receive notices, mailings and other communications related to the Card and Card features (e.g., secondary cards, card portability, reward programs, etc.) from or on behalf of ADP or the Issuing Bank.

14.5.2.4. **Issuing Bank.** All ALINE Cards issued to ALINE Cardholders are the property of the Issuing Bank and are subject to cancellation by the Issuing Bank at any time in accordance with the Issuing Bank's ALINE Cardholder Terms and Conditions. The ALINE Card Services may be modified as required by the Issuing Bank and as ADP may deem appropriate to assist ADP or the Issuing Bank in complying with its obligations, including legal and regulatory obligations.

14.5.2.5. **ALINE Cardholder Fees.** Client acknowledges that separate fees as set forth on the fee schedule provided in the card kit prior to activation of the ALINE Card will be applied to the ALINE Card and are the responsibility of the ALINE Cardholder. Such ALINE Cardholder fees are subject to change in accordance with the ALINE Cardholder Terms and Conditions applicable to the ALINE Cards.

14.5.2.6. **Information Requests.** Client agrees that upon prior notice from ADP or the Issuing Bank, ADP, the Issuing Bank and any regulatory authorities with jurisdiction over the Issuing Bank or ADP shall have the right to inspect Client's books and records related to Client's use of the ALINE Card Services and Client's performance of its obligations with respect thereto.

14.5.2.7. **Third Party Beneficiary.** Notwithstanding anything to the contrary in the Global Master Terms and Conditions, Client agrees that the Issuing Bank (and its respective successors and assigns) is a third party beneficiary of this Agreement, but solely as it relates to the ALINE Card Services, and is entitled to enforce each of the applicable provisions Client as well as the limit on liability provisions of Section 7 and Conditions, including in equity and in law, as if it or they were a party hereto.

14.6. **Time & Attendance Services.** The following additional terms and conditions apply to the Time & Attendance Services:

14.6.1. Time & Attendance Hardware.

14.6.1.1. If Client procures Time & Attendance Hardware, Client shall provide and maintain an installation environment (including all power, wiring and cabling required for installation) as specified in the manufacturer's product documentation and other written instructions provided to Client by ADP.

14.6.1.2. Regarding Time & Attendance Hardware provided on a subscription basis only, Client shall not make any alterations or attach any devices thereto that are not provided by ADP, nor shall Client remove same from the place of original installation without ADP's prior consent. All right and title in the Time & Attendance Hardware procured on a subscription basis is, and at all times shall remain, that of ADP and a separate item of personal property of ADP, notwithstanding its attachment to other items or real property, and promptly upon termination of the Time & Attendance Services, for any reason whatsoever, Client shall, at its expense, return such Time & Attendance Hardware in good condition, in accordance with ADP's instructions, normal wear and tear excepted. If such Time & Attendance

Hardware is not promptly returned, Client agrees to purchase same at fair market value.

14.7. **Wage Garnishment Payment Services.** The following additional terms and conditions apply to the Wage Garnishment Payment Services:

14.7.1. **Description of Services.** ADP will act solely in the capacity of a third party service provider of payment processing.

14.7.2. **Client's Use of Services.** Client agrees not to distribute any ADP Checks to Payees in a manner that would allow Payees to access the associated funds before pay date.

14.8. **Health Compliance Services.** The following additional terms and conditions apply to Health Compliance Services.

14.8.1. **Client ACA Liaison.** Client shall designate in writing to ADP the name of one person who shall serve as ADP's principal designated contact for the Health Compliance Solution (the "Client ACA Liaison"), and such Client ACA Liaison shall have the authority to (i) provide information, instructions and direction on behalf of Client, and (ii) grant or provide approvals (other than Amendments) required or permitted under the Agreement in connection with the Health Compliance Solution. Client shall designate an alternate Client ACA Liaison in the event the principal Client ACA Liaison is not available.

14.8.2. **Disclaimer.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN THE SCOPE OF SERVICES, CLIENT EXPRESSLY ACKNOWLEDGES THAT ADP IS NOT THE "ADMINISTRATOR" OR "PLAN ADMINISTRATOR" AS DEFINED IN SECTION 3(16)(A) OF ERISA AND SECTION 414(g) OF THE CODE, RESPECTIVELY, NOR IS ADP A "FIDUCIARY" WITHIN THE MEANING OF ERISA SECTION 3(21). ADP SHALL NOT EXERCISE ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OF ANY BENEFIT PLANS SPONSORED OR OFFERED BY CLIENT. ADP HAS NO DISCRETIONARY AUTHORITY OR DISCRETIONARY RESPONSIBILITY IN THE ADMINISTRATION OF THE CLIENT'S BENEFIT PLAN(S). ADP EXPRESSLY DISCLAIMS ANY WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERRUPTION OF USE, AND FREEDOM FROM PROGRAM ERRORS WITH RESPECT TO THE ADP HEALTH COMPLIANCE SOLUTION, THE APPLICATION PROGRAMS OR ANY THIRD-PARTY SOFTWARE DELIVERED BY ADP.

14.8.3. **Client Vendors.** Client will at its own cost make all necessary arrangements with its third party vendors to cause such vendors to send data to and receive data from ADP as required for ADP to provide the Health Compliance Services. Client shall reimburse ADP for any costs ADP is required to bear in connection with or arising out of any such transmissions of data from and/or to such third party vendors.

14.8.4. **Important Tax Information (IRS Disclosure):** Notwithstanding Client's engagement of ADP to provide the Health Compliance Services, please be aware

that Client remains responsible for the timely filing of all required reports and filings, and the timely payment of Client penalty obligations. The Internal Revenue Service recommends that employers enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System (EFTPS) to monitor their accounts and ensure that timely tax payments are being made for them, and that online enrollment in EFTPS is available at www.eftps.gov; an enrollment form may also be obtained by calling (800) 555-4477.

14.8.5. Additional Requirements. Client further understands that the Health Compliance Services may be modified as ADP may deem appropriate to assist ADP in complying with its obligations.

15. Miscellaneous

15.1. Amendment. This Agreement may not be modified, supplemented or amended, except by a writing signed by the authorized representatives of ADP and Client.

15.2. Assignment. Neither this Agreement, nor any of the rights or obligations under this Agreement, may be assigned by any party without the prior written consent of the other party, such consent not to be unreasonably withheld. However, Client may assign any or all of its rights and obligations to any other Client Group member and ADP may assign any or all of its rights and obligations to any Affiliate of ADP, provided that any such assignment shall not release the assigning party from its obligations under this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

15.3. Additional Documentation. In order for ADP to perform the Services, it may be necessary for Client to execute and deliver additional documents (including reporting agent authorization, client account agreement, limited powers of attorney, etc.) and Client agrees to execute and deliver such additional documents which may require City Council approval.

15.4. Subcontracting. Notwithstanding Section 15.2, ADP reserves the right to subcontract any or all of the Services, provided that ADP remains fully responsible under this Agreement for the performance of any such subcontractor. For the avoidance of doubt, third parties used by ADP to provide delivery or courier services, including the postal service in any country or any third party courier service, and banking institutions, are not considered subcontractors of ADP.

15.5. Entire Agreement. This Agreement constitutes the entire agreement and understanding between ADP and Client with respect to its subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature between the parties. No party will be bound by any representation, warranty, covenant, term or condition other than as expressly stated in this Agreement. Except where the parties expressly state otherwise in a relevant exhibit, annex, appendix or schedule, in case of conflict or inconsistency between these Global Master Terms and Conditions and any such exhibit, annex, appendix or schedule, the Global Master Terms and Conditions will prevail and control. Purchase orders or statements of work submitted to ADP by Client will be for Client's internal administrative purposes only and the terms and conditions contained in any purchase order or statements of work will have no force and effect and will not amend or modify this Agreement.

15.6. No Third Party Beneficiaries. Except as expressly provided herein or in an applicable exhibit, annex, appendix or schedule by express reference to this Section 15.6, nothing in this

Agreement creates, or will be deemed to create, third party beneficiaries of or under this Agreement. Client agrees that ADP's obligations in this Agreement are to Client only, and ADP has no obligation to any third party (including, without limitation, Client's personnel, directors, officers, employees, Users and any administrative authorities).

15.7. **Force Majeure.** Any party to this Agreement will be excused from performance of its obligations under this Agreement, except for Client's obligation to pay the fees to ADP pursuant to Section 11, for any period of time that the party is prevented from performing its obligations under this Agreement due to an act of God, war, earthquake, civil disobedience, court order, labor disputes or disturbances, governmental regulations, communication or utility failures or other cause beyond the party's reasonable control. Such non-performance will not constitute grounds for breach.

15.8. **Waiver.** The failure by any party to this Agreement to insist upon strict performance of any provision of this Agreement will not constitute a waiver of that provision. The waiver of any provision of this Agreement shall only be effective if made in writing signed by the authorized representatives of ADP and Client and shall not operate or be construed to waive any future omission or breach of, or compliance with, any other provision of this Agreement.

15.9. **Headings.** The headings used in this Agreement are for reference only and do not define, limit, or otherwise affect the meaning of any provisions hereof.

15.10. **Severability.** If any provision of this Agreement is finally determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality or enforceability of the remainder of this Agreement will not in any way be affected or impaired and such court shall have the authority to modify such invalid, illegal or unenforceable provision to the extent necessary to render such provision valid, legal or enforceable, preserving the intent of the parties to the furthest extent permissible.

15.11. **Relationship of the Parties.** The performance by ADP of its duties and obligations under this Agreement will be that of an independent contractor and nothing contained in this Agreement will create, construe or imply an agency, joint venture, partnership or fiduciary relationship of any kind between ADP and Client. None of ADP's employees, agents or subcontractors will be considered employees, agents or subcontractors of Client. Unless expressly stated in this Agreement, none of ADP, its employees, agents or its subcontractors may enter into contracts on behalf of, bind, or otherwise obligate Client in any manner whatsoever.

15.12. **Governing Law.** This Agreement is governed by the laws of the State of Texas without giving effect to its conflict of law provisions.

15.13. **Jurisdiction.** Any disputes that may arise between ADP and Client regarding the performance or interpretation of this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts of El Paso County, Texas. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts of El Paso County, Texas, and waive any claim that any proceedings brought in such courts have been brought in an inconvenient forum. THE PARTIES HEREBY IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY.

15.14. **Counterparts.** This Agreement may be signed in two or more counterparts by original, .pdf (or similar format for scanned copies of documents) or facsimile signature, each of which

shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.15. **Notices.** All notices required to be sent or given under this Agreement will be sent in writing and will be deemed duly given and effective (i) immediately if delivered in person, or (ii) upon confirmation of signature recording delivery, if sent via a nationally recognized overnight courier service with signature notification requested to Client at the address indicated on the signature page hereof or to ADP, ADP, LLC, 5800 Windward Parkway, Alpharetta, Georgia 30005, Attn: Legal Department or to any other address a party may identify in writing from time to time. A copy (which shall not constitute notice) of all such notices shall be sent to ADP at One ADP Boulevard, MS 425, Roseland, New Jersey 07068, Attention: General Counsel and to Client at City of El Paso, 300 N Campbell, El Paso, Texas 79901, Attention: City Manager.

15.16. **Survival.** Those provisions which by their content are intended to, or by their nature would, survive the performance, termination, or expiration of this Agreement, shall survive termination or expiration of this Agreement.



Appendix 1

Pricing and Financial Terms



Financial Detail

The fees set forth in the table below are based on the Services and volumes in the Assumptions section.

Implementation Services Fees:

TOTAL ONE-TIME IMPLEMENTATION FEES: \$774,907.99

Includes:

Human Resource Administration Services

New Hire Reporting
I-9 Compliance Services
Employee Self Service
Manager Self Service
Analytics
Onboarding
Hackett Advisory Services
ADP Marketplace

Payroll Services

Wage Garnishment Payment Services
Employment Tax Services

Time & Attendance Services

Accruals

Benefit Services

Health and Welfare Administration Services
COBRA Services
Participant Solution Center Support
Employee Decision Support Tools

Health Compliance Services

Health Compliance

Consumer Health & Spending Accounts

Health Savings Accounts
Flexible Spending Accounts (FSAs)

Application/Hosting Services

Hosting Facility & Services

General Services

Benchmarks
Document Cloud

** Pricing assumes 5663 paid employees and 0 unpaid employees. Actual invoicing will be based on employees in a non-terminated status.*

- Travel and Expenses related to Implementation Services not to exceed \$145,000. Any Travel and Expenses in excess of this amount are subject to approval by Client's City Council.

- Includes the following training course: ADP Vantage HCM - Ad Hoc Reporting Custom Workshop.



Training

- ADP's schedule of standard and public training classes is set forth in Appendix 5 below.
- Standard training materials may include but are not limited to one or more of the following; in person or virtual instructor led training, e-learning, pre-recorded courses, help documentation, reference guides, pre-recorded task demonstrations, and job aides. Specific materials vary by product and service.
- All standard e-learning, pre-recorded courses, help documentation, reference guides, pre-recorded task demonstrations, and job aides are available at no additional cost.
- All other in-person and or virtual instructor led training is offered at ADP's current rates.
- Client is responsible for all travel expenses associated with training.

Ongoing Services Fee:

The fees for ongoing Services are set forth in the table below.

Ongoing Services Fees	Per Employee Per Month (PEPM)
Estimated Ongoing Services Fees	\$15.89

If applicable, items not included in the PEPM are stated below:

Ongoing Services Fees	Units	Rate per Unit	Frequency	Monthly Cost	Estimated Annual Cost	Based on
Deferred Implementation Fees				\$12,915.14	\$154,981.68	<ul style="list-style-type: none"> • Subject to credit approval • Billable upon service commencement
W-2 Processing						
W-2s	6,796	\$2.85	per W-2		\$19,347.07	
Leased Timeclocks, Maintenance for Purchased Clocks						
InTouch Terminal Barcode Reader	77	\$136.50	per each per month	\$10,510.50	\$126,126.00	
InTouch QuickPunch	77	\$14.00	per each per month	\$1,078.00	\$12,936.00	

** Notwithstanding anything to the contrary in this Agreement, all fees will be based on a minimum of 3,964 employees per month, and Client shall pay such minimum fee regardless of whether Client's actual usage decreases below such minimum.*



*** The Time & Attendance Services fees are based on assumptions around the number of employees utilizing the Time & Attendance Services as of certain assumed dates, and ADP incurs costs in connection with the Time & Attendance Services on the basis of such assumptions. Therefore, notwithstanding anything to the contrary in this Agreement, Client shall pay to ADP a minimum monthly fee for the time clocks provided in connection with the Time & Attendance Services in an amount equal to \$150.50/each for 77 clocks beginning as of August 30, 2017 (or other date as mutually agreed). The foregoing minimum(s) may be revised by mutual agreement of the parties in the event of a decrease in such assumed number of time clocks provided in connection with the Time & Attendance Services due to divestitures or corporate reorganization of Client.*

To the extent that Client is receiving components of the Services or features not listed in this Pricing Appendix, then Client shall pay to ADP the rates currently charged by ADP for such components of the Services or features.

With respect to Self Service:

“Client Content” means (i) all payroll, benefits, human resource and similar information or materials provided by Client or its agents or employees, including transactional information, (ii) Client’s trademarks, trade names, service marks, logos and designs, (iii) all Client information stored on ADP cloud storage service, and (iv) any other information or materials provided by Client or its agents or employees, regardless of form (e.g., images, photographs, illustrations, graphics, audio clips, video clips and text, etc.), to be included in Self Service, ADP Products or hardware, whether included therein by ADP on behalf of Client as part of its setup services or directly by Client or any of its employees or agents. Client shall promptly deliver to ADP the Client Content as required by ADP to provide Self Service in an electronic file format specified and accessible to ADP. Client hereby grants ADP a non-exclusive, non-transferable license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy (including back-up copies) and display the Client Content as reasonably necessary to provide Self Service. Client is solely responsible for all Client Content and for obtaining all required rights and licenses to use and display such Client Content in connection with the ADP Products. Client shall be solely responsible for updating and maintaining the completeness and accuracy of all Client Content and for obtaining all required rights and licenses to use and display such Client Content in connection with ADP Self Service. Client shall provide to ADP Client Content that is virus free and does not contain any content or materials which are obscene, offensive, inappropriate, threatening, malicious, which violate any applicable law or regulation or any contract, privacy or other third party right or which otherwise exposes ADP to civil or criminal liability. ADP reserves the right to exclude or immediately remove from the System any Client Content which it determines in its sole discretion violates the previous sentence, provided that ADP has no obligation to review or monitor the Client Content.

Additional Services

The fees for any additional services requested by Client that are not set forth elsewhere in the Agreement will be discussed and mutually agreed by the parties.



Assumptions

The fees presented were calculated based upon the requirements, specifications, scope of services, pay frequencies, countries in scope and volumes set forth below and the funding requirements set forth in the "Financial Terms" section of this Appendix. If the actual requirements, specifications, scope of services, pay frequencies, countries in scope, volumes or funding requirements vary materially from what is stated, the parties shall negotiate in good faith to adjust the fees based on such changes. The fees do not include any customizations to any Service.

Category	Item Description	Units Included in Fees	Rate per Unit (or ADP Prevailing Rate)	Based on
Implementation Services				
Data Conversion	Data Conversion Sources	3	Included	<ul style="list-style-type: none"> Electronic files will be provided to ADP based on ADP's required file formats and mapping legends ADP will complete conversion of employee level indicative data and QTD and YTD accumulator balances (if applicable) for testing and Go Live Client will be required to complete dual maintenance after final conversion through Go Live
	Payroll Data Mapping	2	Included	Mapping support will be provided by ADP
	Payroll Check Detail History	10	Not Included	Based on 295 hours, up to 10,000 employees
	Job, Salary, & Employment History	10	Not Included	Based on 295 hours, up to 10,000 employees
	Tax Conversion Sources	1	Included	Tax conversion included for current year
	Core Benefit Election Data Conversion Sources	1	Included	
	Dependent / Beneficiary Data Conversion Sources	1	Included	Provided by Client in standard ADP format
	Historical I-9 Form Conversion	0	Not Included	
System Configuration	Payroll	Included	Included	Assumes defined pay practices, no significant changes during implementation of pay practices and policies



Category	Item Description	Units Included in Fees	Rate per Unit (or ADP Prevailing Rate)	Based on
	Payroll - Development of TLM and Other Paydata Files	Not Included	Not Included	Client (or Client's vendor) is responsible for developing any External Paydata Input (EPIP) file(s), in ADP's format, for any time and labor data collection for non-ADP systems (e.g., hours and earnings from third party source)
Validation	Parallel Testing - Test Files	2	Included	<ul style="list-style-type: none"> Client will perform up to two full parallel tests based on the standard ADP methodology Full parallel tests assume end-to-end testing of entire populations, processes and interfaces Client will be responsible for data integrity and will perform data cleansing prior to each conversion with a final signoff procedure before Go Live
General Ledger	GL Charts of Account	1	Included	
Payroll Services				
Populations	Annual Checks	150,183	Included	Includes up to 150,183 annual checks
	Pay Frequencies	1	Included	Includes up to 1 pay frequency(ies)
	Employees Paid Weekly	0	Included	Processing for up to 0 employees paid weekly included
	Employees Paid Bi-Weekly	5,663	Included	Processing for up to 5,663 employees paid bi-weekly included
	Employees Paid Semi-Monthly	0	Included	Processing for up to 0 employees paid semi-monthly included
	Employees Paid Monthly	0	Included	Processing for up to 0 employees paid monthly included
	Pensioners Paid Monthly	2,700	Included	Processing for up to 2,700 pensioners paid monthly included
Client Practitioners	Client Named Contacts	5	Included	Includes up to 5 Client Named Contacts who may contact the ADP Support Team
Pays/ Distribution	Off-cycle Checks	2,945	Included	Includes up to 2,945 off-cycle checks annually
Garnishments	Payments	7,509	Included	Includes up to 7,509 payments annually
Reporting	CD ROM Output for Reports	1	Included	Includes 1 CD(s)



Category	Item Description	Units Included in Fees	Rate per Unit (or ADP Prevailing Rate)	Based on
Time and Attendance Services				
Populations	TLM Users	3,788	Included	
	Supervisor/Manager Licenses	379	Included	<ul style="list-style-type: none"> Per manager license per month Standard assumption is 1 supervisor/manager license for every 10 employee (core) licenses"
	Accruals	3,788	Included	
	Leaves	3,788	Included	
Health and Welfare Administration Services				
Populations	Benefit Eligible Employees	5,394	Included	Assumes 5,394 benefit eligible employees
	Benefit Eligible Retirees	950	Not Included	Assumes 0 benefit eligible retirees
	Turnover	0%	Included	Assumes 0% benefit eligible employee turnover
System Configuration	Form Stored in Document Library	up to 50	Included	Includes up to 50 documents and forms
	Unique Waiting Periods & Rates	15	Included	Includes up to 15 combinations of unique waiting periods and/or rates
	Plan Types	18	Included	Includes up to 18 plan types set up as pre-tax or post-tax
	Plan Options (e.g., medical, dental, vision)	45	Included	Includes up to 45 plan options
	Retiree Administration	Not Included	Included	
	Benefit Eligibility Groups	15	Included	Each active; does not include set up hours for any additional benefits, offerings or rate structures that these groups may bring
	Health Care Plans - Excluding Imputed Income	5	Included	
	Health Care Plans - Including Imputed Income	0	Included	
Non-Health Care Plans	10	Included	Life, ADD, etc.	



Category	Item Description	Units Included in Fees	Rate per Unit (or ADP Prevailing Rate)	Based on
Interfaces	Non-ADP FSA interface	0	Included	
	Non-ADP COBRA interface	1	Included	
	Non-Health Care Interfaces	0	Included	
Other	Participant Services Center Overages	2 calls per employee per year	Included	<ul style="list-style-type: none"> - Assumes 5-minute wrap-up time duration per call; overage calls assume the same. Average eligible count to be recorded on first of each month and divided by total calls at end of year. - Direct telecom fees to be billed based on ADP's standard rates.
COBRA Services				
System Configuration	Plan Options (e.g., medical, dental, vision)	Up to 10	Included	Includes up to 10 plan options
	Reporting Locations	1	Included	Per location per month
	Electronic Carrier Reports	4	Included	Setup fee per additional electronic report
	Open Enrollment Periods	1	Included	Assumes 1 open enrollment period(s)
Health Compliance Services				
Populations	Total Employees	5,663	Included	Includes Employees in Active or Leave of Absence status
	Benefit Eligible Employees	5,394	Included	
Consumer Health & Spending Accounts				
Populations	Health Savings Account Participants	2,832	Included	<ul style="list-style-type: none"> • An HSA participant is defined as an actively participating employee; billing stops when ADP ceases to serve the participant, based on receipt of client termination record
	Flexible Spending Account Participants	2,832	Included	<ul style="list-style-type: none"> • A participant is defined as an individual who elected to contribute to a spending account and is either: (i) an employee, (ii) a former employee or previously covered dependent who is a COBRA Qualified Beneficiary, or (iii) a former employee who terminated during the plan year in question
	Bank Accounts for Funding	2	Included	



Category	Item Description	Units Included in Fees	Rate per Unit (or ADP Prevailing Rate)	Based on
	Spending Account Carrier Feeds	0	Not Included	

Interface Matrix

Description
437b Outbound Financial
437b Universal Import
ADP Report Service Pak
Benefit Configuration
Conversion Data Miner
Conversion Dependent, Election and Beneficiaries
Conversion Vantage with History Implementation
Employee Data for ERP
Employee Data for Fire Time
Employee Data for Police Time
GL Configuration
Pension Outbound Financial
Position Management Data
Position Management Universal Import
Universal Import New Hire

Data will include all Client employee and company level data (current row and applicable historical rows) for included ADP Vantage HCM components. Client must provide to ADP a data dictionary, which defines the structure of the database itself (not that of the data held in the database) and is used in control and maintenance of large databases and records, including, among other items of information, (1) what data is stored, (2) the name, description, and characteristics of each data element, (3) the types of relationships between data elements, and (4) access rights and frequency of access, in order to know what the table structure is for the data to enable ADP to readily understand the data provided. An entity relationship diagram ("ERD"), which is a graphical notational representation of the relationships between entities in a



relational database or information system that consists mainly of entities, attributes, relationships, cardinalities and ordinalities, is also an acceptable to manner for Client to convey such data structure information to ADP. Client must provide to ADP all client source data; ADP must be able to successfully view it to ensure it is in readable, decrypted and not corrupted, and Client must ensure such data includes expected data types (e.g., personal, job, employment) prior to the start of the Implementation (Week 1 in the implementation plan). In the event Client fails to provide source data prior to the commencement of the implementation (Week 1 in the implementation plan), then Client will pay all reasonable and actual costs incurred by ADP related to the failure in accordance with any Change Control procedures herein. Storage of HR data for employees outside the U.S. is subject to additional fees as stated in this Pricing Appendix and is limited to data for employees located in Algeria, Australia, Belgium, Brazil, Canada, Chile, China, Costa Rica, Czech Republic, Dominican Republic, France, Germany, Hong Kong, Hungary, India, Ireland, Italy, Japan, Lebanon, Mexico, Netherlands, New Zealand, Philippines, Poland, Portugal, Singapore, Slovak Republic, Spain, South Africa, Sweden, United Arab Emirates, United Kingdom, and Venezuela.



Financial Terms

APPROVED COUNTRIES: UNITED STATES

1. **Client Group**: If applicable, the Client Group includes the following entities: .

Not applicable.

2. **Implementation**:

Deferred Implementation Fee: Client acknowledges that a portion of the setup and one-time costs for the Implementation Services have been deferred (the “**Deferred Fee**”) and will be paid by Client as part of the processing fees over 60 months from the Go Live Date, with payments being calculated on a monthly basis with each monthly payment in the amount of \$12,915.14 (the “**Deferred Fee Monthly Amount**”).

If either ADP or Client terminates the Services or the Agreement for any reason whatsoever prior to the expiration of the Initial Term, Client will pay to ADP an amount equal to the sum of (i) the Deferred Monthly Fee Amount, multiplied by the number of months remaining in the Initial Term of the Agreement as of the effective date of termination, plus (ii) any outstanding Deferred Fee Monthly Amounts which are owed by Client for any months preceding the effective date of termination.

Notwithstanding anything stated to the contrary in the Agreement or Annexes, Exhibits, Schedules and Attachments attached thereto and made a part hereof, including but not limited to the terms of this Agreement, Client agrees that ADP may assign, sell, transfer, pledge or otherwise dispose of its rights (but none of the related obligations) under this Agreement to receive payment for Client’s obligation (or a portion thereof) to pay the Deferred Fee, without notice or consent of Client, to one or more assignees, and any assignee may further freely assign the same.

3. **Invoicing**: Where applicable, Client will pay the amount on each invoice in full within 30 days after the invoice date. All amounts not paid when due are subject to a late payment charge of one and one-half percent (1½%) per month (not to exceed the maximum allowed by applicable law) of the past due amount from the due date until the date paid.

With respect to Payroll Services, ADP commences ongoing Services processing 2 weeks prior to the first payroll date. Accordingly, the ongoing Services fees shall commence effective when the environment is made available to Client for transaction processing.

4. **Currency**: All fees set forth herein are shown in US Dollars and all payments relating to the Services shall be made in US Dollars.



5. **Taxes:** Unless Client provides ADP a valid tax exemption or direct pay certificate, Client will pay directly, or will pay to ADP, an amount equal to all applicable taxes or similar fees levied or based on the Agreement or the Services, exclusive of taxes based on ADP's net income.

6. **Cost Reimbursement Fee:** In order for ADP to recoup certain costs associated with the Services provided under the Agreement in the event of an early termination by Client, if Client terminates Services in any country or the Agreement in whole or in part for convenience pursuant to Section 12.2(ii) of the Agreement, Client will (i) if termination occurs during the implementation of Services, (x) pay ADP for the Implementation Services at the rate set forth in the "Financial Detail" table, prorated by ADP against the amount of Implementation Services completed, and (y) reimburse ADP for any license fees or other costs incurred by ADP in connection with the Implementation Services, and (ii) if termination occurs after the Go Live Date for Services, reimburse ADP for its costs (including unamortized investments and any costs incurred that have not been recovered from fees charged) associated with the termination of the Services as set forth in the chart below, which provides the unrecovered costs as a percentage of the estimated aggregate ongoing fees for Services as of the Effective Date during each year of the Agreement:

	Year 1	Year 2	Year 3	Year 4	Year 5
Percentage of Initial Estimated Client Billing Fees for the duration of the Agreement as of the Effective Date	6%	5%	3.5%	2.5%	1%

7. **Travel and Out-of-Pocket Expenses:** In addition to the fees listed herein, postage, delivery charges, other third party charges, and reasonable travel and out-of-pocket expenses are payable by Client, and ADP will follow Client's travel policy where applicable.

8. **Funding Requirements and Disbursement Disclosure:**
 - i) For Consumer Health & Spending Accounts

Consumer Health & Spending Accounts: As spending accounts and commuter spending accounts claims are adjudicated by ADP, and ADP determines that a participant is entitled to reimbursement, ADP determines the aggregate amount to be paid as reimbursement to participants and obtains Client funds for such reimbursements. All such reimbursement amounts disbursed to ADP pending participant reimbursement are maintained in an account that is separate from ADP's operating accounts. Clients remit claim reimbursement payment amounts to ADP via Client-initiated Fedwire or ACH transfer, via ADP-initiated ACH transfer, or via Client check. Due to the nature of the ACH system, ADP generally receives use of the amounts disbursed to ADP via ACH transfer within 2



Business Days from the ACH impound date. Once Client checks clear the banking system, the payment amounts are made available to ADP. Fedwire funds are made available to ADP immediately. Immediately upon ADP's receipt of good funds from Client, ADP makes disbursements in the amount of the applicable reimbursement to each participant. Participants receive such payments either by check or, if they and Client have elected, by direct deposit. On average, checks remain outstanding for 9 to 12 days before being presented for payment. In some cases, upon Client's request and as a convenience to Client, ADP holds a Client-determined amount on account in order to facilitate the prompt reimbursement of participant claims at the time of claim adjudication. Except to the extent Client has elected to prefund the Account, as set forth in this Appendix, ADP does not determine the amount to be held on account for Client, and all such amounts may be withdrawn at any time by Client.

ii) For COBRA Services

In connection with COBRA Services, participant payments are received via check or ACH transfer. Payments are reviewed, validated and recorded to the participant's account. At the end of each month, ADP then reconciles payments to the designated client or carrier. Payments are then processed and remitted to the respective payees (Client or to Client's designated carriers) within the applicable grace period. If participant pays more than billed, funds are held in participant's account and applied to the following month. If the overpaid amount is requested for a refund, ADP holds payment for 14-21 days before refund can be issued.

iii) For Employment Tax Services

Tax Liability Impounding Schedule

- All tax liabilities will be provided to ADP via reverse wire.
- Federal withholding, FICA EE/ER, Medicare EE/ER state withholding and local withholding, FUTA and SUI withholding and local withholding taxes will be provided to ADP one business day prior to the associated payroll check date.
- For all reverse wire clients, funds must be available by 6:00 a.m. Pacific time.

iv) For Wage Payment Services: ALINE Pay Traditional Bundle Services

ALINE Net Pay Impounding Schedule

- All ALINE net pay will be provided to ADP via reverse wire.
- All ALINE net pay funding will be provided to ADP two business days prior to associated payroll check date.
- ALINE net pay funding for ALINE Cards will be provided by Client to the Issuing Bank within the deadline and via the method of delivery established by the Issuing Bank to satisfy Client's Payee obligations.
- For all reverse wire clients, funds must be available by 6:00 a.m. Pacific time.



v) For Wage Garnishment Services and Fees

Funding

Client will transmit wage garnishment information, deductions and liabilities to ADP one business day prior to the associated payroll check date via reverse wire.

- For all reverse wire clients, funds must be available by 6:00 a.m. Pacific time.

9. **Fee Adjustments:** The fees set forth in this Appendix are subject to the following maximum price increases during the five-year period following the Go Live Date:

Year 1:	No Increase
Year 2:	2%
Year 3:	No Increase
Year 4:	3%
Year 5:	No Increase

For the Renewal Term, ADP may increase the fees by 3% upon 30 days' prior written notice to Client in years 1, 3, and 5 of such Renewal Term.

10. **Change Control:** In the event either party requests a change in the scope of the Services (including Implementation Services), the parties shall address such change request via ADP's change control process. Changes and the cost associated with the change (if any) to the Services shall be mutually agreed to by the parties, with the exceptions of changes that are required to be made by law or regulation applicable to the Services or to the duration of Implementation Services, which ADP will notify Client of prior to making such change.

The standard hourly rate for a Change Control Item is \$175.00 per hour; provided, however, that such rate may be increased by ADP if such Change Control Item (i) entails significant modification of available resources, (ii) impacts existing change control efforts for other ADP clients, or (iii) occurs during high-volume periods.

Maintenance Fees for System Modifications: Client may request modifications to the ADP system and will pay all costs related to development of such system modifications, plus an annual system technology maintenance fee equal to 18% of the total one-time fee for a Change Control Item for modifications made after implementation.



Appendix 2

Hackett-Certified Advisory Program Additional Terms



**ADP Vantage HCM Hackett-Certified™ Best Practice Advisory Program
Additional Terms**

The ADP Vantage HCM Hackett-Certified Best Practice Advisory Program (the "Program") will provide you with access to best practices, performance metrics, research, webcasts and forums as well as direct access to HCM professionals during the Program period.

The content of the Program, which can be accessed on-line through the Hackett Member Center, is as follows:

ADP Vantage HCM Hackett-Certified Best Practice Advisory Program		ADP Vantage HCM HR Operations Bundle (HR + Payroll)
Best Practice Accelerators	Access to Hackett Best Practice Accelerators <ul style="list-style-type: none"> ▪ ADP Vantage HCM Best Practice Scorecard ▪ ADP Vantage HCM Best Practice Implementation Guide ▪ ADP Vantage HCM Best Practice Configuration Guide ▪ ADP Vantage HCM Best Practice Process Flows 	 ✓ ✓ ✓ ✓
Best Practice Research	<ul style="list-style-type: none"> ▪ Book of Numbers™ Research Series ▪ Online seats to the Hackett Member Center Portal <ul style="list-style-type: none"> - Process Taxonomy, Best Practices, Quick Wins, Conference Presentations, Research Repository, Webcast Archive 	1 copy of HR and Payroll 25 seats ✓
Measurement	Unlimited participation in Performance Studies	✓
	Customized reports and readouts from Performance Studies	✓
	Access to Hackett's HR Service Delivery Model Pulse Check Assessment Tool	✓



ADP Vantage HCM Hackett-Certified Best Practice Advisory Program		ADP Vantage HCM HR Operations Bundle (HR + Payroll)
Advisor Access	Named individuals for on-demand advisor inquiry <ul style="list-style-type: none"> ▪ Inquiries limited to 10/year in year 1; 6/year in years 2 and 3 ▪ Additional inquiries can be purchased in blocks of 5 inquiries for \$5,000 	2 Client Inquiry Seats 1 ADP Inquiry Seat / Client
	Program Review Calls – program deliverables usage, briefing by client on top issues	2 semi-annual calls / year
Peer Events	▪ HR Executive Annual Summit (1 day; limited to senior most functional executive)	1
	▪ Passes to the Hackett Best Practices Conferences	1
	▪ Quarterly Vantage Member Interactive Webcast	✓

ADP Vantage HCM Hackett-Certified Best Practice Accelerators

Accelerator		Description
1	Best Practice Scorecard	The Best Practice Scorecard provides Client a way of prioritizing which best practices they want to enable as part of the implementation process.
2	Best Practice Implementation Guide	The Best Practice Implementation guide is used to provide Client and implementation teams with an understanding of how each best practice is enabled within ADP Vantage HCM and if not, recommendations to achieve desired outcomes.
3	Best Practice Configuration Guide	The Best Practice Configuration Guide provides Client and implementation team key configuration steps and their alignment to business decisions, best practices and configuration recommendations.
4	Best Practice Process Flows	Best Practice process flows graphically depict the activities and steps involved for each key HCM process.



Accelerator		Description
	(L1 – L5)	

Best Practice Research

Hackett research provides objective, empirically-based analysis and insight into the performance metrics and best practices of world-class companies. Research is delivered through the hard copy distribution of our Book of Numbers™ Research Series and through a continuously-updated research archive accessed during the Program period via an online Member Center.

Program members have access to a searchable online portal, which includes:

Research: an up-to-the-minute library of unbiased research reports based on Hackett data

ADP Vantage HCM Best Practice Intelligence Center:

A comprehensive repository of Hackett intellectual property, offering best practices based on our study of world-class organizations. The only source of empirically proven best practices for enterprise G&A performance, ADP Vantage HCM Best Practice Intelligence Center Best Practices Intelligence Center helps executives reduce risk, speed time-to-benefit, and enhance return on investment for enterprise-wide transformation initiatives.

One-click access to best practices, quick wins, process taxonomy, performance metrics, research and events associated with the Program.

Implementation considerations for best practices provide associated risk and mitigation strategies.

Measurement

Program members may access the following measurement tools:

Performance Studies: A rolling series of topical surveys on key areas of interest to the global business services management & HR communities. Client can benchmark its responses and receive a customized presentation of the findings. Past studies have addressed issues relating to Talent Management, Global Business Services, Global payroll, Talent Development and HR Globalization among others.

Advisor Access

During the Program period, Hackett advisors fulfill member requests for fact-based insight and recommendations into best practice adoption and performance metrics within topical scope. Quarterly advisory review calls are scheduled between advisors and members to review engagement and discuss actionable insights into their current initiatives. Inquiries are limited to 10 per year in the first year of the Program and 6 in the second and third year of the Program and can be utilized by the Vantage implementation team or by you directly.

Peer Events



Vantage Best Practice Advisory Program members may participate in the following events:

Virtual Member Events: These events feature both advisor-led presentations showcasing an adoption-specific best practice or technique, as well as member-led discussions highlighting practices implemented in real-world settings. These sessions encourage peer interaction through learning about the successes and challenges of similar executives leading significant change initiatives. (Unlimited Attendance)

Term

The Program period runs concurrently with the Initial Term of the Agreement.

Ownership of Intellectual Property and Restrictions On Use

"Client" and The Hackett Group, Inc. (Hackett) agree as follows: All materials published on The Hackett Group, Inc. website or accessed through your client portal, including through the Hackett Member Center (the "Site"), including, but not limited to, statistics, metrics, information relating to best practices, research, question sets, taxonomy, templates, text, photographs, illustrations, audio clips, video clips, artwork, graphic material, or other copyrightable elements, the selection and arrangements thereof, and trademarks, service marks, trade names and any other intellectual property related to The Hackett Group, Inc. (collectively the "Content") is the property of The Hackett Group, Inc. and is protected, without limitation, pursuant to U.S. and foreign copyright and trademark laws. Use of the trademarks displayed on the Site is strictly prohibited. You may download material displayed on the Site to any single computer for your Company's internal use only during the period that you are a Vantage Best Practice Advisory client, provided that you do not remove any trademarks, copyright or any other notice contained in such Content. No Content from the Site may be copied, publicly displayed, reproduced, uploaded, downloaded, transmitted or otherwise used other than as set forth in these Terms of Use. You shall not archive or retain any Content in any form without written permission from The Hackett Group, Inc. At the expiration or termination of your Program membership you must destroy all copies of the Content in your possession. You may be asked to certify such destruction in writing. You may not distribute (including via e-mail or the Internet), or otherwise make available, copies to others, whether or not for payment or other consideration, without the written permission from The Hackett Group, Inc. Any unauthorized or prohibited use may subject the offender to civil liability and criminal prosecution under applicable federal and state laws. The Program described in this appendix may not be cancelled and if Client desires to terminate its participation in the Program, it understands and agrees that Hackett is under no obligation to refund or reimburse any fees paid and Client will remain liable for any unpaid Program fees associated therewith. Hackett reserves the right to terminate Client's access to the Member Center at any time if it appears that the Client's usage is inconsistent with the terms of this letter agreement. If we become involved in a dispute over the Program or services rendered by Hackett, you cannot seek to collect any amount more than the fees you pay to Hackett for Program described in this appendix. These provisions will survive after the services described in this letter agreement are rendered or your participation in the Program and this Agreement expires or is terminated.



Appendix 4

HIPAA BUSINESS ASSOCIATE AGREEMENT



THIS AGREEMENT is entered into on _____, 2016, by and between the CITY OF EL PASO, TEXAS ("CITY"), as the Covered Entity, and ADP, LLC ("BUSINESS ASSOCIATE") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as "HIPAA"), and the relevant sections of the Texas Health and Safety Code, Section 181.001 et seq., to the extent such provisions apply to employee benefit plans and do not conflict with HIPAA. Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, CITY has engaged BUSINESS ASSOCIATE to perform services or provide goods, or both, under a Global Master Services Agreement ("MSA") to which this Business Associate Agreement is attached;

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and BUSINESS ASSOCIATE agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.
 - a. **Agreement** shall refer to this document.
 - b. **Business Associate** means ADP, LLC.
 - c. **HHS Privacy Regulations** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164, in effect, or as amended.



d. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term "individual" is defined in 45 C.F.R. 164.501.

e. **Information** shall mean any "health information" provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term "health information" as defined by 45 C.F.R. 160.102.

f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.

g. **Secretary** shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been delegated.

h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.

2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)

3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from CITY for the following stated purposes: To provide public health, research, and related support services (service) to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and



administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:

- a. The disclosure is required by law; or
- b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for **the purposes for which it was disclosed to the person, the person will use** appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).

6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).

7. **BUSINESS ASSOCIATE OBLIGATIONS:**

- a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
- b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
- c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CITY within fifteen (15) calendar days of discovery any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).
- d. **Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).



- (i) 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2). In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.

- e. **Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. Not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to CITY in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).

- f. **Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.

- g. **Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).

- h. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).

- i. **Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).



- j. **Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- k. **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- l. **Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
- m. **Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).
- n. **Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. **Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
- p.
- 8. **Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
- 9. **Modifications.** The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the "Privacy Rule" and Subparts A and C the "Security Rule") of the Code of Federal Regulations.



10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

1. **Term.** The Term of this Agreement shall be effective as of the Effective Date of the MSA, and shall terminate at the expiration date of the then-current Term of the MSA or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
2. **Termination for Cause.** Upon the CITY's knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the CITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.
3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:
 - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
 - b. Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
 - c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health



information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;

- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. Remedies. If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;
- 2. Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. **Injunction.** CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.
- 5. **Indemnification.** Subject to the Limit on Liability set forth in Section 7 of the MSA, BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of



BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

D. Miscellaneous

1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
2. **Amendment.** CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
Department of Public Health
Attention: Director
5115 El Paso Drive
El Paso, TX 79905

BUSINESS ASSOCIATE: ADP, LLC
ATTN: Legal Department
5800 Windward Parkway
Alpharetta, GA 30005



5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
7. **Reserved.**
8. **Compliance with Laws.** BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal rules and regulations. In the event that applicable federal laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
11. **Entire Agreement; Counterparts.** Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.



STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the _____ day of _____, 2016.

CITY OF EL PASO

Tomás González
City Manager

BUSINESS ASSOCIATE

Signature: _____

Name Printed: _____

Title: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Assistant City Attorney

Department Head



Appendix 5

ADP Vantage Recommended Client Training Curriculum

ADP Vantage HCM

Recommended Client Training Curriculum

The curriculum matrix shown below identifies application and reporting courses and performance support job aids recommended for the primary members of an implementation project team and by individuals whose job role requires the use of the application. Items that are shaded and contain an X indicate the recommended training for that job role. Detailed course descriptions and a current listing of class schedules can be found at <http://ilearn.adp.com>.

Roles	Legend
Prac – Practitioner/System Administrator Mgr – Manager Empl – Employee	* See course description for information about the role. O = optional audience X = recommended audience

Category	Description
<u>ADP Vantage HCM Core Curriculum</u>	The Core curriculum includes content that is core to the ADP Vantage HCM product. <ul style="list-style-type: none"> • General • Configuration & Security • ADP Security Management • Benefits • ADP eI-9 • Human Resources • Payroll • Finance • Business Analytics (Dashboards) • Reporting
<u>ADP Vantage HCM Talent Management Curriculum</u>	The Talent Management curriculum includes content related to talent management. <ul style="list-style-type: none"> • Compensation Management • Learning Management • Performance Management • Succession Management
<u>ADP Vantage HCM Talent Acquisitions Curriculum</u>	The Talent Acquisitions curriculum includes content related to: <ul style="list-style-type: none"> • ADP Recruiting Management • ADP VirtualEdge High Volume and Professional
<u>ADP Vantage HCM Time v8 Curriculum</u>	The Time curriculum includes content related to ADP Vantage HCM time and attendance version 8. <ul style="list-style-type: none"> • Time

ADP Vantage HCM Core Curriculum

ADP Vantage HCM – General

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM Introduction	e-learning	30 minutes	X	X		
ADP Vantage HCM – Message Center Overview	e-learning	45 – 60 minutes	X	X	X	
Using OneADP Service	e-learning	30 minutes	X			
ADP Online Tools Overview (vILT)	vILT	2 hours, 30 minutes	O			

ADP Vantage HCM – General – Job Aids

Job Aid Name	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM - Registration Job Aid	1 page	X	X	X	
ADP Vantage HCM - Navigation for Managers and Employees Job Aid	8 pages		X	X	
ADP Vantage HCM - Navigation for Practitioners Job Aid	10 pages	X			

ADP Vantage HCM – Data Bridge

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Data Bridge Solution Overview	e-learning	4 minutes	X			
ADP Vantage HCM – Data Bridge: Session One: Foundational Knowledge	e-learning	15 minutes	X			
ADP Vantage HCM – Data Bridge: Session Two: Basic Concepts for Standard Imports	e-learning	20 minutes	O			
ADP Vantage HCM – Data Bridge: Session Three: Standard Import Automation	e-learning	10 minutes	O			
ADP Vantage HCM – Data Bridge E-Learning Sessions Assessment	assessment	30 minutes	O			
ADP Vantage HCM – Data Bridge Workshop: Hands-On Activities and Troubleshooting <i>Includes an ADP Vantage HCM – Data Bridge Workshop Assessment</i>	vILT	9 hours	O			

***Please note that for ADP Vantage HCM client practitioners who want to take the ADP Vantage HCM – Data Bridge Workshop (vILT), Session One, Session Two, Session Three, and the Data Bridge E-Learning Sessions Assessment are required prerequisites for that workshop and would no longer be considered optional for these learners.*

ADP Vantage HCM – Data Bridge – Job Aid

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Data Bridge Resources Job Aid	e-learning	3 pages	O			

ADP Security Management Service

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Security Management Service - Introduction	e-learning curriculum	50 minutes	X			
ADP Security Management Service for User Masters and User Administrators <i>*Role: See course description</i>	e-learning curriculum	2 hours 5 minutes				X*
ADP Security Management Service for Security Masters and Security Administrators <i>*Role: See course description</i>	e-learning curriculum	3 hours 10 minutes				X*

ADP Vantage HCM – Configuration and Security

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Workflow Configuration Overview	e-learning	1 hour	X			
ADP Vantage HCM - Workflow Configuration Activity Demonstrations	e-learning	45 minutes	X			
ADP Vantage HCM - Configuration Tools Overview	e-learning	1.5 hours	X			
ADP Vantage HCM - Configuration Tools Activity Demonstration	e-learning	45 minutes	X			
ADP Vantage HCM – Workflow Management: Standard Activity Configuration	vILT	4.5 hours	X			
ADP Vantage HCM – Workflow Management: Custom Activity Configuration	vILT	2.5 hours	X			
ADP Vantage HCM - Security Overview	e-learning	1.5 hours	X			
ADP Vantage HCM – Security Management: Access Permissions	vILT	2.5 hours	X			

ADP Vantage HCM – Benefits

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM - Benefits Activity Demonstrations	e-learning	45 minutes	X			
ADP Vantage HCM – Managing Annual Enrollments Benefits	e-learning	45 minutes	X	X		
ADP Vantage HCM – Enrolling on Behalf of an Employee: New Hire	e-learning	30 minutes	X	O		

ADP Vantage HCM – Benefits Add-On Modules

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP COBRA Services - BeneDirect Web Site	e-learning	2 hours curriculum	X			
TAM MSS for the Manager and HR Professional	e-learning	1 hour		X		

ADP Vantage HCM – ADP eI-9

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP eI-9 Client Administration	e-learning	20 minutes	X			
ADP eI-9 E-Verify Demo	e-learning	15 minutes	X	X		
ADP eI-9 Section 2 Demo	e-learning	7 minutes	X	X		
E-Verify Training	e-learning	40 minutes	X	X		

ADP Vantage HCM – ADP eI-9 – Job Aids

Job Aid Name	Duration	Prac	Mgr	Empl	Other
<i>Note: not available on iLearn. Can access through the National Account Support Center.</i>					
Client Administrator’s Guide	120 pages	X	O		
E-Verify Quick Reference	10 pages	X	X		
Inbound Data Mapping Reference	42 pages				X
Manager’s Guide (Sections 2 and 3, and Manager’s Workbench)	138 pages		X		
New Hire’s Guide (Section 1)	42 pages			X	
Section 2 Quick Reference	4 pages	X	X		
Section 3 Quick Reference	2 pages	X	X		

ADP Vantage HCM – Human Resources

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Human Resources Activity Demonstrations	e-learning	1.5 hours	X	O		
ADP Vantage HCM - Company Policy Activity Demonstrations	e-learning	15 minutes	X			
ADP Vantage HCM – Custom Activity Configuration Activity Demonstrations	e-learning	30 minutes	X			
ADP Vantage HCM - Pay Plan Administration Activity Demonstrations	e-learning	30 minutes	X			

ADP Vantage HCM – Payroll

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Payroll Processing	vILT	2 days	X			
ADP Vantage HCM – Overview of the Pay Cycle	vILT	3.5 hours	X			
ADP Vantage HCM – Payroll Processing: How to Best Leverage Pay Data Entry	vILT	3.5 hours	X			
ADP Vantage HCM – Payroll Processing: Off-Cycle Checks and Adjustments	vILT	3.5 hours	X			
ADP Vantage HCM – How to Process and Audit Payroll	vILT	4 hours	X			
Payroll Engine - Standard Output Reports	e-learning	1 hour	X			
Payroll Engine - Quarter- and Year-End Output Reports	e-learning	30 minutes	X			
Quarter/Year-End Processing	vILT	1 day	X			
ADP/APA Year-End Seminar	vILT	1 day	X			

ADP Vantage HCM – Finance

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
Accounting Basics	e-learning	20 minutes	O			
ADP General Ledger v5.0 – Processing	e-learning	1.5 hours	X			

ADP DataCloud – Insights: Business Analytics (Dashboards)

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
Analytics Tour A	Video	n/a	X			

ADP DataCloud – Insights: Reporting

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
NAS Reporting Curriculum Map - This dynamic curriculum map provides access to the courses listed below for your Advanced Reporting consumption.	Posting	3 pages	O	O		
ADP Vantage HCM: Getting Started with Simplified Reporting https://youtu.be/EzAlvcIp6M0	Video	2.5 minutes	O	O		
ADP Vantage HCM: Selecting Fields in Simplified Reporting https://youtu.be/zBr7eUBLHJ8	Video	1.45 minutes	O	O		
ADP Vantage HCM: Working with Report Output in Simplified Reporting https://youtu.be/RDtXij7vgDQ	Video	3 minutes	O	O		
Advanced Reporting – Basics (vILT)	vILT	3 hours	O	O		
Advanced Reporting – Locating ADP Vantage HCM Data (vILT)	vILT	2 hours	O			
Advanced Reporting – Payroll Reports (vILT)	vILT	2 hours	O			
Advanced Reporting – Filters (vILT)	vILT	2 hours	O			
Advanced Reporting – Summary Reports (vILT)	vILT	2 hours	O			
Advanced Reporting – Derived Fields (vILT)	vILT	2 hours	O			
ADP Vantage HCM – Advanced Reporting Custom Workshop**	Instructor-led	2 days	O			

**For new implementations, one Advanced Reporting Custom Workshop will be provided to the client after implementation is completed. The ADP CAE will schedule once the client is in service. The cost for the session is included in the implementation fees; however, the T&E expenses are billable for onsite delivery.

ADP Vantage HCM Talent Management Curriculum

Talent Management Roles	
Practitioner <ul style="list-style-type: none"> • Site Administrators • Implementation Team 	User <ul style="list-style-type: none"> • Managers • Recruiters

ADP Vantage HCM – Talent Management

The ADP Talent Management curriculum is comprised of the following categories of learning solutions. [Click this link to access the ADP Talent Management client training curriculum.](#)

Category	Description
Introductory	These learning solutions provide a high-level overview of the ADP Talent Management application.
Core	<p>These learning solutions provide training on the most common talent management site administration tasks within the ADP Talent Management application.</p> <p>Depending on your role, some or all of these learning solutions are recommended prior to participating in user acceptance testing during the implementation process.</p>
Performance Support	These learning solutions support the learner in performing on-the-job tasks, typically after he or she has already completed the core training.

The Talent Management curriculum includes content related to talent management.

- Compensation Management
- Learning Management
- Performance Management
- Succession Management

ADP Vantage HCM Talent Acquisition Curriculum

Talent Acquisition Roles	
Practitioner <ul style="list-style-type: none"> • Site Administrators • Implementation Team 	User <ul style="list-style-type: none"> • Managers • Recruiters

ADP Vantage HCM – ADP Recruiting Management

The ADP Recruiting Management curriculum is comprised of the following categories of learning solutions. [Click this link to access the ADP Recruiting Management client training curriculum.](#)

Category	Description
Core	These learning solutions provide training on the most common recruiting and site administration tasks within the ADP Recruiting Management application. Depending on your role, some or all of these learning solutions are recommended prior to participating in user acceptance testing during the implementation process.
Performance Support	These learning solutions support the learner in performing on-the-job tasks, typically after he or she has already completed the core training.

The following ADP Recruiting Management Curriculums are available in iLearn:

- ADP Recruiting Management for Recruiters and Hiring Managers
- ADP Recruiting Management for Site Administrators

ADP Vantage HCM – VirtualEdge

ADP Vantage HCM clients who use VirtualEdge Professional or High Volume for their Talent Acquisition needs may utilize the *ADP Vantage HCM – Talent Acquisitions – VirtualEdge Client Training Matrix*. [Click Here](#) to access this matrix.

ADP Vantage HCM Time Curriculum

An *ADP Vantage HCM – Time Training for Time v8* curriculum is available in <http://ilearn.adp.com>. Employees, managers, and practitioners can find out how to enter time, maintain timecards, and worth through the time payroll cycle from completing daily tasks, approving timecards, and signing off timecards in this curriculum.

ADP Vantage HCM – Time

Course Name	Training Mode	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Time Entry Overview for Time v8	e-learning	30 minutes	X	X	X	
ADP Vantage HCM – Managing Timecards for Time v8	e-learning	60 minutes	X	X		
ADP Vantage HCM – Managing Schedules for Time v8	e-learning	45 minutes	X	X		
ADP Vantage HCM – Time Practitioner: Managing Time Information for Time v8	e-learning	45 minutes	X	X		
ADP Vantage HCM – Time System Administrator: Managing Time Workflow Notifications for Time v8	e-learning	60 minutes	X			
ADP Vantage HCM – Time Practitioner: Timecard Administration	vILT	5 hours	X			
ADP Vantage HCM – Time Practitioner: Accessing Time Data	vILT	5 hours	X			
ADP Vantage HCM – Time System Administrator: Building Schedules	vILT	4 hours	X			

ADP Vantage HCM – Time – Job Aids (Practitioner)

Job Aid Name	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Build Schedules for Schedule Groups	27 pages	X			
ADP Vantage HCM – Historical Corrections Practitioner	4 pages	X			
ADP Vantage HCM – Navigation for Time Practitioners	39 pages	X			
ADP Vantage HCM – Manage Time Information Page	8 pages	X			
ADP Vantage HCM – Time Manager Using Delegated Activities	4 pages	X			
ADP Vantage HCM – Off-Cycle Processing Time Data Job Aid Practitioner	8 pages	X			
ADP Vantage HCM – Processing Time Data Job Aid	8 pages	X			
ADP Vantage HCM – Audits Widget	2 pages	X			
ADP Vantage HCM – QuickNavs Widget	2 pages	X			
ADP Vantage HCM – Search Widget	6 pages	X			

ADP Vantage HCM – Time – Job Aids (Manager)

Job Aid Name	Duration	Prac	Mgr	Empl	Other
ADP Vantage HCM – Audits Widget	2 pages		X		
ADP Vantage HCM – QuickNavs Widget	2 pages		X		
ADP Vantage HCM – Search Widget	6 pages		X		
ADP Vantage HCM - Manage Time-Off Requests for Employees	7 pages		X		
ADP Vantage HCM - Cancel an Employee’s Meal Deduction	4 pages		X		
ADP Vantage HCM – Navigation for Time Managers	33 pages		X		
ADP Vantage HCM - Perform Group Edits in Employee Timecards	4 pages		X		
ADP Vantage HCM - Transfer an Employee’s Time to a Different Labor Account	5 pages		X		
ADP Vantage HCM - Transfer an Employee’s Time to a Different Work Rule	4 pages		X		
ADP Vantage HCM - Approve an Employee’s Timecard	6 pages		X		
ADP Vantage HCM – Override Timestamp Restriction Widget	2 pages		X		



ADP Solutions Applied to City of El Paso Payroll and Benefits

Strategic Goal 6: Sound Governance & Fiscal Management

**October 18, 2016
City Council Agenda**



Item No. 22.1

**Action to approve a contract
for services to be provided**

October 18, 2016

Mark Sutter, CFO

Nancy Bartlett, CPO



Chronology of Actions

- **City considered ADP services in 2010**
- **City staff again approached by ADP with request to be considered for providing payroll and benefit services in 2015**
- **City agrees to process review and analysis by Shane Watson of SBSI, October 2015**
- **Watson works with City staff to collect data on City processes and resource inputs, October 2015**
- **Results of SBSI work compared to ADP proposal of services presented to staff January 2016**
- **Staff calls references, April/May 2016**
- **Follow up issues covered in two phone conference calls with ADP, August 2016**



Concerns

- **Corrections processed**
- **Paper processes**
- **Information availability and reliability**
- **System upgrades and support**
- **Cost for services**
- **Track record**



Service vs. Software Model

Software Model

- Purchase software and hardware
- Upgrades required for continued support, every few years
- Database administrator and IT staff required
- Disaster recovery is responsibility of City planning and staff

Service Model

- Costs per employee per month (PEPM)
- Upgrades provided automatically, avoids obsolescence
- No IT support provided by City (vendor supplies)
- Disaster recovery and business continuity is provided by vendor



Summary Processing and System Maintenance Annual Change/Savings

Cost Type	Current	Projected	Savings
Processing Labor	\$4,265,930	\$2,946,458	\$1,319,472
Sys Mntnc Labor	\$227,808	\$57,816	\$169,992
Hardware/Software	\$493,208	\$54,388	\$438,820
	\$4,986,946	\$3,058,662	\$1,928,284



Summary Cost Proposal

Total Cost:

- **\$ 7,307,775** Initial 5 year term (approx. \$1.4 M/year)
- **\$ 7,720,362** Optional additional 5 year term
- **\$15,028,137** Ten Year Total

Fees:

- Includes \$775K implementation fee spread evenly over first 5 year term, no interest
- No annual fees or implementation fee payable until system goes live

Time Frame:

- Implementation period – 12 months



Other Considerations

RISK/OPPORTUNITY COSTS

- | | |
|---|---|
| 1 | Payroll Errors - reduce with better time practices |
| 2 | Benefits Claims Paid - reduce with better integration and rules based triggers |
| 3 | Insurance Premiums Paid - reduce with better integration and rules based triggers |
| 4 | PeopleSoft Upgrade Avoidance (\$1.4 million for HCM) |
| 5 | Field Labor - reduce by removing admin tasks from managers/employees |



Questions?



ADP Solutions Applied to City of El Paso Payroll and Benefits

Strategic Goal 6: Sound Governance & Fiscal Management

**October 18, 2016
City Council Agenda**



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for services to be provided**

October 18, 2016

**Mark Sutter, CFO
Nancy Bartlett, CPO**



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