Request for Proposals (RFP) for Budget Software
RFP 321000228

WORK SUMMARY: The Town of Gilbert, Arizona (hereinafter "Town") is soliciting qualified Proposers to supply Software to Replace the Town's budget development in-house solution with a sustainable, browser-based, commercial off-the-shelf cloud-hosted system, capable of supporting the Town's budgeting requirements, with a planned service life of 10 to 20 years.	
AWARD TERMS	The initial Agreement term will commence upon execution of the Agreement and continue through June 30, 2023. The Agreement may be renewed for up to 3 additional two (2) year terms.
ISSUE DATE	**February 1, 2021**
DUE DATE	**March 1, 2021 at 2:00 p.m**. Arizona Time
DEADLINE FOR INQUIRIES	The deadline for inquiries is **February 11, 2021 at 4:00 p.m.,** Local Arizona Time. Questions and/or inquiries must be submitted in writing. Questions submitted after this date and time will not receive a response. The Town of Gilbert reserves the right to issue RFP amendments after the question and answer period. It is each Proposer's responsibility to check the website www.gilbertaz.gov/rfp for -addenda to this RFP. This Request for Proposals may only be modified by a written Addendum.
SUBMITTAL PROCESS	Proposals shall be emailed to Diane Shannon diane.shannon@gilbertaz.gov on or before **March 1, 2021 at 2:00 p.m**. The proposal shall be in pdf format and all required information must be included. Once your proposal is received you will receive email confirmation from Diane and the "As Read List of Offerors" will be posted on the Town's website.
DOCUMENTS AVAILABILITY	The Proposal Documents consist of parts: I. The Opportunity, II. Scope of Work, III. Proposal Content and Submittal, IV. Evaluation and Award and V. Solicitation Terms and Conditions. Documents can be downloaded at www.gilbertaz.gov/rfp.
CONTACT	Diane Shannon diane.shannon@gilbertaz.gov 480-503-6818
EQUAL OPPORTUNITY	Gilbert is an equal opportunity employer. Minority and women's business enterprises are encouraged to submit proposals on this solicitation.

1. The Opportunity

1.1. Project Summary

The Town of Gilbert Office of Management and Budget (OMB) currently develops and manages its budget using an in-house SharePoint-based solution and extensive use of Excel spreadsheets. Budget data is then imported into the Town's financial system (Tyler Munis).

1.2. Background

The in-house system is at the end of useful life and the Town is seeking a new option to collect department budget requests, manage workflow for decision making, provide reporting information, have the ability to export (Excel) as well as have integration possibilities with Tyler Munis.

1.3. Business Challenge

Current system at the end of useful life.

1.4. Goals and Desired Outcomes

The Town requests proposal for a cloud-hosted, commercial-off-the-shelf budget system to replace the current in-house, SharePoint-based solution and facilitate the Town's goals for the budget system replacement. The new system should align well with the Town's current budget process outlined in the Scope of Work.

Technology-specific objectives that should be addressed include:

a. With hosted systems we are looking to ensure data is secured using current strategies and meets industry standards. Is this hosted with vendor or 3rd party cloud service? Is this included in costs or separate item?
b. Provide information on staff being able to access raw data.
c. Provide disaster recovery model.
d. Connection to single sign on (SSO) protocol, Active Directory or Azure are preferred.
e. Application utilizes role-based access for users and has capabilities for limiting entry and reviewing all the packages.
f. Provide information on licensing model.
g. Is the hosted system individual tenet or shared?
h. How is software standardized for all customers?

2. Scope of Work

1. INTRODUCTION
   The Town of Gilbert Office of Management and Budget (OMB) currently develops and manages its budget using an in-house SharePoint-based solution and extensive use of Excel spreadsheets. Budget data is then imported into the Town's financial system (Tyler Munis).

The in-house system is at the end of useful life and the Town is seeking a new option to collect department budget requests, manage workflow for decision making, provide reporting information, have the ability to export (Excel) as well as have integration possibilities with Tyler Munis.

2. PROJECT GOALS FOR BUDGET SYSTEM REPLACEMENT
   The project that is the subject of this Request for Proposals has the following goals and objectives:
   a. Replace the Town's budget development in-house solution with a sustainable, browser-based, commercial off-the-shelf cloud-hosted system, capable of supporting the Town's budgeting requirements, with a planned service life of 10 to 20 years.
   b. Significantly improve the efficiency of budget development, management, and reporting processes. This will be measured by Not duplicating efforts, ease of use for departments to input their requests, and for OMB to utilize data.
   c. Maintain or improve entry process, for both OMB and Gilbert staff.
   d. Reduce risk of errors through automation.
   e. Implement an easy to use and robust budget development solution.

   RFP responses should include information on how the software matches the Town's needs and current budget process, technology objectives, project approach, project team, implementation timeline (ideal go-live is August 2021), and pricing.

   In addition to written responses to this RFP, respondents may optionally provide product brochures or marketing materials, technical manuals or diagrams, demonstration videos illustrating desired functionality as described in the RFP, screenshots, or sample reports, which the Town may review as needed.

3. CURRENT BUDGET PROCESS OVERVIEW
   The Town of Gilbert uses a modified zero-based budget process. One third of the organization undergoes a collaborative process with OMB to determine the base budget needed to maintain the authorized levels of service for their departments. The other two thirds of the organization use a base budget which is calculated as last year's adopted budget less any one-time budget amounts.

   Once a base budget is established, departments are able to submit requests for needed items and additional employees (FTE). Departments must include a business case justification, including data, to support their request. Currently this is accomplished with both a free-form text box and the option to attach additional information/documents. Departments also use a drop-down box to indicate which strategic initiative the request relates to (prosperous community, exceptional built environment, or strong economy) and a separate drop-down box to indicate the focus area (maintaining service levels, efficiency, new service level, life cycle replacement, etc.). FTE requests are accompanied by a "New Position Request Form" which is a word document attached to the budget request.

Staff currently enters data for budget requests in two steps (packages and line items). Packages can contain multiple items (i.e. an FTE, a truck, a computer, and training dollars). Line items may contain multiple account strings from multiple departments where the expenses will be coded (i.e. FTE coded to police, truck coded to fleet, computer coded to IT, etc.). This does not have to be duplicated in the new software, but the ability to group items is important.

Requests that should be approved/denied as a group are put together in a single budget package request. (i.e. a new FTE with associated training, cell phone, computer, and vehicle.) These requests often include a combination of one-time and ongoing budget needs as well as multiple account numbers where the budgets will be placed.

Departments submit budget packages for both the upcoming budget year and for the following four years (as part of our five-year planning window). The outer four years only include requests over $100,000 and any new FTE. Gilbert staff are able to review and update packages and items until the entry deadline. The ability to archive past requests based on fiscal years is important and the ability to move a past request (or cut and copy) into a future year without reentry of the package and items would be ideal.

Once all the budget packages have been submitted, OMB reviews them to ensure there are not duplicate entries, entries for items already included in the base budget, or items with missing information. At this time the system is closed to departments and any changes are made by OMB staff.

Simultaneously, OMB reviews revenue forecasts for the current year and the upcoming year. This is done using Excel spreadsheets and is not anticipated to be part of the software solution requested in this RFP. OMB also reviews the anticipated expenditure for the current budget year and the resulting information is used to determine the funds available for new requests in the upcoming year (both one-time and ongoing amounts are determined for each Fund).

After the budget packages have been reviewed and compiled, OMB works with the Enterprise Fund departments to balance their requests with their available funds for the full 5-year period. To do this, the software solution will need to report out requests by Fund, by fiscal year, by budget package name, and by one time/ongoing dollar amount.

General Fund budget packages are compiled all together and reviewed by the Executive Team (all department directors) to determine which items will be recommended for funding. The Executive Team typically reviews FTE requests first and then other requests. The other requests are reviewed starting with the most expensive and ending with the least expensive. All General Fund departments' requests are combined together and reviewed at the same time using this sorting criteria (dollar amount, highest to lowest).

The Executive Team reviews all budget packages, including the recommended budgets from the Enterprise Funds. Sometimes budget packages are modified or partially approved, so the system needs to be dynamic enough to handle these changes. Once the Executive Team has a balanced budget that best meets the needs of the community and Council direction, they present their recommended budget to the Town Manager and Assistant Town Managers (ATMs).

The Town Manager and ATMs then review the budget and make adjustments. Once the Town Manager has completed his review, any changes are reported back to the Executive Team and OMB prepares summary information to share with Town Council.

OMB shares budget information with and answers questions from Council in 1:1 meetings. Then the budget is presented in a public study session for Council to discuss and provide feedback. After the study session, the preliminary budget is adopted in May and final budget is adopted in June.

Capital improvement budgets are also reviewed and compiled during this process, but it is outside the scope of what we need from this software RFP.

Budgeting for existing personnel is completed using Tyler Munis and is outside the scope of what we need from this software RFP.

OMB creates and publishes annual Budget and CIP documents, but that is outside the scope of what we need from this software RFP.

2.1. Solution Requirements

2.1.1. Functional Objectives/Areas

Functional objectives have been covered in process overview.

2.1.2. Functional Requirements

The Town requests proposal for a cloud-hosted, commercial-off-the-shelf budget system to facilitate the Town's goals for the budget system replacement. The new system should align well with the Town's current budget process outlined above.

Technology-specific objectives that should be addressed include:

a. Provide information about application data security while at rest and in transit.
b. Provide information related hosting services utilized.
c. Provide information on staff being able to access raw data.
d. Provide disaster recovery model.
e. Provide information regarding single sign on (SSO) protocol (Active Directory or Azure are preferred).
f. Provide information about application role-based access for users.
g. Provide information on licensing model.
h. Describe the tenet model.
i. Describe the software standardization for all customers?

2.1.3. Technical Requirements

While asking for cloud-based software, the Town recognizes the needs from the agency perspective and has resources in place to manage and utilize such services, including fiber connectivity, redundant Internet connection points and services and as remote work continues staff have demonstrated adequate high-speed internet access. The Town also uses VPN technologies for secure connections with on-premise solutions.

Please provide any additional information regarding the proposer recommendation as it pertains to the topics below:

- Architecture
- Infrastructure and Environment
- Interoperability
- Maintainability
- Performance and Scalability
- Reliability
- Security

2.2. Project Management

Gilbert does not subscribe to any specific project management style. The Proposer should be able to explain the methodology they intend to utilize and show how the method has worked in the past. Part of project management from a vendor perspective should be able to show and discuss the roles of both Gilbert and vendor and provide proposed estimates on time requirements for each role during the various phases of implementation.

2.2.1. Project Plan and Schedule Management

Gilbert would like a projected schedule with milestones based upon Proposers history of implementations and the expected due date of August 1, 2021. Town would like new budget software to go-live by August 2021.

2.2.2. Project Reporting

Gilbert would like a projected schedule with milestones based upon Proposers history of implementations and the expected due date of August 1, 2021.

3.1. Solution Implementation

Gilbert requests the following strategy for implementation.

- Discovery/Validation
- Training
- Design
- Configuration & Build
- Data Migration
- Testing
- Data Migration
- Training

3.1.1. Requirements Validation

Proposers team spend time with Gilbert team as further discovery of business rules.

- Ensuring a common understanding of requirement details before substantial work takes place
- Requiring facilitated review sessions with stakeholders
- Completing requirement validation activities within a set period of time
- Confirming the "must have" requirements from the "nice to have."
- Confirming the relationship of requirements to business benefits
- Prioritizing requirements.

3.1.2. Training

Proposers provide training to key users and stakeholders for learning about general use of application, terminology and primary standard operating procedures.

- Initial training of key staff that are part of project team. (Budget team, IT representative, Finance representative as well as staff member focusing on end user usability)

3.1.3. Design

After discovery discussion, the proposer team plans how discovery and requirements can be added to the system.

- The extent the Town requires an iterative approach to design with multiple checkpoints and refinement rather reserve substantial proposed design review until near the end of design
- Expectations for leveraging visual aids and interactive approaches to facilitate participation of internal stakeholders during solution design in order to facilitate a comprehensive understanding of the proposed solution by the issuing agency throughout the project.

3.1.4. Configuration and Build

Prospers will configure and document system according to the discovery, design discussion providing documentation for Gilbert staff to modify or add based on future needs. Additional considerations for RFP content include. Additional considerations for RFP content include:

4. For implementation of commercial-off-the-Shelf (COTS) solutions the Town may want to emphasize, if appropriate, expectations for an approach from Proposers design to leverage as much of the core solution as possible (i.e., minimizing configuration)
5. The Town may want to emphasize objectives such as goals to decrease reliance on the vendors/SIs over time to maintain and evolve the system following deployment on its own, in part by requiring technical staff from the issuing agency be integrated into the project from initiation, directly involving them in configuration/build activities.]

3.1.5 Testing

Proposers should provide a testing plan that includes scripts and processes. Testing types include:

- Unit testing: individual component unit testing and unit integration testing across components
- Integration testing: the testing of higher-level system components as modules and other solution units are integrated by the development team.
- System testing: comprehensive testing of the complete integrated system release
- Performance testing: the testing of how the system (including computers, networks, software programs or devices) performs in terms of responsiveness and stability under different workloads
- Failover testing: confirms the solution meets all requirements for backup, failover, recovery, disaster recovery, and business continuity.
- Security testing: checks for security vulnerabilities that could be exploited
- Regression testing: ensures faults have not been introduced/uncovered as a result of the changes, or introduced errors or regressions in the unchanged code (this testing is generally automated)
- User Acceptance Testing (UAT): validation of end-to-end business processes and intended solution function from an end-user perspective
- "Smoke" testing: checks that the release has been successfully deployed to production and that it is behaving as designed or otherwise intended once deployed.

3.1.6. Data Conversion and Migration

Data conversion and migration is listed twice, so testing can be done with real data and then refreshed as project is completed.

3.1.7. Training

End user training. A train the trainer model is acceptable. Provide documents for multiple types of training: reading of processes, videos and job aides.

- Who will be trained (e.g., internal staff, external users) and the degree each group is expected to get tailored training
- The extent training must be designed within specific business context or if generic product/solution training is acceptable
- The types of training methods that are required or will be considered (e.g., in-person classroom, web-based training)
- If any specific training approaches are required or are not acceptable (e.g., train-the-trainer)
- How training will be determined to be successful or not successful (e.g., proficiency checks)
- The types of training materials expected (e.g., training manuals, quick guides)
- How make-up and remediation training will be approached for any users that require it
- Training planning and timing expectations.

3.1.8. Knowledge Transfer

Knowledge transfer focuses on making sure those in the Town who will be responsible for maintaining the new solution are provided the knowledge and training. Training shall include system administrator training provided for certifications on product. A one session between proposer and Town budget and IT representatives to understand the process and tools for updating the conjurations. Knowledge transfer will include the processes Gilbert is expected to provide for system maintenance (if any).

3.1.9. Release and Deployment Management

Provide information and process on how release updates and upgrades are handled:

- Standard and frameworks utilized
- Are there regular release schedules? Managing release schedules
- Are releases provided in a test or development environment prior to moves to production?
- Are there rollback and contingency plans for releases, updates and upgrades?

3.1.10. Post-Implementation Support and Maintenance

Please provide the plan and information about how to transition from implementation to support. Provide support service level agreements and escalation process.

4. Proposal Content and Submittal

4.1. Submittal Checklist

As part of the RFP process, all Proposers are to review, complete, and submit the following proposal components and compliance documents **IN ORDER FOR THE PROPOSAL TO BE RESPONSIVE. FAILURE TO DO SO MAY RESULT IN THE PROPOSAL BEING DECLARED NON-RESPONSIVE AND REJECTED.**

Previous compliance document submittals and/or waivers do not apply. New forms must be completed and processed. Gilbert reserves the right to request additional information and/or clarification regarding submitted compliance documents during the evaluation process. Proposals MUST include the following components and compliance documents listed in the checklist.

1. **COVER LETTER** Include a one-page cover letter that contains a general statement of the purpose for submission, and the following detailed company information:
   a. **BUSINESS ORGANIZATION** State the full name and address of your organization, and if applicable, any branch office or other subordinate element that will perform or assist in performing the work. Indicate whether you operate as an individual, partnership or corporation; if a corporation, indicate the state in which you are incorporated. Include email addresses and phone numbers for all key personnel.
   b. **AUTHORIZED NEGOTIATIONS** Include the names, email addresses and phone numbers of personnel of your organization authorized to negotiate the proposed contract with the Issuing Office.

2. **PROPOSAL NARRATIVE** Include responses to all questions and components outlined below in a proposal narrative Proposers shall complete the fillable **"RESPONSE WORKBOOK"** attachment and submit as their proposal.

3. **COST PROPOSAL:** Complete the cost and staffing proposal found in the fillable **"RESPONSE WORKBOOK."**

4. **REQUIRED COMPLICANCE DOCUMENTS:** Complete the required compliance forms and documents listed in the checklist below and found in the fillable **"RESPONSE WORKBOOK."**

All of the Proposal Documents apply to and become a part of the terms and conditions of the proposal.

PROPOSAL CHECKLIST Follow this sequence in presenting a proposal, with the checklist as the Table of Contents. Proposals must be ordered as indicated on this form. All of the Proposal Documents apply to and become a part of the terms and conditions of the proposal.	
PROPOSAL SUBMITTAL	
The proposal prices offered have been reviewed.	
Email has been identified with proposal number and title.	
The Agreement Time and/or schedules have been included.	
The proposal is submitted in time to be received and stamped in by a Town of Gilbert Representative no later than specified time on designated date. (Otherwise the proposal cannot be considered.)	
Any addendums have been included/noted in Offer Section.	
PROPOSAL DOCUMENTS	
One-page Cover Letter (on company letterhead)	
Table of Contents/Proposal Checklist	
Proposal Narrative- Organizational Capabilities and Experience	Response workbook
SOFTWARE MATCHES TOWN BUDGET PROCESS NEEDS	Response workbook
Project Plan	Response workbook
Cost Proposal (Pricing)	Response workbook
Exceptions	Response workbook
REQUIRED RFP COMPLIANCE DOCUMENTS	
Addendum Acknowledgement	Response workbook
Conflict of Interest Statement	Response workbook
References	
Proposal Form (Proposals not signed in this section will not be considered)	Response workbook
Authorized Signature Form	Response workbook

4.2. Submittal Instructions

4.2.1 Format.

Proposers shall submit their proposal via Email (pdf format) to Diane Shannon diane.shannon@gilbertaz.gov and shall be submitted either on the forms provided in this

Solicitation or their substantial equivalent. Any substitute document must be legible and contain the same information requested on the forms.

4.2.1. Typed or Ink Corrections
The proposal shall be typed or in ink. Erasures, interlineations or other modifications in the proposal shall be initialed in ink by the person signing the proposal.

4.2.2. No Modifications.
Modifications shall not be permitted after proposals have been opened except as otherwise provided under applicable law.

4.3. Requirements for Proposers

4.3.1. *Town's Right to Reject Proposals:* The Town of Gilbert reserves the right to reject any and all proposals and to waive technicalities.

4.3.2. *Late Proposals:* Late submittals and/or unsigned proposals will not be considered under any circumstances. Envelopes containing proposals with insufficient postage will not be accepted by Gilbert. It is the sole responsibility of the Proposer to see that his/her proposal is delivered and received by the proper time and at the proper place.

4.3.3. *Proposal Amendment or Withdrawal: A* proposal may be withdrawn any time before the proposal due date and time. A Proposal may not be amended or withdrawn after the proposal due date and time except as otherwise provided by applicable law.

4.3.4. *Public Record:* All proposals submitted in response to this solicitation and all evaluation related records shall become property of Gilbert and shall become a matter of public record for review, subsequent to proposal opening. Request for nondisclosure of data such as trade secrets and other proprietary data, must be made known in writing to Gilbert in proposals submitted, and the information sought to be protected clearly marked as proprietary. Gilbert will not ensure confidentiality of any portion of the proposal that is submitted in the event that a public record request is made. Gilbert will provide 48 hours' notice before releasing materials identified by the Proposal as confidential or proprietary in order for the Proposer to apply for a court order blocking the release of the information.

4.3.5. *Solicitation Transparency Policy:* Beginning on the date this Solicitation is issued and continuing until either the date a contract is awarded or this Solicitation is withdrawn by Gilbert, all persons or entities who respond or intend to respond to this Solicitation, including without limitation their employees, agents, representatives, partners, subcontractors, consultants, joint venturers, members, lobbyists, or attorneys (collectively, "Proposers"), shall only discuss matters associated with this Solicitation with the Procurement Officer designated in this Solicitation and shall not have any direct or indirect contact about this Solicitation with any other Town staff or Town official, including, without limitation, members of the evaluation panel, the Town Manager, Deputy Town Managers, the Mayor, or any member of the Gilbert Town Council. As long as the subject

matter of the Solicitation is not discussed, Proposers may continue to conduct business with Gilbert.

4.3.6. *Persons with Disabilities:* Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Town of Gilbert Purchasing Division, Diane Shannon. Requests shall be made as early as possible to allow time to arrange the accommodation.

4.3.7. *Proposal Acceptance Period:* All proposals shall remain open for 180 days after the day of the opening of proposals, but Gilbert may, at its sole discretion, release any proposal and return the proposal security (as applicable) prior to that date. No Proposer may withdraw his proposal during this period without written permission from Gilbert. Should any Proposer refuse to enter into an Agreement, under the terms and conditions of the procurement, Gilbert may retain the security (as applicable), not as a penalty, but as liquidated damages.

4.3.8. *Proposal Bond:* Not Required

4.3.9. *Clarifications.* Gilbert reserves the right to obtain Proposer clarifications where necessary to arrive at full and complete understanding of Proposer's product, service, and/or solicitation response. Clarification means a communication with a Proposer for the sole purpose of eliminating ambiguities in the proposal and does not give Proposer an opportunity to revise or modify its proposal.

4.3.10. *Waiver and Rejection Rights.* The Town of Gilbert reserves the right to reject any or all proposals or to cancel the solicitation altogether, to waive any informality or irregularity in any proposal received, and to be the sole judge of the merits of the respective proposals received.

4.3.11. *Solicitation Addendum Acknowledgement.* Each Solicitation Addendum shall be acknowledged in the Proposal Section, which shall be submitted together with the proposal on the proposal due date and time. Failure to note a Solicitation Addendum may result in rejection of the proposal.

4.3.12. *Evidence of Intent to be Bound.* The proposal form within the Solicitation shall be submitted with the proposal and shall include a signature by a person authorized to sign the proposal. The signature shall signify the Proposer's intent to be bound by its proposal and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, shall result in rejection of the proposal.

4.3.13. *Non-Collusion and Non-Discrimination.* By signing and submitting the proposal, the Proposer certifies that: the Proposer did not engage in collusion or other anti-competitive practices in connection with the preparation or submittal of its proposal; and the Proposer certifies that it does not discriminate against any employee or applicant for employment based on race, color, age, sex, religious or political affiliation, sexual orientation, gender

identity, family status, marital status, national or ethnic origin, or mental or physical disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

4.3.14. Inquiries

4.3.14.1. *Duty to Examine.* It is the responsibility of each Proposer to examine the entire Solicitation, seek clarification (inquiries), and examine its proposal for accuracy before submitting the proposal. Lack of care in preparing a proposal shall not be grounds for modifying or withdrawing the proposal after the proposal due date and time, nor shall it give rise to any Contractor claim.

4.3.14.2. *No Right to Rely on Verbal Responses.* A proposer shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the Solicitation.

5. Evaluation and Award

5.1. Evaluation Criteria

General Evaluation Standards

Gilbert seeks to obtain the services described in the Scope of Work. Gilbert will evaluate proposals on the selection criteria set forth below. Gilbert will be the sole judge of whether the services offered are acceptable. Proposals from individuals who have provided inadequate services to municipalities in the past, or proposals offering services proven unsatisfactory in Town's sole judgment may be rejected and not considered.

Gilbert reserves the right to reject any or all proposals or any part thereof, or to accept any proposal, or any part thereof, or to withhold the award and to waive or decline to waive irregularities in any proposal when it determines that it is in its best interest to do so.

A Proposer (including each of its principals) who is lawfully prohibited from any public procurement activity may have its proposal rejected.

ORGANIZATIONAL CAPABILITIES AND EXPERIENCE (10%)
A strong proposal will demonstrate Proposer's overall capabilities and experience that is relevant to the work in this RFP, as well as ability to provide successful program management, technical and data expertise, partnership management and efforts during the term of the contract.
SOFTWARE MATCHES TOWN BUDGET PROCESS NEEDS (50%)
A strong proposal will offer software which meets the Town's requirements.
PRICING (25%)
Software pricing which meets the Town's needs
PROJECT PLAN (15%)
Project Plan with limited customization/specialized programing

5.2. Selection Process, Award and Protest Procedures

5.2.1. Award

Contractor awards shall be made to the offers deemed most advantageous to the Town, based upon the evaluation criteria listed above, and that meets the minimum requirements and criteria set forth in this RFP solicitation.

5.2.2. Evaluation of Competitive Sealed Offers

The Town will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.

Best and Final Offer (BAFO):
A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the Town's sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.

If a Proposer's BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The Town will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The Town will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the Town will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the Town based on the evaluation criteria.

The Town reserves the right to make an award to a Proposer whose Offer is the highest rated, best value, and most advantageous to the Town based on the evaluation criteria, without conducting written or oral discussions with any Proposer, without negotiations, and without soliciting BAFOs.

Detailed Evaluation of offers and determination of competitive range:
During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposers' rankings and which Offers are within the Competitive Range, when appropriate.

5.2.3. Offers Not Within Competitive Range

The Town may notify Proposers of Offers that the Town determined are not in the Competitive Range.

Discussions with Proposers in the Competitive Range:

1. The Town will notify each Proposer whose Offer is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the Town and asked to discuss answers to written or oral questions or provide clarifications to any facet of its

Offer. The Proposers in the competitive range may be required to provide a demonstration of their product.

2. Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the Town of Gilbert. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The Town may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).
3. If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation requirement, the Town may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the Town in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the Town may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the Town may determine the Offer is nonresponsive, and the Town may revoke its determination that the Offer is in the Competitive Range.
4. To the fullest extent permitted by law, the Town will not provide any information, financial or otherwise, to any Proposer about other Offers received in response to this solicitation. During discussions with Proposers in the Competitive Range, the Town will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The Town may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

5.2.4. Disqualification

If the firm, business or person submitting this proposal has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Proposer shall fully explain the circumstances relating to the preclusion or proposed preclusion in the proposal. The Proposer shall include a letter with its proposal setting forth the name and address of the governmental entity, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

Any or all proposals will be rejected if there is any reason for believing that collusion exists among the Proposers, and participants in such collusion will not be considered in future proposals for the same work.

6. Solicitation Terms and Conditions

GENERAL CONDITIONS

Agreement Term; Renewal. If funds for this Agreement are not appropriated or budgeted by July 1, 2020, Gilbert may terminate this Agreement by giving written notice to Contractor. Otherwise, The Agreement term commences upon execution of the Agreement and continues through June 30, 2023. The Agreement may be renewed for up to three (3) additional two-year terms upon mutual agreement of the parties. The Agreement may be renewed upon written approval of Gilbert's Purchasing Officer if: (1) the renewal Agreement amount does not exceed $100,000; or (2) the original prices remain in effect during the renewal term. If at least 60 days prior to the end of the original term the Contractor requests a price adjustment, Contractor shall submit evidence of increased costs to Gilbert. Any price adjustment shall be in the sole discretion of Gilbert and shall not exceed the amount of increased cost to the Contractor. Price adjustment requests shall be a factor in the Agreement extension review process. A price adjustment less than 10% of the original Agreement price may be approved by the Purchasing Officer. The Gilbert Council must approve renewal in all other cases. Any renewal shall be in writing and shall expressly state the prices for the services during the renewal term. Any renewal shall be contingent on funds being appropriated or budgeted for the renewal term.

Contingent Award. Submittal of the required Bonds as set forth in this paragraph is a condition precedent to this Agreement becoming effective.

Cooperative Use of Agreement: In addition to the Town of Gilbert and with the approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts, and government agencies of the State. A current listing of eligible entities may be found at www.mesaaz.gov/business/purchasing/save. Any such usage by other entities must be in accordance with the ordinance, charter and /or procurement rules and regulations of the respective political entity.

Protests: Pursuant to the Municipal Code Section 2-368, an interested party may protest a solicitation by filing a protest in writing to the purchasing officer not fewer than five days before the closing date and time of the solicitation. An unsuccessful Proposer or Bidder may protest a determination of nonresponsiveness or nonresponsibility by the Town by filing a protest in writing with the purchasing office not more than five days after issuance of notice of such determination by the Town. An unsuccessful Proposer or Bidder may protest a contract award by filing a protest in writing with the purchasing office not more than five days after issuance of a notice of apparent low responsive and responsible Bidder, or a notice of intent to award. The protest shall include the following information: (1) The name, address and telephone number of the protester; (2) Identification of the contracting activity and the number of the solicitation; (3) The signature of the protester or its authorized representative; (4) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) The specific relief requested.

Notwithstanding the foregoing, Proposers may discuss this Solicitation with the Mayor or a member of the Gilbert Town Council, provided such meetings are scheduled through the Procurement Officer listed on this Solicitation, conducted in person at 50 E. Civic Center Drive, Gilbert, Arizona 85296, and are posted as open meetings by the Town Clerk at least twenty-four (24) hours prior to the scheduled meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. **Proposers who violate this policy shall be disqualified from participating in this Solicitation.**

Exhibits

Exhibit A 321000228 Budget Software RFP Contract

EXHIBIT A

FOR INFORMATION ONLY – DO NOT COMPLETE/RETURN

CONTRACT FOR SOFTWARE AND SERVICES

Contract No. _____

THIS contract is entered into as of this _____ day of _____, 20___, by and between the Town of Gilbert, Arizona, a municipal corporation, ("Gilbert" and _____ ("Vendor.)"

FOR THE PURPOSE of providing _____ and related services for the Town of Gilbert, Gilbert and Vendor do hereby mutually agree to the following:

1. PURCHASE OF SOFTWARE

1.1 Software. The Town of Gilbert, Arizona ("Gilbert") agrees to purchase and Vendor agrees to sell to Gilbert the Software described on Exhibit A attached to this Contract. The Software shall comply with all requirements set forth on Exhibit A and Gilbert shall have no obligation to accept such Software until the requirements of Exhibit A are met.

1.2 Delivery Schedule. The schedule for delivery, installation and testing shall be as set forth in Exhibit A-1.

1.3 Price: The Price(s) for the Software is set forth on Exhibit A-2. All prices shall be firm and fixed and shall include all freight (FOB destination), insurance, warranty costs, taxes, and any other applicable costs. The purchase of certain items or materials by Gilbert is exempt from the federal excise tax. Gilbert will furnish an exemption certificate upon presentation by the Vendor, if so requested by the Vendor. Vendor will be responsible for and shall pay all sales, consumer, use, and other taxes. When equipment, materials or supplies generally taxable to the Vendor are eligible for a tax exemption, credit or deduction due to the nature of the item, at Vendor's request, Gilbert will assist Vendor in applying for and obtaining the same.

1.4 Software License. The form of software license to be entered into between Vendor and Gilbert is attached as Exhibit A-3.

1.5 New and Compatible Software: All Software, components, and parts shall be new and unused. All components of the Software shall be integrated in design and construction to work effectively together.

1.6 Warranty: Software shall be warranteed for a period of _____ year(s) from the date the Software is accepted by Gilbert. Such warranty shall include the obligation to replace all defective parts and/or components, and to make any repairs resulting from defective design, materials, or workmanship. These repairs shall be made at the Vendor's own expense and without any cost to Gilbert, and within a reasonable time frame as determined by industry

standards. The Vendor shall be obligated to Gilbert as the single-source provider of the Software and is required to honor all warranties, given or implied. If the Software does not meet the above requirements, the remedies available to Gilbert under this warranty shall include repair or replacement of components of the Software whose non-compliance is discovered and made known to the Vendor in writing within ninety (90) days after discovery.

1.7 Parts and Service Availability: During the lifetime of the Software, Vendor must be able to provide all parts needed for service and repair of the Software within 48 hours after request or upgrade the order status to the highest shipping priority available at no additional cost to Gilbert.

1.8 Authorized Parts: All replacement parts and components shall be authorized by the Software manufacturer.

1.9 Patent Rights and Royalty Rights:

1.9.1 Patent Rights: Vendor agrees to defend Gilbert at Vendor's own expense, in all suits, actions or proceedings in which Gilbert is made a defendant for actual or alleged infringement of any United States of America or foreign patent resulting from Gilbert's use of the goods purchased from the Vendor. Vendor further agrees to pay and discharge any and all judgments or decrees that may be rendered in any such suit, action or proceedings against Gilbert.

1.9.2 Royalty Rights: Vendor agrees to indemnify and hold harmless Gilbert from any and all royalty and proprietary licenses, fees or costs, including legal costs, which may arise out of Gilbert's purchase and use of goods supplied by the Vendor.

1.9.3 Covenant Clause: It is expressly agreed by Vendor that the patent and royalty covenants are irrevocable and perpetual.

2. PROVISION OF SERVICES

2.1 Retention of the Vendor. In consideration of the mutual promises contained in this Agreement, Gilbert engages the Vendor to provide the installation, consulting, testing, training and maintenance and systems operations support services described in Exhibit B in accordance with this agreement and the Town's data standards and requirements ("Services"). The Services shall be provided in a satisfactory and proper manner, as determined by Gilbert. The Town's minimum data standards are described in Appendix 1.

2.2 Compensation for Services. All compensation for complete and satisfactory completion of Services, including its subcontractor(s), shall be set forth in Exhibit B-1 and shall not exceed $_____. Method of payment shall be set forth in Exhibit B-1. All invoices shall be for services completed. Gilbert reserves the right to deduct up to ten percent (10%) from the invoiced amount for any invoice submitted more than sixty (60) days after the services are completed. Invoices for the month of June shall be submitted on or before July 15.

Invoices submitted after the close out of the fiscal year (July 25) shall not be paid by Gilbert. Vendor shall provide to Gilbert its completed W-9 Form prior to receipt of any Compensation.

2.3 Party Representatives. Vendor's representative for the Services shall be _____ and all communications shall be directed to him. Key Vendor Personnel are set forth in Exhibit B-2. "Key Personnel" includes the Vendor employee who will place his license number and signature on key documents and those employees who have significant responsibilities regarding the Services. Prior to changing such designation Vendor shall first obtain the approval of Gilbert. Gilbert's representative shall be _____ and all communications shall be directed to him.

2.4 Vendor Subcontractor's. Vendor's subcontracts are set forth in Exhibit B-3 attached hereto and made a part hereof. Any modification to the list of Subcontractors on Exhibit B-3, either by adding, deleting or changing subcontractors, shall require the written consent of Gilbert.

2.5 Services Contract Term; Renewal: The term of this Contract for the Services shall continue through December 31, 20___ and may be renewed for up to _____ ( ) additional ___-year terms upon mutual agreement of the parties. Such renewal may be approved by written approval of Gilbert's Purchasing Officer if: (1) the renewal Contract amount does not exceed $100,000; or (2) the original prices remain in effect during the renewal term. If at least 60 days prior to the end of the original term the Vendor requests a price adjustment, Vendor shall submit evidence of increased costs to the Vendor. Any price adjustment shall be in the sole discretion of Gilbert and shall not exceed the amount of increased cost to the Vendor. Price adjustment requests shall be a factor in the Contract extension review process. A price adjustment less than 10% of the original contract price may be approved by the Purchasing Officer. The Gilbert Council must approve renewal in all other cases. Any renewal shall be in writing and shall expressly state the prices for the services during the renewal term. Any renewal shall be contingent on funds being appropriated or budgeted for the renewal term.

3. INSURANCE REPRESENTATIONS AND REQUIREMENTS

3.1 General. Vendor agrees to comply with all Gilbert ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Vendor, Vendor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to Gilbert. Failure to maintain insurance as specified may result in termination of this Agreement at Gilbert's option.

3.2 No Representation of Coverage Adequacy. By requiring insurance herein, Gilbert does not represent that coverage and limits will be adequate to protect Vendor. Gilbert reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance

deficiency shall not relieve Vendor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

3.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

3.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until the Project is complete and formally accepted by Gilbert, unless specified otherwise in this Agreement.

3.5 Primary Insurance. Vendor's insurance shall be primary insurance as respects performance of subject contract and in the protection of Gilbert as an Additional Insured.

3.6 Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Project evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.

3.7 Waiver. All policies, including Workers' Compensation Insurance, shall contain a waiver of rights of recovery (subrogation) against Gilbert, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Project related to acts or omissions of Vendor. Vendor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

3.8 Policy Deductibles and or Self Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to Gilbert. Vendor shall be solely responsible for any such deductible or self-insured retention amount.

3.9 Use of Subcontractors. If any services under this Agreement are subcontracted in any way, Vendor shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting Gilbert and Vendor. Vendor shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

3.10 Evidence of Insurance. Prior to commencing any work for the Project, Vendor shall furnish Gilbert with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Vendor's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and

effect. Acceptance and reliance by Gilbert on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to Gilbert Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Vendor's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

3.10.1 Gilbert, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

a. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent.
b. Auto Liability-Under ISO Form CA 20 48 or equivalent.
c. Excess Liability-Follow Form to underlying insurance.
d. Professional Liability /Technology Errors and Omissions Insurance.
e. Cyber Liability Insurance.

3.10.2 Vendor's insurance shall be primary insurance as respects performance of this Agreement.

3.10.3 All policies, including Workers' Compensation, waive rights of recovery (subrogation) against Gilbert, its agents, representatives, officers, directors, officials and employees for any claims arising out of acts or omissions of Vendor.

3.10.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

3.11 Required Coverage:

3.11.1 Commercial General Liability: Vendor shall maintain "occurrence" from Commercial Liability Insurance with an unimpaired limit of not less than $1,000,000 for each occurrence, $2,000,000 Products and Completed Operations Annual Aggregate, and a $2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you". If any Excess insurance is utilized to fulfill the

requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3.11.2 Professional Liability: Vendor shall maintain Professional Liability insurance covering errors and omissions arising out of the acts or omissions of Vendor, or anyone employed by Vendor, or anyone for whose acts, mistakes, errors and omissions Vendor is legally liable, with an unimpaired liability insurance limit of $1,000,000 each claims and $2,000,000 all claims. Professional Liability coverage specifically shall contain contractual liability insurance covering the contractual obligations of this Agreement. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the Project, and Vendor shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

3.11.3 Vehicle Liability: Vendor shall maintain Business Automobile Liability Insurance with a limit of $1,000,000 each occurrence on Vendor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Project by Vendor. Coverage will be at least as broad as Insurance Services Office, Inc., coverage code "1" any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3.11.4 Workers' Compensation Insurance: Vendor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Vendor's employees engaged in the performance work on the Project and shall also maintain Employer Liability Insurance of not less than $500,000 for each accident, $500,000 disease for each employee and $1,000,000 disease policy limit.

3.11.5 Professional Liability /Technology Errors and Omissions Insurance: Contractor shall provide Professional Liability /Technology Errors and Omissions Insurance covering liability for losses resulting or arising from acts, errors or omissions in rendering computer or information technology services or from programming errors, software performance, data damage/destruction/corruption; including without limitation, failure to perform, and loss from unauthorized access, unauthorized use, virus transmission, denial of service and loss of income from network security failures in connection with the work provided under this Agreement, as well as failure to perform as promised under the Agreement in the minimum limit of Five Million Dollars ($5,000,000);

3.11.6 Cyber Liability Insurance: Contractor shall provide Cyber Liability Insurance in the minimum sum of Five Million Dollars ($5,000,000) per claim for third party losses including, but not limited to: Data Breach; Crisis Management; Unauthorized Access/Use; Computer Virus; Denial of Service Attack; Denial of Access; Mistaken Administration of

Network; Improper Transmission of Data Losses, including Contingent Bodily Injury; Bodily Injury for Insureds Network Communications; Libel, Cyber-Libel, Slander; Product Disparagement; Violation of Right of Privacy; Misappropriation and Plagiarism; Intellectual Property Losses; Regulatory Costs including costs of defense; Privacy Costs-Privacy Injury and Identify Theft; Funds Transfer Fraud; Programming Errors and Omissions Liability; Replacement or Restoration of Electronic Data; Extortion Threats; Business Income and Extra Expense; Public Relations Expense; Security Breach Remediation and for all other losses for cyber exposures not covered by standard property and liability coverages.

4. INDEMNIFICATION

4.1 To the fullest extent permitted by law, the Vendor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless Gilbert, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions caused by the Vendor, its agents, employees or any tier of Vendor's subcontractors related to the acts or omissions of Vendor in the performance of this Agreement. Vendor's duty to defend, hold harmless and indemnify Gilbert, its agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting therefrom, caused by Vendor's acts, errors, mistakes, omissions in the performance of this Agreement including any employee of the Vendor, any tier of Vendor's subcontractor or any other person for whose acts, errors, mistakes, omissions the Vendor may be legally liable including Gilbert. Such indemnity does not extend to Gilbert's negligence.

4.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

5. TERMINATION OF THIS AGREEMENT

5.1 Termination. Gilbert may, by written notice to the Vendor, terminate this Agreement in whole or in part with seven (7) days' notice, either for Gilbert's convenience or because of the failure of the Vendor to fulfill his contract obligations. Upon receipt of such notice, the Vendor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to Gilbert copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Vendor in performing this Agreement, whether completed or in process. This Agreement may be terminated in whole or in part by the Vendor in the event of substantial failure by Gilbert to fulfill its obligations.

5.2 Payment to Vendor Upon Termination. If the Agreement is terminated, Gilbert shall pay the Vendor for the services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

6. ASSURANCES

6.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Vendor related to the Project to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Vendor of the Vendor's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color or national origin.

6.2 Examination of Records. The Vendor agrees that duly authorized representatives of Gilbert shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Vendor involving transactions related to this Agreement.

6.3 Ownership of Document and Other Data. Original documents and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of Gilbert unless otherwise agreed to by both parties. Gilbert may use such documents for other purposes without further compensation to the Vendor; however, any reuse without written verification or adaptation by Vendor for the specific purpose intended will be at Gilbert's sole risk and without liability or legal exposure to Vendor. Any verification or adaptation of the documents by Vendor for other purposes than contemplated herein will entitle Vendor to further compensation as agreed upon between the parties.

6.4 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, that all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

6.5 Independent Contractor. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Vendor will be an independent contractor and not Gilbert's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law. The Vendor agrees that it is a separate and independent enterprise from Gilbert, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Vendor and Gilbert, and Gilbert will not be liable for any obligation incurred by the Vendor, including but not limited to unpaid minimum wages and/or overtime premiums.

6.6 Immigration Law Compliance Warranty. As required by A.R.S. § 41-4401, Vendor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Vendor further warrants that after hiring an employee, Vendor verifies the employment eligibility of the employee through the E-Verify program. If Vendor uses any subcontractors in performance of the Contract, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Vendor is subject to a penalty of $100 per day for the first violation, $500 per day for the second violation, and $1,000 per day for the third violation. Gilbert at its option may terminate the Contract after the third violation. Vendor shall not be deemed in material breach of this Contract if the Vendor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Gilbert retains the legal right to inspect the papers of any Vendor or subcontractor employee who works on the Contract to ensure that the Vendor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

6.7 Equal Treatment of Workers. Vendor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the work. Vendor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration ("OSHA") and the Fair Labor Standards Act ("FLSA"). Vendor shall protect and indemnify Gilbert and its representatives against any claim or liability arising from or based on the violation of such, whether by Vendor or its employees.

6.8 Exclusive Use of Services - Confidentiality. The Services agreed to be provided by Vendor within this Agreement are for the exclusive use of Gilbert and Vendor shall not engage in conflict of interest nor appropriate Gilbert work product or information for the benefit of any third parties without Gilbert consent.

7. MISCELLANEOUS

7.1 Change Orders. Gilbert may, at any time, and by written change order, make changes in the Project. A form of change order is attached hereto as Exhibit C. If such changes cause an increase or decrease in the Vendor's cost or time required for the Project, an equitable adjustment shall be made and the Agreement shall be modified in writing accordingly. Any claim of the Vendor for adjustment under this clause must be submitted in writing within thirty (30) days from the date of receipt by the Vendor of the notification of change. It is distinctly

understood and agreed by the parties that no claim for extra services provided or materials furnished by Vendor will be allowed by Gilbert except as provided herein nor shall Vendor provide any services or furnish any materials not covered by this Agreement unless Gilbert first approves in writing.

7.2 Emergency Response.

7.2.1 Response. Gilbert is an emergency response organization. Vendor services or supplies may be required in case of an emergency involving a sudden, immediate threat of danger to the public health, welfare or property in Gilbert ("local emergency") or in the case where the Mayor of Gilbert, the mayor or governing body of another municipality in Maricopa County, the Maricopa County Board of Supervisors, the State, or the President of the U.S. has declared an emergency ("State of Emergency"). In the event of a local emergency or State of Emergency, Gilbert may require Vendor to provide services or supplies as rapidly as possible and to such locations as directed by Gilbert when necessary to protect the public health and welfare and/or property. Vendor shall not be required to respond to the extent response is not feasible due to Acts of God or other factors beyond its control.

7.2.2 Emergency Contact. Vendor shall provide the designated Gilbert Emergency Management Coordinator at (480) 503-6333 and the designated Gilbert representative with a contact point (name, cell phone number, e-mail and facsimile number) who can be reached on a 24 hour/7 days a week basis so that effective response can be initiated. Vendor's contact person(s) must be able to communicate with Gilbert within one (1) hour from the time the contact person is telephoned by Gilbert.

7.2.3 Payment. Vendor shall be paid a premium not to exceed 10% above the standard contract prices for any services or supplies provided in the case of an emergency, at Gilbert's direction, and shall be entitled to reimbursement of expenses not covered by the standard contract prices at a premium not to exceed 10% above actual expenses. In considering the premium to be paid, Gilbert shall consider the good-faith efforts of Vendor to respond, the timeliness of response, and any other factors deemed relevant by either of the parties. If Gilbert believes Vendor's response was adequate, the full 10% premium will be paid; if not, Gilbert, in its reasonable discretion, will pay a lesser premium.

7.2.4 Assignability. The Vendor shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of Gilbert thereto.

7.3 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

7.4 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

GILBERT: CONTRACTOR:

Town Manager
Town of Gilbert
50 East Civic Center Drive
Gilbert, Arizona 85296

The address may be changed from time to time by either party by serving notices as provided above.

7.5 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

7.6 Order to Suspend. Gilbert may order the Vendor, in writing, to suspend all or any part of the Contract for such period of time as he may determine to be appropriate for the convenience of Gilbert. If the performance of all or any part of the work for the Project is, for any unreasonable period of time, suspended or delayed by an act of Gilbert in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance was suspended or delayed for any other cause, including the fault or negligence of the Vendor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Agreement.

7.7. Interests Benefits

7.7.1 Interest of Vendor. The Vendor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work related to the Project. The Vendor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

7.7.2 Interest of Town Members and Others. No officer, member or employee of Gilbert and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the work related to the Project, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

7.8 Notice Regarding A.R.S. § 38-511. This Contract is subject to cancellation under Section 38-511, Arizona Revised Statutes.

IN WITNESS WHEREOF, Gilbert and the Vendor have executed this Agreement as of the date first written.

TOWN OF GILBERT

By: _____

_____, Mayor

ATTEST:

By: _____
Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

By: _____
Christopher W. Payne
Town Attorney

VENDOR

By: _____

Its: _____

EXHIBIT A TO CONTRACT FOR SOFTWARE AND SERVICES
SOFTWARE TO BE PURCHASED

EXHIBIT A-1 TO CONTRACT FOR SOFTWARE AND SERVICES

DELIVERY SCHEDULE

EXHIBIT A-2 TO CONTRACT FOR SOFTWARE AND SERVICES

SOFTWARE PRICE

EXHIBIT A-3 TO CONTRACT FOR SOFTWARE AND SERVICES

SOFTWARE LICENSE

EXHIBIT B TO CONTRACT FOR SOFTWARE AND SERVICES

[SERVICES WILL VARY DEPENDING ON THE PROJECT. THE FOLLOWING TRACTS THE RFP FORM.]

Installation:

Consulting:

Testing:

Training:

Maintenance:

Systems operations support:

EXHIBIT B-1 TO CONTRACT FOR SOFTWARE AND SERVICES
COMPENSATION FOR SERVICES AND METHOD OF PAYMENT

EXHIBIT B-2 TO CONTRACT FOR SOFTWARE AND SERVICES
VENDOR'S KEY PERSONNEL

EXHIBIT B-3 TO CONTRACT FOR SOFTWARE AND SERVICES
SUBCONTRACTORS

EXHIBIT C TO CONTRACT FOR SOFTWARE AND SERVICES

CHANGE ORDER

CHANGE ORDER NO. _____

Distribution: GILBERT [ ]

VENDOR [ ]

OTHER [ ]

PROJECT: _____ DATE:

OWNER: Town of Gilbert

VENDOR:

AGREEMENT DATED:

CHANGES: The Agreement is changed as follows:

Not valid until signed by both Gilbert and Vendor.

Signature of Vendor indicates acceptance.

The original compensation was _____

Net change by previously authorized Change Orders_____

The compensation prior to this Change Order was _____

The compensation will be increased by this Change Order in the amount of _____

The new compensation under the Agreement including this Change Order will be _____

The Contract Time will increase by _____

ACCEPTANCE STATUS:

_____	_____
Vendor	Town of Gilbert
By _____	By _____
Date _____	Date _____

Appendix 1 – Minimum Data Standards

"Town Data" means information, content, and other materials stored or transmitted by the Town and any authorized user through the services or submitted or made available by Gilbert or its agents, customers, suppliers, contractors, and outsourcers in connection with the agreement. Town Data includes PII.

"Data Protection Law(s)" mean any or all applicable laws, standards and regulations governing Personal Identifiable Information (PII), as may be amended or enacted from time to time, including, but not limited to: the EU General Data Protection Regulation 2016/679 ("GDPR"); any national laws which implement the GDPR; the UK Data Protection Act 2018; the U.S. Health Insurance Portability and Accountability Act ("HIPAA"); the U.S. Gramm-Leach-Bliley Act ("GLBA"); the California Consumer Privacy Act of 2018 ("CCPA"); the Canadian Personal Information Protection and Electronic Documents Act ("PIPEDA"); the Payment Card Industry Data Security Standard ("PCI DSS"); all rules, policies, and procedures of the NCIC of the Federal Bureau of Investigation (FBI), the National Law Enforcement Telecommunications System (NLETS), and the State of Arizona Central State Repository (Records and Identification Bureau) and for the Arizona Criminal Justice Information System (ACJIS) under the authority of Arizona Revised Statutes (A.R.S.) §§ 41-2205 *et seq*., 41-1750, 41-1751, 41-2405 and 41-2204 ; Arizona laws governing data and confidential information including but not limited to Arizona Revised Statutes §§ 44-7501 and §44-7601; the Town of Gilbert's data standards including but not limited to the Gilbert's Written Information Security Program (WISP) or Gilbert's Data Classification and Handling Standard; any fair information practices for handling, storing or managing data with privacy, security, and fairness that are incorporated into the foregoing or any other applicable laws or regulations; and, where applicable, any guidance and codes of practice issued by any standards authority or government regulator or authority established in a particular jurisdiction which govern the Processing of Personal Information.

"Personally identifiable Information" or "PII" or Protected Data means Arizona Criminal Justice Information System (ACJIS) records, Central State Repository (CSR) records, Arizona Automated Fingerprint Identification System (AZAFIS) records, and any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person; personal Information includes information that could reasonably be linked, directly or indirectly, or inferred, with a particular consumer or household. "PII" also refers to financial account information, protected health information, restricted Town information, and other information or data deemed confidential under Arizona law or federal laws, whether in electronic format or other format.

1. Compliance with Data Protection Laws. Contractor shall comply with all Data Protection Laws and the requirements of this Appendix 1.

2. *Termination for Violation of any Data Protection Laws*. In addition to the termination rights specified in the agreement, the Town may terminate the agreement for a violation of a Data Protection Law, without liability, in whole or in part, as of the date specified in such notice.

3. *Contractor's Responsibilities upon Notice of Termination*. Upon receipt of a notice of termination, Contractor shall at no cost to Gilbert: take all actions necessary for the protection and preservation of any Town Data in the possession or control of Contractor or its subcontractors ; negotiate in good faith with Town on any applicable equitable adjustments to unpaid amounts as a result of a partial termination of services; and discontinue providing work under the agreement upon the date of termination and to the extent specified in the notice of termination; to the Town any and all Town Data in the care or custody of Contractor or its contractors in a Readily Usable Format by unloading Town Data to a local physical server in Gilbert across the VPN connection between vCloud; providing documentation to Gilbert of the data linkages such that will enable Gilbert to link the data back together; and supply a complete high-level inventory of logs of Town Data retained by or on behalf of Contractor; and certify the destruction of all PII within possession of Contractor and its subcontractors. Unless different format(s) are mutually agreed by the Town and Contractor, "readily useable format" means in a CSV format with primary keys, where available to enable the reconstruction of the data into a database that Gilbert can run reports against to extract accurate information from the data. Should Gilbert decide to transition to a replacement vendor, Contractor will reasonably cooperate with the town to ensure an orderly and efficient transition of Town Data to the replacement vendor.

4. *Data Security*. Contractor agrees and represents that it currently maintains information protection practices and procedures ("**Security Program"**) that comply with industry best practice and all Data Protection Laws. Contractor's Security Program shall include, at a minimum: (a) Appropriate administrative, technical, and physical safeguards and other security measures designed to ensure the security and confidentiality of Town Data; (b) A security design intended to prevent any compromise of its own information systems, computer networks or data files by unauthorized users, viruses, or malicious computer programs; (c) Appropriate internal practices including, but not limited to, encryption of data in transit or at rest; using appropriate firewall and antivirus software; maintaining these countermeasures, operation systems and other applications with up-to-date virus definitions and security patches so as to avoid any adverse impact to systems or information; appropriate logging and alerts to monitor access controls and assure data integrity and confidentiality; installing and operating security mechanisms in the manner intended sufficient to ensure the Town's business operations are not be disrupted; permitting only authorized users access to systems and applications; and preventing unauthorized access to the Town's systems via the Contractor's networks and access codes; and (d) All persons with authorized access to Town Data shall have a documented genuine business need-to-know prior to access. Contractor shall maintain a level of security certification consistent with best practices and by a qualified third party reasonably acceptable to Gilbert. Such certifications shall be provided to Gilbert as reasonably requested by Gilbert. The obligations

to protect Town Data and to prevent disclosure of Town Data to third parties shall survive the expiration or termination the contract.

5. *Breaches and Suspected Breaches*. Contractor shall promptly notify Gilbert's CISO, by emailing infosec@gilbertaz.gov, in the event that Contractor becomes aware of: (i) any confirmed breach of Data Protection Laws by Contractor or any of its sub-processors in connection with the agreement; (ii) any breach of this Contract; or (iii) an actual security breach on devices or systems hosting Town Data or otherwise being used to deliver services. If any of the foregoing events occur, Contractor shall conduct a thorough investigation of such incident, document the steps for any needed remediation, provide the results of its analysis to Gilbert's CISO promptly following the investigation. In the event of an actual breach, contractor shall assign one or more of its employees, and communicate to Gilbert the name(s) of such employees, to manage security breach communications. In the event of an actual breach, Contractor will be available to Gilbert as required, to facilitate and respond to issues related to an actual breach and to provide updates to Gilbert on the status of an incident response. During the project implementation period, the Parties will discuss incident response plans. In case of a breach or critical breach of Town Data that is caused by Contractor or its contractors, the Town will have the authority to decide in conjunction with Contractor whether the Town or the Contractor will inform the individuals suspected to have been affected by any such breach.

6. *Training and Supervision***.** Contractor represents that it maintains adequate training and education programs to ensure that its employees and any others acting on its behalf are aware of and adhere to its Security Program. Contractor shall exercise necessary and appropriate supervision over its employees and any others acting on its behalf to maintain appropriate confidentiality and security of Town Data.

7. *Third Parties***.** Contractor shall not share, transfer, disclose, or otherwise provide access to any Town Data, to any third party unless expressly authorized by Gilbert in writing. In no event shall Contractor sell Town Data. Contractor will ensure that any third party it may authorize to perform any of the services required by its agreement with Gilbert shall be obligated to have a Security Program equivalent to that required of the Contractor (which includes all terms of the contract). Further, regarding any Data Incident, Contractor shall contractually preserve for Gilbert all such rights as Gilbert has in Section 6 above. Regarding audit rights, Contractor shall contractually preserve for Gilbert all such rights as Gilbert has in Section 8 below. Contractor may share Town Data to comply with legal process, but only after prior written notice to Gilbert. Contractor shall only retain third parties that are capable of performing the delegated obligations in accordance with the contract.

8. *Audit***.** At Gilbert's request, Contractor will provide Gilbert copies of its data privacy and security policies and procedures that apply to Town Data. Subject to reasonable notice, Contractor shall allow Gilbert to conduct a privacy and security audit of Contractor's Security Program and systems and procedures that are applicable to the services provided by Contractor to Gilbert. Such audit may be conducted on-site by Gilbert personnel or Gilbert

contracted third party or through surveys and interviews, at the option of Gilbert. In the event that Contractor has any security audits or review of its own systems performed by Contractor or a third party, including vulnerability and penetration assessments, it will give Gilbert notice of any current findings that are likely to adversely impact Town Data and will keep Gilbert timely informed of its remediation efforts. If the audit reveals any vulnerability, Contractor shall correct such vulnerability at its sole cost and expense and shall certify the same in writing to Gilbert. Contractor shall use best efforts to correct all vulnerabilities immediately but no later than within thirty (30) days of completion of the audit, unless Gilbert agrees in writing otherwise. Contractor's failure to procure audits or to complete corrections in a timely manner will be a material breach of the agreement.

9. *Indemnification***.** Contractor shall indemnify, defend and hold harmless Gilbert from and against all claims, losses, liabilities, damages, including consequential damages,, suits, actions, government procedures, taxes, penalties or interest, associated auditing and legal expenses, notification and response costs relating to any Data Incident and other costs incurred by Gilbert arising from Contractor's failure to comply with the contract. Contractor's indemnification obligations under this Section are not subject to any limitation of liability provision in the agreement and shall survive termination of the agreement. The indemnification obligation shall survive the expiration or termination of the agreement.