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San Diego Unified Port District
Document No. 62633
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Office of the District Clerk

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
RBF CONSULTING, INC.,
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 147-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and RBF CONSULTING, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A,

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attached hereto and incorporated herein. A Task Authorization shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. 62628, WAVE Technology Solutions Group, Inc., District Clerk Document No. 62636, LSI Consulting, Inc., District Clerk Document No. 62629, Sierra Infosys Inc., District Clerk Document No. 62630, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. 62593, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. 62631, V3it Consulting Inc., District Clerk Document No. 62632, NorthSouthGIS LLC, District Clerk Document No. 62634, Estrada Consulting, Inc., District Clerk Document No. 62635 (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed

$1,100,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods

required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and

defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District.

An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability

insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, "tail" coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Steven Bein, Vice President, GIS
RBF Consulting, Inc. a company of Michael Baker International
14725 Alton Parkway
Irvine, CA 92618
Tel. (949) 855-3642
Fax. (949) 203-8732
Email: sbein@rbf.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

Deborah Finley
Director, Business Information
& Technology Services

RBF CONSULTING, INC.

Steven Bein
Vice President, GIS

APPROVED AS TO FORM AND LEGALITY

Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES
San Diego Unified Port District

1. **The District's current Enterprise Application support structure**

   a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

   b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

   c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. **Key Applications Areas by Technologies:**

A. SAP ENTERPRISE AREA:

- ☐ **SAP FINANCIALS**
- ☐ **SAP HCM**
- ☐ **SAP SALES AND DISTRIBUTION**
- ☐ **SAP PLANT MAINTENANCE**
- ☐ **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- ☐ **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- ☐ **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- ☐ **.NET FRAMEWORK 4.5X**

- OFFICE 365
- MICROSOFT SQL SERVER 2012
- MICROSOFT SYSTEM CENTER
- MICROSOFT AZURE CLOUD SERVICES
- MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS
- MICROSOFT HYPER-V ENVIRONMENT
- MICROSOFT TEAM FOUNDATION SERVER
- MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT

C. ANCILLARY TECHNOLOGIES:

- DOCUMENTUM 6.7X
- ESRI GIS
- IDENTITY MANAGEMENT SOLUTION
- BUSINESS PROCESS MANAGEMENT
- TRAINING DEVELOPMENT

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.
Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 147-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. 62633 and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application
"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement
"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:
- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact
"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center
"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact
"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology
"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk
"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. **Service Provider Technology** "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. **Services**
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. **Severity Level**
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. **System**
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration
- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. **User Account Management**
   Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

   Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. **Data Load Monitoring – Daily**

   1.1. Monitoring data loads and taking corrective actions as required.
   1.2. Refresh of workbooks and taking corrective actions as required.

2. **Data Quality Check**

   2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District*)-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. **Familiarization with:**

   1.1. District SEM/BPS Implementation
   1.2. District Policies and Procedures
   1.3. Overnight processes to be monitored in BW
   1.4. Public Sector (Funds Management) functionality in APPLICATION

2. **Start Up**

   2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
   2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. **Help Desk Response Time**

   "Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. **District's Escalation Procedure**
Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. **Service Provider's Escalation Procedure (to be completed by vendor)**
Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $_____ **General Aggregate:** $_____
	Commercial Automobile Liability ☐ All Autos ☐ Owned Autos ☐ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Reference Copy
62633

RESOLUTION 2014-216

RESOLUTION SELECTING AND AUTHORIZING AS-NEEDED AGREEMENTS WITH: (A) MATISIA INC., DBA, MATISIA CONSULTANTS; (B) LSI CONSULTING, INC.; (C) SIERRA INFOSYS, INC.; (D) PHOENIX BUSINESS INC., DBA, PHOENIX BUSINESS CONSULTING; (E) THE PELOTON GROUP, LP, DBA THE PELOTON ALLIANCE; (F) V3IT CONSULTING, INC.; (G) RBF CONSULTING, INC.; (H) NORTHSOUTHGIS, LLC; (I) ESTRADA CONSULTING, INC.; AND (J) WAVE TECHNOLOGY SOLUTIONS GROUP, INC.; TO PROVIDE AS NEEDED INFORMATION TECHNOLOGY APPLICATION SUPPORT SERVICES FOR $750,000 FOR A PERIOD OF TWO (2) YEARS AND NINE (9) MONTHS, WITH TWO (2) OPTIONAL ONE (1) YEAR EXTENSIONS FOR $175,000 EACH, FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED $1,100,000

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners adopted BPC Policy No. 110 incorporating the provisions of the Accounting Act to govern the processing and administration of public projects; and

WHEREAS, Information Technology Support Services is comprised of three (3) service levels; and

WHEREAS, Level 1 is the initial support level responsible for basic customer issues, Level 2 is a more in-depth technical support level where more experienced and knowledgeable personnel become involved like the systems support analyst or business analyst within a particular function or product and Level 3 is the highest level of support responsible for handling the most difficult or advanced problems; and

WHEREAS, Business Information and Technology Services has contracted for Level 3 support for SAP since 2006 in order to provide cost effective support and enhancements for the system; and

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WHEREAS, the current Level 3 SAP agreements with Sage, V3IT, Sparta, Numeric, and Sierra Info Sys Inc., will expire on December 31, 2015; and

WHEREAS, the District created a Request for Proposals (RFP) with the intent to enter into a multi-vendor agreement; and

WHEREAS, on August 31, 2014 staff issued RFP No.14-28. More than 50 firms received a notice inviting a response to the RFP and 21 firms submitted responses; and

WHEREAS, District staff short-listed the top 13 firms and a selection panel evaluated the responses based on the District's standard RFP evaluation criteria.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or his designated representative is hereby authorized on behalf of the San Diego Unified Port District to authorize as needed agreements with (A) Matisia Inc., dba, Matisia Consultants; (B) LSI Consulting, Inc.; (C) Sierra Infosys, Inc.; (D) Phoenix Business Inc., dba, Phoenix Business Consulting; (E) The Peloton Group, LP, dba The Peloton Alliance; (F) V3IT Consulting, Inc.; (G) RBF Consulting, Inc.; (H) NorthSouthGIS, LLC; (I) Estrada Consulting, Inc.; and (J) Wave Technology Solutions Group, Inc.; to provide as needed Information Technology Application Support Services for $750,000 for a period of two (2) years and nine (9) months, with two (2) optional one (1) year extensions for $175,000 each, for a total aggregate amount not to exceed $1,100,000.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

2014-216

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 4th day of November, 2014, by the following vote:

AYES: Bonelli, Castellanos, Merrifield, Moore, and Valderrama.
NAYS: None.
EXCUSED: Malcolm and Nelson.
ABSENT: None.
ABSTAIN: None.

Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:

Timothy A. Deuel
District Clerk

(Seal)

San Diego Unified Port District

3165 Pacific Hwy.
San Diego, CA 92101

Reference Copy
62633

File #:2014-532

DATE: November 4, 2014

SUBJECT:

RESOLUTION SELECTING AND AUTHORIZING AGREEMENTS WITH:
A) MATISIA, INC., DBA MATISIA CONSULTANTS;
B) LSI CONSULTING, INC.;
C) SIERRA INFOSYS, INC.;
D) PHOENIX BUSINESS, INC., DBA PHOENIX BUSINESS CONSULTING;
E) THE PELOTON GROUP, LP, DBA THE PELOTON ALLIANCE;
F) V3IT CONSULTING INC.;
G) RBF CONSULTING, INC.;
H) NORTHSOUTHGIS, LLC;
I) ESTRADA CONSULTING, INC.; and
J) WAVE TECHNOLOGY SOLUTIONS GROUP, Inc.
TO PROVIDE AS-NEEDED INFORMATION TECHNOLOGY APPLICATION SUPPORT SERVICES FOR $750,000 FOR A PERIOD OF TWO (2) YEARS AND NINE (9) MONTHS, WITH TWO (2) OPTIONAL ONE YEAR EXTENSIONS FOR $175,000 EACH, FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED $1,100,000

EXECUTIVE SUMMARY:

This action will provide as-needed Level 3 support for the District's enterprise resource planning system (SAP), Microsoft Technologies system, geographical information systems, and document management system. Level 3 support services provide the Business Information and Technology Services (BITS) staff with consultant-level knowledge and expertise for break/fix issues and enhancements. The BITS department primarily uses Level 3 support services when they have exhausted their own knowledge and research. Multiple support resources will provide full support for these systems, and competitive pricing for the District.

Information Technology support services are comprised of three (3) service levels. Level 1 is the initial support level responsible for basic customer issues. Level 2 is a more in-depth technical support level where more experienced and knowledgeable personnel become involved like the Systems Support Analyst or Business Analyst within a particular function or product. Level 3 is the highest level of support responsible for handling the most difficult or advanced problems.

The District has contracted for Level 3 support for SAP since 2006 in order to provide cost effective support and enhancements for the system. The current Level 3 SAP agreements will expire on December 31, 2015.

ACTION TAKEN: 11-04-14 - Resolution 2014-216

The District created Requests for Proposal No. 14-28 (RFP No. 14-28) with the intent to enter into a multi-vendor agreement to provide Level 3 support for all the District's enterprise systems which includes SAP. On August 31, 2014, staff issued RFP No. 14-28. Of the more than 50 firms receiving a notice inviting a response to RFP No. 14-28, 21 firms submitted responses. A selection panel evaluated the responses based on the District's standard RFP evaluation criteria.

RECOMMENDATION:
Resolution Selecting and Authorizing As-Needed Agreements with:
(A) Matisia Inc., dba, Matisia Consultants;
(B) LSI Consulting, Inc.;
(C) Sierra Infosys, Inc.;
(D) Phoenix Business Inc., dba, Phoenix Business Consulting;
(E) The Peloton Group, LP, dba The Peloton Alliance;
(F) V3IT Consulting, Inc.;
(G) RBF Consulting, Inc.;
(H) NorthSouthGIS, LLC;
(I) Estrada Consulting, Inc.; and
(J) Wave Technology Solutions Group, Inc.;
to Provide as Needed Information Technology Application Support Services for $750,000 for a Period of Two (2) Years and Nine (9) Months, With Two (2) Optional One (1) Year Extensions For $175,000 Each, for a Total Aggregate Amount Not to Exceed $1,100,000

FISCAL IMPACT:

The maximum cost to the District for the first two years and nine months is estimated at $750,000 and the total of $1,100,000 over four years and nine months, if the two one-year options are exercised. Funds for the first year of the agreement are budgeted in the approved fiscal year 2014/2015 BITS operating budget Professional Services account (Ordinance 2766). Funds needed for future fiscal year(s) will be budgeted in the appropriate fiscal year and cost account, subject to Board approval upon adoption of each fiscal year's budget.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s):
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

History

In 2003, the District implemented SAP R/3 version 4.6c as its ERP system. The initial efforts involved the implementation of the SAP business systems of Financials, Cost Accounting, Funds Management for Public Sector, Procurement, Inventory, Real Estate, Budget Preparation, Human Resources, Payroll, and Project Systems (management of capital development and major

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maintenance projects). Since then, staff implemented the Plant Maintenance module, allowing us to retire a legacy system, Synergen, and in FY 2009 staff completed a technical upgrade from SAP R/3 version 4.6c to ECC 6.0. The new version provided a foundation to implement additional functionality that was not available in the old version.

Since the approval of the Technology Strategic Plan in 2012 the BITS department has standardized on Microsoft technologies such as; Outlook, Windows Server 2012, Office 365 Applications, SQL Server, and SharePoint. The BITS department also implemented a new document management system as well as standardized the District's Geographic Information System across all departments.

The goals of the Level 3 support agreements are to streamline District processes, improve user experience including the public, and improve business area reporting. It was important to select firms that could support each of the District's systems and who demonstrate strong business and technical knowledge along with expertise and experience in public sector and best business practices.

The decision to select multiple firms was made to eliminate historical implementation problems caused by the following: (i) high staff turnover at the consulting firms, (ii) limitations on a range of options to resolve issues, (iii) the District's use of specialized functionality that may not be fully addressed by any one firm, and (iv) inadequate support.

The evaluation panel was comprised of BITS staff members and Contracts and Equal Opportunity Management who analyzed the proposals, conducted interviews and ranked the firms according to the criteria established in the RFP. Using the District's decision analysis process, the panel selected the ten firms listed in this Agenda Sheet as being the most able to meet the District's needs.

SAP Enhancements

- (A) Matisia Inc., dba, Matisia Consults (Matisia) - Demonstrated strength in delivering enhancements. The firm supports several industries including public sector and provides a large solution database for customers to use. Price range was very similar to the other two firms in this category.
- (D) Phoenix Business, Inc., dba, Phoenix Business Consulting - Focused in public sector and specializing in SAP implementations and custom programing projects. Price range was very similar to the other two firms in this category.
- (B) LSI Consulting, Inc. - Demonstrated the best overall experience with help desk support. The firm supports a large solution database for customer use. Price range was very similar to the other two firms in this category.

SAP Support

- (F) V3iT Consulting, Inc. - Established itself as one of strongest overall, with a robust help desk and business warehouse support structure. V3iT proposed the lowest price range out of all the firms.
- (E) The Peloton Group, LP, dba The Peloton Alliance - Demonstrated strong background in the public sector modules including all the key modules that the Port currently uses in production. Even though the firm is small, they have a history of success with local

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government entities. Price range on average was the highest in the support area but commensurate with their quality of services.

- (C) Sierra Infosys, Inc. - Demonstrated a strong help desk process and public agency business process knowledge. Price range was cost effective for offshore services.

Microsoft Technologies Support

- (I) Estrada Consulting, Inc. - Demonstrated the best overall experience with Level 3 support. The firm supports a large solution public sector for customer use. Price range was very favorable in this area.
- (A) Matisia Inc., dba Matisia Consultants - Demonstrated strength in handling enhancements for the Microsoft technologies, demonstrated a strong support skillset and bench. The firm supports several industries with strength in integration to SAP. Price range was very similar to the other firms in this area.

GIS Support

- (H) NorthSouthGIS, LLC - Demonstrated strength in handling enhancement work for the Geographical Information Systems area with robust skillset and strong achievements with many public sector organizations. Price range on average was the highest in the support area but commensurate with their quality of services.
- (G) RBF Consulting, Inc., - History of providing good database solutions with an environmental land and use management focus. Price range on average was similar to the other firm in this category.

Documentum

- (J) Wave Technology Solutions Group, Inc. - Demonstrated strength in the technical areas of content management with strong public sector experience.

General Counsel's Comments:

The General Counsel's Office has reviewed and approved the agreements (A) through (J) as to form and legality.

Environmental Review:

The proposed Board action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 and is therefore not subject to CEQA. No further action under CEQA is required.

The proposed Board action does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

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File #:2014-532

Equal Opportunity Program:

No Small Business Enterprise (SBE) goal was established for this opportunity. Four of the ten consultants are SBEs.

PREPARED BY:

Kenneth Chambers
Manager, Business Information Technology Services

Attachment(s):
Attachment A: Agreement 141-2014 Matisia Inc., dba, Matisia Consultants
Attachment B: Agreement 142-2014 LSI Consulting, Inc.
Attachment C: Agreement 143-2014 Sierra Infosys, Inc.
Attachment D: Agreement 144-2014 Phoenix Business, Inc., dba, Phoenix Business Consulting
Attachment E: Agreement 145-2014 The Peloton Group, LP, dba, The Peloton Alliance
Attachment F: Agreement 146-2014 V3IT Consulting, Inc.
Attachment G: Agreement 147-2014 RBF Consulting, Inc.
Attachment H: Agreement 148-2014 NorthSouthGIS, LLC
Attachment I: Agreement 149-2014 Estrada Consulting, Inc.
Attachment J: Agreement 150-2014 Wave Technology Solutions Group, Inc.

Attachment A to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
MATISIA, INC.
dba
MATISIA CONSULTANTS
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 141-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and MATISIA, INC., DBA MATISIA CONSULTANTS, a Washington Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA)

for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with WAVE Technology Solutions Group, District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys, Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3iT Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above

agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods

required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

   a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

   b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and

defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District.

An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability

insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Kristina Roth
Matisia, Inc. dba Matisia Consultants
3134 Elliott Ave., Suite 220
Seattle, WA 98121
Tel. (206) 395-2600
Email: Kristina.roth@matisia.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

MATISIA, INC. DBA MATISIA CONSULTANTS

_____
Kristina Roth
CEO

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script, HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.

Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 141-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS

San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service

Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the

services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment B to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
LSI CONSULTING, INC.
FOR
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 142-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and LSI CONSULTING, INC., a Minnesota Limited Partnership (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, Sierra Infosys, Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3iT Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Listed below are the firms that the District has approved as Service Provider's sub-contractors to provide services under this Agreement:

NAME OF FIRM	TYPE OF SERVICES PROVIDED
The Marlin Alliance, Inc.	Project Management, Business Intelligence

c. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage

provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the

active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit

and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required

shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations,

discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were

performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which

claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek

reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Nader Tirandazi
LSI Consulting, Inc.
3525 Del Mar Heights Road, Suite 566
Seattle, WA 98121
Tel. (858) 342-6665
Email: ntirandazi@lsiconsulting.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT CONSULTANTS

_____
Deborah Finley
Director, Business Information
& Technology Services

LSI CONSULTING, INC.

_____
Nader Tirandazi
VP West Region

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script, HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.

Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 142-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)-*
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment C to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
SIERRA INFOSYS, INC.
FOR
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 143-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and SIERRA INFOSYS, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3iT Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate

or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service

Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation

and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties

may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the

services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or

Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Senthil Kumar, President
Sierra Infosys, Inc.
6001 Savoy Dr., Suite 210
Houston, TX 77036
Tel. (713) 747-9693
Fax. (713) 222-2434
Email: senthil@sierratec-us.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

SIERRA INFOSYS, INC.

_____
Senthil Kumar
President

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 143-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration
- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)-*
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment D to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
PHOENIX BUSINESS, INC
dba
PHOENIX BUSINESS CONSULTING
FOR
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 144-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and PHOENIX BUSINESS, INC. DBA PHOENIX BUSINESS CONSULTING, a Massachusetts Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

(3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3iT Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the

aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods

required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

   a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

   b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and

defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District.

An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability

insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Hanif Sarangi, President
Phoenix Business, Inc. dba Phoenix Business Consulting
5717 Madge Place
Haltom City, TX 76117
Tel. (512) 557-4731
Fax. (817) 549-0261
Email: hsarangi@phoenixteam.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

PHOENIX BUSINESS, INC.
DBA PHOENIX
BUSINESS CONSULTING

_____
Hanif Sarangi
President

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 144-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)-*
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment E to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
THE PELOTON GROUP LP
dba
THE PELOTON ALLIANCE
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 145-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and THE PELOTON GROUP DBA THE PELOTON ALLIANCE, a Texas Limited Partnership (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA)

for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, V3iT Consulting Inc., District Clerk Document No. _____, RBF Consulting, a company of Michael Baker International, District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed

$175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods

required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

   a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

   b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and

defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District.

An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability

insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Richard Beggs, Managing Partner
The Peloton Group LP dba The Peloton Alliance
2500 Citywest Blvd.
Houston, TX 77042
Tel. (512) 299-3442
Fax. (512) 870-9447
Email: Richard.beggs@thepelotongroup.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

THE PELOTON GROUP LP
DBA
THE PELOTON ALLIANCE

_____
Richard Beggs
Managing Partner

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 145-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service

Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the

services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment F to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
V3IT CONSULTING, INC.
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 146-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and V3IT CONSULTING, INC., a Delaware Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate

or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service

Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation

and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties

may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the

services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or

Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Vandana Pagdaonkar, President
V3iT Consulting, Inc.
1717 N. Naper Blvd.
Naperville, IL 60563
Tel. (630) 245-1400 x202
Fax. (630) 245-1401
Email: vandana.pagdaonkar@v3it.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

V3IT CONSULTING, INC.

_____
Vandana Pagdaonkar
President

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 146-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited

to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database
"Database" means the database software that is required to operate each application.

j. Interface
"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver
APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET
Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network
"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests
"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff
"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System

"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.

- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration
- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative

solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:

	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment G to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
RBF CONSULTING, INC.,
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 147-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and RBF CONSULTING, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3it Consulting Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate

or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service

Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation

and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties

may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the

services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, “Services”) in connection with any work shall

comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Steven Bein, Vice President, GIS
RBF Consulting, Inc. a company of Michael Baker International
14725 Alton Parkway
Irvine, CA 92618
Tel. (949) 855-3642
Fax. (949) 203-8732
Email: sbein@rbf.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

RBF CONSULTING, INC.

_____
Steven Bein
Vice President, GIS

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 147-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration
- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment H to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
NORTHSOUTHGIS LLC
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 148-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and NORTHSOUTHGIS LLC, a California Limited Partnership (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3it Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than three (3) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the

advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by

Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous

charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, “Services”) in connection with any work shall comply with the requirements of California's and any other prevailing wage laws (“PWL”) to the extent such laws are applicable and (b) determine

whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Daniel Elroi, President
NorthSouthGIS LLC
312 E. First Street, Suite 300
Los Angeles, CA 90012
Tel. (800) 866-5013
Fax. (866) 378-5877
Email: Daniel@northsouthgis.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

NORTHSOUTHGIS LLC

_____
Daniel Elroi
President

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.

Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.

Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.

Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.

Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 148-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response

time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment I to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
ESTRADA CONSULTING, INC.
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 149-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and ESTRADA CONSULTING, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, WAVE Technology Solutions Group, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3it Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums,

charges, reimbursements, costs and expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate

or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation. Furthermore, Service Provider expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or Sub-Service Providers.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service

Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation

and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties

may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the

services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or

Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488
Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Janet Haley, Business Development Executive
Estrada Consulting, Inc.
1221 18th St.
Sacramento, CA 95811
Tel. (916) 715-6079
Fax. (866) 871-7731
Email: Daniel@northsouthgis.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

ESTRADA CONSULTING, INC.

_____
Janet Haley
Business Development Executive

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.

Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.

Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.

Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.

Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 149-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service

Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the

services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Attachment J to Agenda File No. 2014-532

AGREEMENT BETWEEN
SAN DIEGO UNIFIED PORT DISTRICT
and
WAVE TECHNOLOGY SOLUTIONS GROUP, INC.
for
AS-NEEDED ENTERPRISE APPLICATION LEVEL-3 SERVICES
AGREEMENT NO. 150-2014

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and WAVE TECHNOLOGY SOLUTIONS GROUP, INC., a California Corporation (Service Provider). The parties agree to the following:

1. **SCOPE OF SERVICES.** Service Provider shall provide services to satisfactorily comply with Attachment A, Scope of Services, attached hereto and incorporated herein, as requested by District. Service Provider shall keep the Executive Director of the District or his designated representative informed of the progress of said services at all times.

   a. **As-Needed Services**

      (1) Service Provider is aware that the services to be provided under this Agreement are on an as-needed basis as determined by the District. Service Provider may or may not receive a request to provide such services, and Service Provider may not receive the maximum expenditure of funds allocated for these services. No work or services will be performed until a task authorization has been signed by the District Representative.

      (2) Service Provider shall furnish all technical and professional labor, and materials to satisfactorily comply with Attachment A: Scope of Services as requested by District by issuance of specific Task Authorization and agreed to by Service Provider.

      (3) Services rendered under this Agreement shall be undertaken by Service Provider only upon issuance of a Task Authorization (TA) for said services, in the format as shown in the attached Exhibit A, attached hereto and incorporated herein. A Task Authorization

shall not be considered effective until the Task Authorization has been signed by the District's designated representative.

2. **TERM OF AGREEMENT.** This Agreement shall commence on November 5, 2014 and shall terminate on August 4, 2017, subject to earlier termination as provided below.

3. **COMPENSATION.** For performance of services rendered pursuant to this Agreement and as further described in Attachment B, Compensation and Invoicing, attached hereto and incorporated herein; District shall compensate Service Provider based on the following, subject to the limitation of the maximum expenditure provided herein:

   a. **Maximum Expenditure.** The aggregate amount of this Agreement with service provider and agreements with Matisia, Inc., dba Matisia Consultants, District Clerk Document No. _____, Estrada Consulting, Inc., District Clerk Document No. _____, LSI Consulting, Inc., District Clerk Document No. _____, Sierra Infosys Inc., District Clerk Document No. _____, Phoenix Business, Inc. dba Phoenix Business Consulting, District Clerk Document No. _____, The Peloton Group LP dba The Peloton Alliance, District Clerk Document No. _____, V3it Consulting Inc., District Clerk Document No. _____, RBF Consulting, Inc., District Clerk Document No. _____, NorthSouthGIS LLC, District Clerk Document No. _____ (collectively, Other As-Needed agreements) shall not exceed $750,000.00. Two 1-year options may be granted at the District's sole discretion. The aggregate maximum amount of Option Year 1, if granted shall not exceed $175,000.00 and the aggregate maximum amount of Option Year 2 shall not exceed $175,000.00. The maximum aggregate expenditure of the above agreements shall not exceed $1,100,000.00. Said expenditure shall include without limitation all sums, charges, reimbursements, costs and

expenses provided for herein. Service Provider shall not be required to perform further services after compensation has been expended. In the event that the Service Provider anticipates the need for services in excess of the maximum Agreement amount, the District shall be notified in writing immediately. District must approve an amendment to this Agreement before additional fees and costs are incurred.

b. **Payment Procedure.** For work performed on an hourly basis, Service Provider agrees to assign the person with the lowest hourly rate who is fully competent to provide the services required. If Service Provider finds it necessary to have work, which would usually be performed by personnel with a lower rate, performed by personnel paid at the higher hourly rate, Service Provider shall nevertheless, bill at the lower rate.

c. **Progress Documentation.** Service Provider shall provide District progress reports in a format and on a schedule as District directs. Progress reports shall include a description of work completed, cumulative dollar costs incurred, anticipated work for the next reporting period, percentage of work complete, and the expected completion date for remaining work. The report shall identify problem areas and important issues that may affect project cost and/or schedule. The report shall present actual percent completion versus planned percent completion.

4. **RECORDS**

a. Service Provider shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and such records shall be kept for at least three (3) years after the termination of this Agreement.

b. Such records shall be maintained by Service Provider for a period of three (3) years after completion of services to be performed under this

Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

c. Service Provider understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which Service Provider or anyone else associated with the work has prepared or which relate to the work which Service Provider is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District. Service Provider shall provide District at Service Provider's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the Service Provider's office or facilities, which are engaged in the performance of services pursuant to this Agreement. Service Provider shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. Service Provider's failure to provide the records within the time requested shall preclude Service Provider from receiving any compensation due under this Agreement until such documents are provided.

5. **SERVICE PROVIDER'S SUB-SERVICE PROVIDERS**

a. It may be necessary for Service Provider to sub-contract for the performance of certain technical services or other services for Service Provider to perform and complete the required services; provided, however, all Service Provider's Sub-Service Providers shall be subject to prior written approval by District. The Service Provider shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by Service Provider or Service Provider's Sub-Service Providers. Service Provider shall compensate each Service Provider's Sub-Service Providers in the time periods required by law. Any Service Provider's Sub-Service Providers employed by Service Provider shall be independent Service Providers and not

agents of District. Service Provider shall insure that Service Provider's Sub-Service Providers satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

b. Service Provider shall also include a clause in its Agreements with Service Provider's Sub-Service Providers which reserves the right, during the performance of this Agreement and for a period of three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require Service Provider's Sub-Service Providers to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE**

a. In performance of this Agreement, Service Provider and Service Provider's Sub-Service Providers shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Service Provider shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

b. Service Provider shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** Service Provider shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of

information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, Service Provider shall possess no authority with respect to any District decision beyond rendition of such information, advice, or recommendations.

8. **ASSIGNMENT.** This is a personal services Agreement between the parties and Service Provider shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of District in each instance.

9. **INDEMNIFY, DEFEND, HOLD HARMLESS**

a. **Duty to Indemnify, duty to defend and hold harmless.** To the fullest extent provided by law, Service Provider agrees to defend, indemnify and hold harmless the District, its agents, officers or employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) or expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including Service Provider's officers, agents, subcontractors, employees, ("Claim"), caused by, arising out of, or related to the performance of services by Service Provider as provided for in this Agreement, or failure to act by Service Provider, its officers, agents, subcontractors and employees. The Service Provider's duty to defend, indemnify, and hold harmless shall not include any Claim arising from the active negligence, sole negligence or willful misconduct of the District, its agents, officers, or employees.

b. The Service Provider further agrees that the duty to indemnify, and the duty to defend the District as set forth in 9.a, requires that Service Provider pay all reasonable attorneys' fees and costs District incurs associated with or related to enforcing the indemnification provisions, and defending any Claim arising from the services of the Service Provider provided for in this Agreement.

c. The District may, at its own election, conduct its defense, or participate in the defense of any Claim related in any way to this Agreement. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claim arising from the services of Service Provider provided for in this Agreement, Service Provider agrees to pay all reasonable attorneys' fees and all costs incurred by District.

10. **INSURANCE REQUIREMENTS**

a. Service Provider shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:

(1) Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars ($1,000,000) per Occurrence and two million dollars ($2,000,000) Aggregate for bodily injury, personal injury and property damage.

(a) The deductible or self-insured retention on this Commercial General Liability shall not exceed $5,000 unless District has approved of a higher deductible or self-insured retention in writing.

(b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit B, Certificate of Insurance, attached hereto and incorporated herein).

(c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of the Service Provider's insurance and shall not contribute to it.

(d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").

(2) Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation, statutory limits, is required of the Service Provider and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars ($1,000,000) each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.

(4) Professional Liability insurance in the amount of $1,000,000 per claim and $1,000,000 aggregate.

(a) At the end of the agreement period, Consultant shall maintain, at its own expense, continued Professional Liability insurance of not less than five (5) years, in an amount no less than the amount required pursuant to this Agreement.

(b) Alternately, if the existing Professional Liability is terminated during the above referenced five-year period, Consultant shall maintain at its own expense, “tail” coverage in the same minimum amount as set forth in this paragraph.

(c) All coverages under this section shall be effective as of the effective date of this Agreement or provide for a retroactive date of placement that coincides with the effective date of this Agreement.

(5) Umbrella or Excess Liability insurance with limits no less than one million dollars ($1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer’s Liability policies.

b. Service Provider shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit B and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. Service Provider shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.

c. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate

or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

d. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on Service Provider or Service Provider's sub-contractors or any tier of Service Provider's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.

11. **ACCURACY OF SERVICES.** Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. Service Providershall correct such deficiencies without additional compensation as long as the deficiencies are not Software, Infrastructure or Environmental related. Furthermore, Service Provider expressly agrees to remedy any services related to the deficiencies within 30-calendar days, as long as the deficiencies are not Software, Infrastructure, or Environmental related. All deliverables are approved and signed-off by the District as delivered. Service Provider shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to delay the District, the project, or any other person related to the project, including the Service Provider or its agents, employees, or subcontractors.

12. **INDEPENDENT CONTRACTOR.** Service Provider and any agent or employee of Service Provider shall act in an independent capacity and not as officers or employees of District. The District assumes no liability for the Service Provider's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by or for the Service Provider. Service Provider shall not have authority to act as an agent on behalf of the District

unless specifically authorized to do so in writing. Service Provider acknowledges that it is aware that because it is an independent contractor, District is making no deductions from its fee and is not contributing to any fund on its behalf. Service Provider disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

13. **ADVICE OF COUNSEL.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Agreement. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14. **INDEPENDENT REVIEW.** Each party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.

15. **INTEGRATION AND MODIFICATION.** This Agreement contains the entire Agreement between the parties and supersedes all prior negotiations, discussion, obligations and rights of the parties in respect of each other regarding the subject matter of this Agreement. There is no other written or oral understanding between the parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by Service Provider pursuant to this Agreement, shall be the property of District from the moment of their preparation and the Service Provider shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, Service Provider shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by Service Provider pursuant to this Agreement (including any duplicate copies kept by the Service Provider) shall not be shown to any other public or private person or entity, except as authorized by District. Service Provider shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.

17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to Service Provider of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by Service Provider to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by Service Provider other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.

18. **DISPUTE RESOLUTION**

a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other

procedures as may be agreed, and if such dispute is not otherwise time barred, the parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.

b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the parties may mutually select, provided, however, that the Arbitration Award shall be non-binding and advisory only. Any resultant Agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any party to this Agreement, Sub-Service Provider and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a claim is not timely filed or presented, such claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such claims.

19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by the Service Provider, made an exhaustive inspection to check the quality or quantity of the services performed by the Service Provider, made an examination to ascertain how or for what purpose the Service Provider has used money previously paid on account by the District, or constitute a waiver of claims against the Service Provider by the District. The District may in its sole discretion withhold payments or seek reimbursement from the Service Provider for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of the Service Provider. Upon five (5) day written notice to the Service Provider, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause the Service Provider to pay the same; and the amount due the Service Provider under this Agreement or the whole or so much of the money due or to become due to the Service Provider under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by the Service Provider at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from the Service Provider. It is the express intent of the parties to this Agreement to protect the District from loss because of conduct by or on behalf of the Service Provider.

20. **COMPLIANCE WITH PREVAILING WAGE LAWS**

a. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of Service Provider to: (a) ensure that all persons and/or entities (including, but not limited to, Service Provider or Subcontractors) who provide any labor, services, equipment and/or materials (collectively, "Services") in connection with any work shall comply with the requirements of California's and any other prevailing wage laws ("PWL") to the extent such laws are applicable and (b) determine whether any Services are subject to the PWL by obtaining a determination by means that do not involve the District.

b. Certified Payrolls. Service Provider acknowledges and agrees that it is the sole and exclusive responsibility of the Service Provider to insure that all certified payrolls are provided to the District. Service Provider shall submit certified payrolls to the General Services & Procurement Department, 1400 Tidelands Avenue, National City, California 91950.

21. **CAPTIONS.** The captions by which the paragraphs of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

22. **EXECUTIVE DIRECTOR'S SIGNATURE.** It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by either the Executive Director (President/CEO) or Authorized Designee on behalf of the District and by Authorized Representative of the Service Provider.

a. Submit all correspondence regarding this Agreement, including Insurance Certificates and Endorsements to:

Kenneth Chambers, Manager
Business Information & Technology Services
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

Tel. (619) 686-7279
Email: kchambers@portofsandiego.org

b. The Service Provider's Authorized Representative assigned below has the authority to authorize changes to the scope, terms and conditions of this Agreement:

Adam Torab, President
WAVE Technology Solutions Group, Inc.
320 Goddard Suite 100
Irvine, CA 92618
Tel. (949) 453-9283
Fax. (949) 453-9282
Email: atorab@wave-tsg.com

c. Written notification to the other party shall be provided, in advance, of changes in the name or address of the designated Authorized Representative.

SAN DIEGO UNIFIED PORT DISTRICT

_____
Deborah Finley
Director, Business Information
& Technology Services

WAVE TECHNOLOGY SOLUTIONS GROUP, INC.

_____
Adam Torab
President

APPROVED AS TO FORM AND LEGALITY

_____
Deputy General Counsel

ATTACHMENT A
SCOPE OF SERVICES

San Diego Unified Port District

1. The District's current Enterprise Application support structure

a. **Level 1 Support** – Within the District, the department whose business process is supported by a given Enterprise Application is identified as the owning department for that module. For example, the Procurement Department owns the MM module, the Real Estate Department owns the RE module, and so on. Each of the owning departments designates a subject matter expert (SME). The SME provides 1st level of support to the department. The Business Information and Technology Services also provides 1st level support to end users in the area of user password resets, and initial contact for opening up troubleshooting/enhancement tickets via Microsoft System Center software.

b. **Level 2 Support** – The Business Information and Technology Services (BITS) provides centralized support for all owning departments and user departments. The teams comprises of functional, development, training, system administrations and infrastructure staff. They work with the owning department SMEs and the BITS Department to resolve the trouble tickets in Systems Center. All problem analysis, research, OSS notes submitted to SAP, and resolution is documented in the associated System Center trouble ticket.

c. **Level 3 Support** – Current level 3 support is outsourced to third party vendors. Assignment of work to Level 3 Support varies according to complexity and/or work capacity of BITS. Assignments will be created in the System Centers Service Management.

2. Key Applications Areas by Technologies:

A. SAP ENTERPRISE AREA:

- **SAP FINANCIALS**
- **SAP HCM**
- **SAP SALES AND DISTRIBUTION**
- **SAP PLANT MAINTENANCE**
- **SAP BUSINESS WAREHOUSE & BUSINESS OBJECTS REPORTING**
- **SAP PUBLIC SECTOR**

B. MICROSOFT TECHNOLOGIES:

- **MICROSOSFT SHAREPOINT 2013 ENTERPRISE**
- **.NET FRAMEWORK 4.5X**

- **OFFICE 365**
- **MICROSOFT SQL SERVER 2012**
- **MICROSOFT SYSTEM CENTER**
- **MICROSOFT AZURE CLOUD SERVICES**
- **MICROSOFT WINDOWS SERVER 2012 & ADD-ONS, ADDITIONS**
- **MICROSOFT HYPER-V ENVIRONMENT**
- **MICROSOFT TEAM FOUNDATION SERVER**
- **MICROSOFT PROJECT ONLINE & PROJECT PORTFOLIO MANAGEMENT**

C. ANCILLARY TECHNOLOGIES:

- **DOCUMENTUM 6.7X**
- **ESRI GIS**
- **IDENTITY MANAGEMENT SOLUTION**
- **BUSINESS PROCESS MANAGEMENT**
- **TRAINING DEVELOPMENT**

3. Service or Functions Provided within Areas:

a. Enterprise Application Functional Support

The District will provide front line support for the enterprise applications. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

b. Data Warehouse and Reporting Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies

- Development, implementation, and maintenance of Crystal Reports, Webi Reports, Excel Power BI, InfoSources, Dashboards, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders.
- Analysis and documentation of existing configuration.
- Remote and On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

c. Systems Administration and Development Support

Per District's request, Service Provider may provide SAP ABAP/JAVA Development support to District for any changes to the application that requires SAP programming.
These requests may include but not limited to:

- Workflow
- Reports
  - Interfaces (WSDL included)
  - Conversions
  - Enhancements
  - Forms
  - Languages include: ABAP, C#, HTML 5, SQL, Script, JAVA
  - Web Parts, OOP, User Exits/BADI/BAPI
  - SAP Fiori, Gateway, Duet Enterprise
  - NetWeaver (NWDI, Portal, BSP, Portal, ITS, WAS
  - Visual Studio Enterprise
  - SharePoint Administration and Development
  - Windows Server 2012, Hyper-V and Azure Services
  - Azure BizTalk Integration Services
  - Microsoft System Center Adminstration and Configuration

4. Response, Follow Through, & Resolution

a. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

b. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's assigned representative.

c. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include

estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

d. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (decided during contract discussions).

e. Unless otherwise directed by the District's assigned contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

f. If and as appropriate to the issue, Service Provider Staff shall provide documentation in the form of a specification and/or user documentation. All documentation shall be subject to review and approval by District.

g. The District will close ticket in its tracking system upon successful transport of solution to the production system

h. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified during contract discussions with vendors. In the event a fix will take longer to implement than outlined with Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and SAP user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

7. Service Level Agreement:

a. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

b. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

8. Service Level Reports and Review

a. Periodic reports on key metrics.

Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

b. Periodic review on service level performance.

Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the services provided by Service Provider and will work in good faith to resolve any outstanding issues.

Reports	Frequency
Summary of all open service requests by module, severity level and status	Weekly
Summary of all completed service requests by module and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

c. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

d. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

9. Definitions

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
  - New development for new business requirements (database, scripting or code)

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. Cloud Infrastructure

"Cloud Infrastructure" means the off premise landscape or infrastructure used by the District to house and maintain the system and applications. As of the effective date, the District Cloud Infrastructure is located within the Microsoft Azure Environment.

f. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

g. District Systems Administration Contact

"District Systems Administration Contact" means the representative designated by District to act as the primary system admin contact on behalf of District to Service Provider. The District System Administrator Contact will coordinate activities and make decisions on behalf of District as related to the application settings and non-module specific aspects of the applications.

h. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

i. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

j. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

k. Database

"Database" means the database software that is required to operate each application.

l. WRICEF

Workflow – is an orchestrated and repeatable pattern of business activity enabled by the systematic organization of resources into processes.
Report - data connection(s) presenting a presentation layer. Fields from these tables can be placed on the report design surface, and can also be used in custom scripting or formulas, using either ABAP, SAP-Script,

HTML, HTML 5, SQL, BASIC or C#, which are then placed on the design surface.
Interface - means program(s) specifically designed to pass data between an application and other external application(s) the District may have. Web Services Description Language (WSDL) is an XML-based interface definition language that is used for describing the functionality offered by a web service.
Conversion - conversions require processing by the use of a special conversion program, or it may involve a complex process of going through intermediary stages, or involving complex "exporting" and "importing" procedures, which may converting to and from a tab-delimited or comma-separated text file.
Enhancement – for SAP enhancement define BADI's or User Exits but general enhancements terminology refer to enhancing a particular function or functions within any application.
Forms – for SAP forms is defined by GUI or SAP-Script but general forms refer to SharePoint or Web Forms

m. NetWeaver

SAP "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the SAP NetWeaver Stack.

n. .NET Framework

It includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework.

o. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

p. Service Provider's District Management System Center

"System Center" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District.

q. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

r. Service Provider Technology

"Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

s. Services

"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

t. Severity Level

"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business.

ATTACHMENT B
COMPENSATION & INVOICING
San Diego Unified Port District

1. **COMPENSATION**

a. For the satisfactory performance and completion of the services under this Agreement, District shall pay Service Provider compensation as set forth hereunder.

(1) Service Provider shall be compensated and reimbursed by District on the basis of invoices submitted each month for services performed during the preceding month. Task Authorizations shall be Fixed Fee or Time and Materials or any combination of the two.

(a) Each invoice for Fixed Fee work shall include:

Date work performed;
Description of the work performed;
Percent of total work being invoiced;
Percent of total work completed;
Direct Costs.

(b) Each invoice for Time and Materials work shall include:

Date work performed;
Description of the work performed;
Hours worked by personnel classification;
Rate per personnel classification;
Total personnel cost by classification; and
Direct Costs.

(c) Classifications and fully burdened hourly rates may be authorized via Task Authorization with the approval of the District's Project Manager.

(2) **Reimbursable Expenses**

Sub-Service Provider Costs	0% mark-up
Direct Costs	At Cost (zero mark-up)

Note: Reimbursement for direct costs in excess of $50.00 shall require the advance written approval by District's Project Manager. All other project related direct costs shall require appropriate documentation for reimbursement.

2. **INVOICING**

a. **Payment Documentation.** As a prerequisite to payment for services, Service Provider shall invoice District for services performed and for reimbursable expenses authorized by this Agreement, accompanied by such records, receipts and forms as required.

b. Service Provider shall include the following information on each invoice submitted for payment by District, in addition to the information required in Section I, above:

(1) Agreement No. 150-2014
(2) If applicable, the Task Authorization(s) (TA) number being charged.
(3) The following certification phrase, with printed name, title and signature of Service Provider's project manager or designated representative:

"I certify under penalty of perjury that the above statement is just and correct according to the terms of Document No. _____, and that payment has not been received."

(4) Dates of service provided
(5) Date of invoice
(6) A unique invoice number

c. District shall, at its discretion, return to Service Provider, without payment, any invoice, which has been submitted without the above information and certification phrase.

d. Invoices shall be mailed to the attention of: Nanette Banaag, Business Information & Technology Services Department, P.O. Box 120488, San Diego Unified Port District, San Diego, CA 92112-0488.

e. Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by Service Provider for the Services. Any overpayment discovered in such an audit may be charged against the Service Provider's future invoices and any retention funds.

f. Service Provider shall submit all invoices within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring costs to be reimbursed under the Agreement. Payment will be made to Service Provider within thirty (30) days after receipt by District of a proper invoice.

EXHIBIT A
WORK ORDER SUPPORT SUBMISSION PROCESS
San Diego Unified Port District

DEFINITIONS

a. Application

"Application" means those enterprise application software programs that Service Provider supports on an outsourcing basis. Each application is installed on server that is part of the system at the District's facility.

b. Application Enhancement

"Application Enhancements" are defined as changes to any application as a result of new business processes that require configuration and or customization. Without limiting the generality of the foregoing, such changes can be:

- New configuration for new business processes
- New functionality in the application that was not previously implemented
- New development for new business requirements

c. District Contact

"District Contact" means the representative designated by District to act as the primary contact on behalf of District to Service Provider for all non-technical matters. The District Contact will coordinate activities and make decisions on behalf of District as related to the services. The District Contact shall refer technical issues to the District Technical Contact.

d. District Data Center

"District Data Center" or "Data Center" means the data center facilities used by the District to house and maintain the system and applications. As of the effective date, the District Data Center is located at District's headquarters.

e. District Technical Contact

"District Technical Contact" means the representative designated by District to act as the primary technical contact on behalf of District to Service Provider. The District Technical Contact will coordinate activities and make decisions on behalf of District as related to the technical aspects of the services.

f. District Technology

"District Technology" means the District's (or its licensors') hardware, personal computers, software, software code, Network, networking equipment, routers, licenses, sublicenses, data, information, technology, processes, know how, algorithms, documentation, configurations, software and interfaces used by District to run the general operations of District's business.

g. Help Desk

"Help Desk" means Service Provider's communication point/system at receiving, processing and managing work requests from the District.

h. Confidential Information

"Confidential Information" of a party shall mean any and all information, materials or data that is marked confidential and/or proprietary to such party, including but not be limited to information concerning pricing, methods, processes, financial data, lists, statistics, software, systems or equipment, programs, research, development, strategic plans, operating data, personnel or information of such party and/or its Districts and suppliers, concerning past, present, or future business activities of said entities. Confidential information shall include all such information disclosed by either party prior to the execution of this Agreement. All information received by Service Provider from customer must be marked "confidential" in order for their information to be considered confidential.

i. Database

"Database" means the database software that is required to operate each application.

j. Interface

"Interface" means program(s) specifically designed to pass data between an application and other external application(s) the District may have.

k. NetWeaver

APPLICATION "NetWeaver" is essentially the integrated stack of SAP technology products, including but not limited to SAP Application Server, Portal, Identity Management, Solution Manager and other related products within the APPLICATION NetWeaver Stack.

l. .NET

Software framework that includes a large class library known as Framework Class Library (FCL) and provides language interoperability (each language can use code written in other languages) across several programming languages. Programs written for .NET Framework execute in a software environment (as contrasted to hardware environment), known as Common Language Runtime (CLR), an application virtual machine that provides services such as security, memory management, and exception handling. FCL and CLR together constitute .NET Framework. The Port primarily uses C# for all development efforts and HTML5 when appropriate.

m. Network

"Network" means the telecommunications/data connections between the District's primary Data Center and the end users' desktop.

n. Service Provider's District Management System/Vendor Service Requests

"Vendor's District Management System" is the system used by Service Provider to track all problems, Change Requests, maintenance tasks, administrative tasks, and outages for District. Such requests, tasks, or problems are also referred as Vendor Service Requests in this Agreement.

o. Service Provider Staff

"Service Provider Staff" means the designated Vendor personnel who support the services. The Vendor Staff will coordinate activities and make decisions on behalf of the Vendor as related to the services.

p. Service Provider Technology "Service Provider Technology" means Service Provider's (or its licensors') proprietary information, data, technology, methods and methodologies, processes, know how, algorithms, tools, development tools, templates, software code, documentation, configurations, software and Interfaces, trade secrets, works of authorship and other proprietary materials, and all patented or patentable work or works of authorship that are owned, developed, or licensed by Service Provider (or its licensors) and used by Service Provider in the performance of the services, including, without limitation, any and all Service Provider innovations.

q. Services
"Services" shall mean those enterprise application services provided by the Vendor to District under the terms of this Agreement. This includes Service Provider's standard services and Service Provider's additional services.

r. Severity Level
"Severity Level" means the level of criticality assigned to each problem or request reported to the Vendor. The Severity Level for each problem or request will be determined jointly by District and the Vendor based on the impact on District's business. Severity Levels fall into the following categories:

Application Support Severity Levels

Level	Definition
0	Critical business operation cannot continue for budget, compliance deadlines, or support for Senior Management, ELG, and/or Board of Port Commissioners. Such as Critical issues with payroll.
1	Business operation cannot continue for AP, AR, month end close, year-end close, or other operations that impact external stakeholders. Such as Critical issues with vendor payment, tenant billing and tenant receivables.
2	All other issues.

Table 1.

s. System
"System" means the hardware and system software that supports and runs Applications (including without limitation the Database and the Network), as well as the Applications themselves.

Summary

General – Service Provider shall provide support of the District's Applications listed in Attachment A and may also provide periodic monitoring, level three help desk support, and additional services for the District's.

Under the scope of this agreement, District may direct Service Provider to perform any services, such as application enhancements, data archiving and application upgrades. Any services performed will be performed at the rates defined in this Agreement.

A. Help Desk Support Services

1. APPLICATION Functional Support

The District will provide front line support for the application modules. Service Provider may provide assistance to District's business analyst to solve problems that are related to District's Application usage, including by way of example:

- Usage questions related to use of the application for District's specific business processes.
- Problems regarding application functionality.
- Problem determination and resolution.
- Coordination with application vendors to analyze and resolve problems.
- Application support for standard reports and interfaces.
- Evaluation of application bugs and installation of fixes as coordinated with District.
- Any modification to configuration as requested by District.
- On site training as requested by District.

2. Business Warehouse, Business Objects Support

Service Provider shall perform the following additional services given reasonable accommodation to provide appropriate resources, including but not limited to the following:

- Development and implementation of custom InfoProviders and their associated InfoObjects and Hierarchies; SQL BI
- Development, implementation, and maintenance of InfoSources, Transfer Rules, Update Rules, InfoPackages, Process Chains, and any other configuration objects necessary for the loading, maintenance, and access of those custom InfoProviders and of Standard Business Content InfoProviders. SQL BI cubes and Pivot Structures
- Analysis and documentation of existing configuration.
- On site training
- Analyzing and advising District on issues that arise during the period of the agreement.

3. APPLICATION Technical Support

Per District's request, Service Provider may provide APPLICATION ABAP/JAVA Development support to District for any changes to the application that requires APPLICATION programming. These requests may include but not limited to Application, Functional, Development, Database and Reporting Enhancements.

Key Areas:

- Troubleshooting or Break-Fix
- Tuning and Monitoring
- User Account Management and Troubleshooting
- Languages: ABAP, JAVA, .NET, C#, BSP
- K2 Forms, Adobe Forms, SAP Smart Forms and Script
- Web Services, Workflow, Conversions or Interfaces
- User Exits, BADI, BAPI, DUET, NWDI
- Solution Manager and Portal Administration

- Portal : Admin, iViews, Content, Dynpro and ITS

4. Response, Follow Through, & Resolution

4.1. The District will open a work-order in its tracking system for the Help Desk request, and provide initial business requirements or work order detail including severity level. The District may submit the request to one or more Service Providers to determine the best solution and/or price.

4.2. Upon receipt of the Help Desk request by telephone or email, Service Provider Staff shall acknowledge receipt and reiterate an understanding of the issue via e-mail so that mutual understanding of the issue is demonstrated. That email message shall be sent to both the District requestor and the District's Level 2 Contact (see Table 4).

4.3. Within a timeframe appropriate to the Severity Level of the issue, Service Provider Staff shall analyze the issue, request any necessary clarification, and notify District of their plan to resolve the issue. Plan should include estimated hours to complete and due date for solution. In cases where there are several possible alternative solutions, Service Provider Staff shall summarize the alternatives and their costs in sufficient detail for the District to intelligently select an alternative.

4.4. The District will select best solution and authorize Service Provider to commence work on that solution. Service Provider will be responsible for managing District's service requests in accordance with the Service Level Agreement (Table 2).

4.5. Unless otherwise directed by the District's Technical Contact, Service Provider Staff shall implement and test the solution in the designated development client. For solutions requiring configuration in the IMG, District Staff will implement the solution in the configuration client. District staff shall then test the solution, and transport it to the test and production clients with appropriate testing in each client, or report issues to Service Provider on any failed tests for further development.

4.6. If and as appropriate to the issue, Service Provider Staff shall provide technical documentation or modify existing documentation, Functional or Technical Script along with user documentation. All documentation shall be subject to review and approval by District.

4.7. The District will close ticket in its tracking system upon successful transport of solution to the production system

4.8. Service Provider shall make every effort possible to resolve Help Desk calls in accordance with the timeframe specified in paragraph D, Service Level Agreement (Table 2). In the event a fix will take longer to implement than outlined, Service Provider shall notify District immediately.

5. District Notification

Service Provider will maintain all pertinent information regarding District including, without limitation, contact information, responsibility of each contact, escalation timeframes and procedures.

6. User Account Management

Service Provider will complete and submit to the District a separate Third Party Network Access and Confidentiality Agreement for each member of Service Provider's staff. Upon approval by the District, network and APPLICATION user accounts will be created. Developer's keys will be assigned as needed.

Service Provider will notify the District when staffing changes are made to support team. Service Provider is also responsible for ensuring their staff is keeping user accounts active and for communicating District procedures to their staff.

B. Monitoring (*if requested of the Service Provider by the District*) – Periodic monitoring of automated BW processes

1. Data Load Monitoring – Daily

1.1. Monitoring data loads and taking corrective actions as required.
1.2. Refresh of workbooks and taking corrective actions as required.

2. Data Quality Check

2.1. Periodic verification of data consistency between BW and the corresponding DataSources, and taking corrective actions as required.

C. Transition Period (*if specifically requested of the Service Provider by the District)*-
The transition period will commence upon agreement execution and will be for a period of time to be mutually agreed upon by the District and Service Provider. The two main goals of the transition period are outlined below:

1. Familiarization with:

1.1. District SEM/BPS Implementation
1.2. District Policies and Procedures
1.3. Overnight processes to be monitored in BW
1.4. Public Sector (Funds Management) functionality in APPLICATION

2. Start Up

2.1. District will set up network user names and APPLICATION user names and roles for Service Provider Staff.
2.2. Service provider staff will have an opportunity to meet, exchange contact information and discuss service details, i.e., Citrix access, document management, security, etc., with Business Systems Analysts and Information Technology staff.

D. SERVICE LEVEL AGREEMENT:

1. Help Desk Response Time

"Help Desk Response Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service

Provider has begun to work on the problem. Elapsed time will not include weekends and mutually agreed upon holidays. The percentage of total calls when the response time is met will be tracked by Service Provider as a composite percentage. Service Provider Service Requests are used to compute actual Help Desk Response Times.

2. Resolution Time

"Resolution Time" means the elapsed time starting from the time a problem is initially reported to the Help Desk until the District has been notified that Service Provider has implemented the fix. Service Provider will first establish the criticality of a problem or task with District's concurrence and proceed to estimate the resolution time of each problem or task to be mutually agreed upon by Service Provider and District. Additionally, status updates will be provided to District's Technical Contact for Severity Level 0 issues. The frequency of the updates will be agreed to during the initial notification call, and will continue until the problem is resolved. Dedicated resources will be committed to critical problems around the clock until they are resolved.

Severity	Acknowledge Within	Target	Request any needed Clarification	Respond with Plan to Fix	Target	Implement Fix	Target
0	2 Hours	100%	Within 3 Hours	Within 4 Hours	100%	Within 12 Hours	90%
1	4 Hours	100%	Before 8:00 AM next District work day (in effect, the end of the Offshore Team's first work day)	Before 8:00 AM second District work day (in effect, the end of the Offshore Team's second work day)	95%	As outlined in paragraph A.4.3	85%
2	4 Hours	100%	Before 8:00 AM next District work day	Before 8:00 AM third District work day	90%	As outlined in paragraph A.4.3	80%

Table 2.

3. Service Level Reports and Review

3.1. Periodic reports on key metrics.
Performance data is collected and distributed to District to enable District to evaluate Service Provider's compliance with the performance levels for the services provided by Service Provider.

3.2. Periodic review on service level performance.
Service Provider and District will designate representatives to communicate weekly and quarterly to discuss the performance levels for all Service Provider services. Both parties will discuss any performance issues or problems related to the

services provided by Service Provider and will work in good faith to resolve any outstanding issues

Reports	Frequency
Summary of all open service requests by module or application severity level and status	Weekly
Summary of all completed service requests by module, application and severity level	Weekly
Summary comparing closed service requests' estimated and actual hours	Quarterly
Summary of all Service Requests Response Times by Severity level (based on Table 2)	Quarterly
Billing status of all completed service requests by completion date	Quarterly

Table 3.

4. District's Escalation Procedure

Service Provider will follow escalation procedures for service requests if a problem is not resolved by the applicable Service Provider support organization within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1	Requestor	2 hours	4 hours	4 hours
Level 2	To be completed	3 hours	6 hours	8 hours
Level 3	Deborah Finley	4 hours	8 hours	10 hours

Table 4.

5. Service Provider's Escalation Procedure (to be completed by vendor)

Service Provider will complete and follow its escalation procedures for service requests within the resolution time specified.

Escalation Level	Contact Name	Time to Escalate		
		Severity 0	Severity 1	Severity 2
Level 1				
Level 2				
Level 3				

Table 5.

EXHIBIT B
CERTIFICATE OF INSURANCE
San Diego Unified Port District

By signing this form, the authorized agent or broker ***certifies*** the following:

(1) The Policy or Policies described below have been issued by the noted Insurer(s) [Insurance Company(ies)] to the Insured and is (are) in force at this time.

(2) As required in the Insured's agreement(s) with the District, the policies include, or have been endorsed to include, the coverages or conditions of coverage ***noted on page 2 of this certificate.***

(3) Signed copies of ***all*** endorsements issued to effect require coverages or conditions of coverage are attached to this certificate.

Return this form to: **San Diego Unified Port District**
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 –OR—
Email: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

Name and Address of Insured (Consultant)	**SDUPD Agreement Number:** _____ **This certificate applies to all operations of named insureds on District property in connection with all agreements between the District and Insured.**

CO LTR	TYPE OF INSURANCE	POLICY NO.	DATES	LIMITS
	Commercial General Liability ☐ Occurrence Form ☐ Claims-made Form Retro Date _____ ☐ Liquor Liability Deductible/SIR: $_____		**Inception Date:** **Expiration Date:**	**Each Occurrence:** **$**_____ **General Aggregate:** **$**_____
	Commercial Automobile Liability ❑ All Autos ❑ Owned Autos ❑ Non-Owned & Hired Autos		**Inception Date:** **Expiration Date:**	**Each Occurrence:** $
	Workers' Compensation – Statutory **Employer's Liability**		**Inception Date:** **Expiration Date:**	**E.L. Each Accident $** **E.L. Disease Each Employee $** **E.L. Disease Policy Limit $**
	Excess/Umbrella Liability		**Inception Date:** **Expiration Date:**	**Each Occurrence: $**_____ **General Aggregate: $**_____

CO LTR	COMPANIES AFFORDING COVERAGE	A. M. BEST RATING
A		
B		
C		
D		

A. M. Best Financial Ratings of Insurance Companies Affording Coverage Must be A- VII or better unless approved in writing by the District.

Name and Address of Authorized Agent(s) or Broker(s)	Phone Numbers Toll Free: Fax Number: E-mail Address:
	Signature of Authorized Agent(s) or Broker(s) Date:

SAN DIEGO UNIFIED PORT DISTRICT

REQUIRED INSURANCE ENDORSEMENT

ENDORSEMENT NO.	EFFECTIVE DATE	POLICY NO.

NAMED INSURED:

GENERAL DESCRIPTION OF AGREEMENT(S) AND/OR ACTIVITY(IES):
All written agreements, contracts and leases with the San Diego Unified Port District and any and all activities or work performed on district premises

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The San Diego Unified Port District, its officers, agents, and employees are additional insureds in relation to those operations, uses, occupations, acts, and activities described generally above, including activities of the named insured, its officers, agents, employees or invitees, or activities performed on behalf of the named insured.

2. Insurance under the policy(ies) listed on this endorsement is primary and no other insurance or self-insured retention carried by the San Diego Unified Port District will be called upon to contribute to a loss covered by insurance for the named insured.

3. This endorsement shall include a waiver of transfer of rights of recovery against the San Diego Unified Port District ("Waiver of Subrogation").

4. The policy(ies) listed on this endorsement will apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. As respects the policy(ies) listed on this endorsement, with the exception of cancellation due to nonpayment of premium, thirty (30) days written notice by certified mail, return receipt requested, will be given to the San Diego Unified Port District prior to the effective date of cancellation. In the event of cancellation due to nonpayment of premium, ten (10) days written notice shall be given.

Except as stated above, and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements or exclusions of the policy(ies) to which this endorsement applies.

_____
(NAME OF INSURANCE COMPANY)

_____
(SIGNATURE OF INSURANCE COMPANY AUTHORIZED REPRESENTATIVE)

MAIL THIS ENDORSEMENT AND NOTICES OF CANCELLATION:

San Diego Unified Port District
c/o Ebix BPO
P.O. Box 12010-3
Hemet, CA 92546-8010 – OR –
Email to: sdupd@prod.certificatesnow.com
Fax: 1-866-866-6516

DRAFT

RESOLUTION 20xx-xxx

RESOLUTION SELECTING AND AUTHORIZING AS-NEEDED AGREEMENTS WITH: (A) MATISIA INC., DBA, MATISIA CONSULTANTS; (B) LSI CONSULTING, INC.; (C) SIERRA INFOSYS, INC.; (D) PHOENIX BUSINESS INC., DBA, PHOENIX BUSINESS CONSULTING; (E) THE PELOTON GROUP, LP, DBA THE PELOTON ALLIANCE; (F) V3IT CONSULTING, INC.; (G) RBF CONSULTING, INC.; (H) NORTHSOUTHGIS, LLC; (I) ESTRADA CONSULTING, INC.; AND (J) WAVE TECHNOLOGY SOLUTIONS GROUP, INC.; TO PROVIDE AS NEEDED INFORMATION TECHNOLOGY APPLICATION SUPPORT SERVICES FOR $750,000 FOR A PERIOD OF TWO (2) YEARS AND NINE (9) MONTHS, WITH TWO (2) OPTIONAL ONE (1) YEAR EXTENSIONS FOR $175,000 EACH, FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED $1,100,000

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners adopted BPC Policy No. 110 incorporating the provisions of the Accounting Act to govern the processing and administration of public projects; and

WHEREAS, Information Technology Support Services is comprised of three (3) service levels; and

WHEREAS, Level 1 is the initial support level responsible for basic customer issues, Level 2 is a more in-depth technical support level where more experienced and knowledgeable personnel become involved like the systems support analyst or business analyst within a particular function or product and Level 3 is the highest level of support responsible for handling the most difficult or advanced problems; and

WHEREAS, Business Information and Technology Services has contracted for Level 3 support for SAP since 2006 in order to provide cost effective support and enhancements for the system; and

20xx-xxx

WHEREAS, the current Level 3 SAP agreements with Sage, V3IT, Sparta, Numeric, and Sierra Info Sys Inc., will expire on December 31, 2015; and

WHEREAS, the District created a Request for Proposals (RFP) with the intent to enter into a multi-vendor agreement; and

WHEREAS, on August 31, 2014 staff issued RFP No.14-28. More than 50 firms received a notice inviting a response to the RFP and 21 firms submitted responses; and

WHEREAS, District staff short-listed the top 13 firms and a selection panel evaluated the responses based on the District's standard RFP evaluation criteria.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or his designated representative is hereby authorized on behalf of the San Diego Unified Port District to authorize as needed agreements with (A) Matisia Inc., dba, Matisia Consultants; (B) LSI Consulting, Inc.; (C) Sierra Infosys, Inc.; (D) Phoenix Business Inc., dba, Phoenix Business Consulting; (E) The Peloton Group, LP, dba The Peloton Alliance; (F) V3IT Consulting, Inc.; (G) RBF Consulting, Inc.; (H) NorthSouthGIS, LLC; (I) Estrada Consulting, Inc.; and (J) Wave Technology Solutions Group, Inc.; to provide as needed Information Technology Application Support Services for $750,000 for a period of two (2) years and nine (9) months, with two (2) optional one (1) year extensions for $175,000 each, for a total aggregate amount not to exceed $1,100,000.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

_____

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 4th day of November 2014, by the following vote:

Unified Port
of San Diego

3165 Pacific Highway, San Diego, CA 92101
P.O. Box 120488, San Diego, CA 92112-0488
619.686.6200 • www.portofsandiego.org

REFERENCE COPY

62633

September 28, 2016

Mr. Steven Bein
Vice President, GIS
RBF Consulting, Inc. a company of Michael Baker International
14725 Alton Parkway
Irvine, CA 92618

Dear Mr. Bein:

Per our Agreement No. 147-2014 filed December 3, 2014 the District hereby grant Option Years 1 and 2 of the agreement commencing August 5, 2017 and shall terminate on August 4, 2019.

All other terms, covenants, and conditions in the original agreement shall remain in full force and effect and shall be applicable to this option.

Sincerely,

Thomas Gresham
(Acting) Director, Information Technology