



County of Fairfax, Virginia

AMENDMENT

Date: **JUL 5 - 2018**

AMENDMENT NO. 16

CONTRACT TITLE: Enterprise Resource Planning (ERP) System/Software

CONTRACTOR

SAP Public Services, Inc.
3999 West Chester Pike
Newtown Square, PA 19073

SUPPLIER CODE


1000012120

CONTRACT NO.

4400000162

By mutual agreement, Contract 4400000162 is amended to incorporate the attached Software License and Support Agreement, Software Order Form No. 13.

All other terms and conditions remain the same.


for Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Finance – Accounts Payable/e
Contract Specialist – L. Robinson
DIT – Sam Nandi/e

Contractor
ACS, Team 1 – J. Waysome-Tomlin

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/procurement
Phone (703) 324-3201, TTY: 711, Fax: (703) 324-3228



SOFTWARE LICENSE AND SUPPORT AGREEMENT
Software Order Form No. 13 ("Order Form")
effective as of the date of last signature below ("Effective Date")

between

SAP Public Services, Inc.
3999 West Chester Pike
Newtown Square, PA 19073
("SAP")

And

Fairfax County
12000 Government Center Pkwy
Fairfax, VA, 22035-0002
United States
(hereinafter "Licensee")

PREAMBLE:

SAP and Licensee agree that this Order Form is hereby annexed to and made a part of the SAP Software License Agreement between SAP America, Inc. and Licensee effective August 13, 2009 ("Agreement"). For purposes of this Order Form, all references to the term "Appendix" or "Appendices" under the Agreement shall be replaced by the term "Order Form". In each instance in which provisions of this Order Form contradict or are inconsistent with the provisions of the Agreement, the provisions of this Order Form shall prevail and govern.

1. **LICENSED SOFTWARE AND FEES.** The Software licensed to Licensee pursuant to this Order Form and the associated fees are identified in Schedule 1. All license fees are net after discount, if applicable. The total net license fees identified in Schedule 1 and payable under this Order Form are 150,937.50 USD which shall be invoiced upon execution of this Order Form.

If Licensee has an affiliate or subsidiary with a separate agreement for SAP software licenses and/or support services, with SAP SE, any SAP SE affiliate (including SAP) and/or any other distributor of SAP software, the Software shall not be Used to run such affiliate's or subsidiary's business operations and such affiliate or subsidiary shall not receive any support services under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed in writing by the parties.

2. **SAP SUPPORT SERVICES AND FEES:** SAP and Licensee agree that SAP "Enterprise Support" is the applicable SAP Support offered by SAP for the Software licensed under this Order Form as set forth in the SAP Support Schedule to the Agreement.

SAP Support Fees shall commence as of the first day of the month following the Effective Date of this Order Form. The initial term of SAP Support shall begin on the Effective Date and continue for the remainder of the current calendar year and the next full calendar year (except in cases of an Effective Date commencing on January 1 of a respective calendar year, in which case the initial term will run until December 31st of the respective calendar year) ("Initial Term"). After the Initial Term and subject to the Agreement and SAP Support Schedule, SAP Support shall renew at the beginning of each calendar year for the subsequent one year period. SAP Annual Support Fees shall be paid annually in advance and shall be as specified below.

The SAP Enterprise Support Fee for the Software licensed under this Order Form is priced at the then current annual SAP Enterprise Support Factor in effect (currently 22%) multiplied by the total Maintenance Base (set forth in the Schedule 1 as "Maintenance Base") for the licensed Software stated in Schedule 1. The current annual SAP Enterprise Support Fee for the Software licensed under this Order Form is set forth in Schedule 1 as the "Annual Support Fee". SAP agrees that the SAP Enterprise Support Factor shall remain at 22% until December 31, 2020. Until December 31, 2021 Licensee's SAP Enterprise Support Fee hereunder shall not be increased from the prior year more than the percentage increase in the Consumer Price Index (CPI), over the twelve month period prior to such increase. Thereafter, the SAP Enterprise Support Fee is subject to change once during a calendar year upon three (3) months' notice to Licensee and SAP may increase Licensee's Enterprise Support Fee hereunder from the prior year by the percentage increase in the Consumer Price Index (CPI), applied on a cumulative year-over-year basis starting from either the effective date of this Order Form or the date of Licensee's last SAP Enterprise

Support Fee increase, whichever occurred later. CPI as used herein means "U.S. Consumer Price Index for all Urban Consumers, U.S. City Average - All Items 1982-1984 = 100 Base for a twelve (12) month period prior to such increase as published by the Bureau of Labor Statistics".

Not raising fees in any given year or years is not a waiver of SAP's right to do so. SAP Support Fees are invoiced on an annual basis effective January 1 of a calendar year. Any SAP Support Fees due prior to January 1 are invoiced on a pro-rata basis for the given calendar year in effect. SAP Support Fees will increase as additional software is licensed.

SAP Solution Manager is available to all SAP Support customers to the extent stated in the applicable SAP Support schedule, but does not currently interface with selected SAP BusinessObjects portfolio products.

3. **PAYMENT TERMS:** All fees are in USD. All payment terms for Software and Support are net thirty (30) days from date of invoice.
4. **DELIVERY:** Delivery of all Software licensed hereunder will be made by making such Software available for download or other electronic transmission to Licensee's location at: 12000 Government Center Pkwy, 22035-0002 Fairfax, VA, United States ("Delivery Location").

Licensee acknowledges having received the remote access information listed below allowing download of the Software through the SAP ServiceMarketplace (<http://service.sap.com/swdc>):

USER ID: **S0008989327**
INITIAL PASSCODE: **PW6MFTYI**

Licensee confirms that it has access to SAP Service Marketplace as required to download the Software licensed under this Agreement.

Licensee agrees not to request any physical delivery of Software or Support Services and should it occur that any such delivery will be rejected by Licensee. Licensee agrees and understands that the calculation of Taxes may be affected by the delivery method and Delivery Location of the Software and corresponding SAP Support.

5. **LICENSED SOFTWARE:** The Software licensed to Licensee pursuant to this Order Form consists of the component(s) identified in Schedule 1. Only individuals licensed as Named Users under the Agreement are permitted to Use the Software and third party software licensed under the Agreement. Such Use shall be in accordance with their respective Named User type, the identified Licensed Level, and the terms of this Order Form. Each Software product licensed hereunder may be referred to as a "Package". At SAP's request, Licensee shall deliver to SAP a report, as defined by SAP, evidencing Licensee's usage of the Software.

Licensed SAP Software may utilize limited functionality of other SAP Software products ("SAP Runtime Software"). Unless Licensee has expressly licensed the SAP Runtime Software (under this or a separate Order Form), Licensee's Use of such SAP Runtime Software is limited to access by and through the licensed SAP Software for the sole purpose of enabling performance of the licensed SAP Software. In the event Licensee Uses the SAP Software to build and/or operate a custom developed or third party application, additional license fees may be required.

There are no applicable country/language specific versions licensed by Licensee from SAP hereunder.

If Licensee has an affiliate or subsidiary with a separate agreement for SAP software licenses and/or support services, such affiliate or subsidiary shall not be licensed under this Agreement even if such separate agreement has expired or is terminated, unless otherwise agreed to in writing by the parties.

6. **PRODUCT SPECIFIC TERMS AND METRIC TYPES.** The following product specific terms and metric types apply to the Software licensed under this Order Form as applicable. In the event of a conflict or inconsistency between Schedule 1 and this Section 7, Schedule 1 shall take precedence.

6.1 SAP SOFTWARE

Business Intelligence (BI) Suite ^(a):

"X" if licensed	Software	License Metric	Licensed Level
X	SAP BusinessObjects Enterprise, professional edition ^{(b) (c) (d)}	User ⁽¹⁾	50
X	SAP BusinessObjects Enterprise, professional edition ^{(b) (e) (d)}	Concurrent Session ⁽²⁾ (Units of 10)	5

(a) SAP NetWeaver Foundation Runtime License. An application-specific runtime license of SAP NetWeaver Foundation is included with all Software Package licenses provided that SAP NetWeaver is delivered with the software. This runtime license grants the Licensee the right to Use SAP NetWeaver Foundation only with (i) the licensed SAP application (including customization), (ii) Modifications (iii) Add-Ons to the SAP application that do not access the information contained in the database of the SAP applications, and (iv) third party applications that do not access the information contained in the database of the SAP applications. Licensee's Developer Users may Use the tools included in SAP NetWeaver Foundation runtime license only for the development of these Modifications and Add-Ons described above. Licensee's Use of the Planning Application Kit to develop planning applications that leverage in-memory processing of core planning functions requires a separate license for the applicable version of SAP Business Planning and Consolidation.

(b) For a single deployment of SAP BusinessObjects BI platform only one edition may be used: either the SAP BusinessObjects Enterprise, standard edition, professional edition, or premium edition.

Oracle OLAP Data Provider for SAP BusinessObjects BI (OODP). Licensee's license rights for SAP BusinessObjects Enterprise include a runtime license for the OODP. Licensee's Use of the OODP Runtime Software is limited solely to connecting SAP BusinessObjects BI software both directly and indirectly to Oracle OLAP Data. It cannot be used to provide data to non-SAP products or those outside the BI and Predictive Analytics Suite.

SQL Anywhere. Licensee's license rights for SAP BusinessObjects Enterprise include a runtime license for the SQL Anywhere database.

(c) User Metric Limitations. One User can create a maximum of 10 simultaneous sessions.

(d) SAP BusinessObjects Enterprise, professional edition includes the following Runtime Software:

- SAP BusinessObjects BI SDK - the use of any SAP BusinessObjects BI SDK in any commercial software product for the purposes of connecting data accessed via SAP BusinessObjects semantic layers or documents with third party products is prohibited without the written consent of SAP. The use of any SAP BusinessObjects BI SDK in any commercial software product for the purposes of converting SAP BusinessObjects content or metadata to third party products is not allowed without the written consent of SAP.
- SAP IQ which can be deployed on multiple instances, so long as total number of cores deployed across all instances does not exceed 8 cores
- Data Integrator (DI) which may be deployed on multiple instances, so long as total number of cores deployed across all instances does not exceed 8 Cores, and the DI instances are not clustered. Use of the Data Integrator runtime (i) does not include Text Data Processing and (ii) may only load data into one target datastore.
- One Concurrent Session license of SAP PowerDesigner EnterpriseArchitect.

(e) Concurrent Session Metric Limitations. The following such Use rights are not available with Concurrent Session licenses.

- Use of Business View Manager, Report Conversion Tool, Universe Design Tool, Web Service Query Tool, Information Design Tool, Translation Management Tool, Data Federation Administration Tool, Central Management Console, and/or Central Configuration Manager
- Use of the Crystal Reports desktop client, and/or Crystal Reports for Enterprise desktop client
- Use of the Web Intelligence Rich Client
- Use of the Dashboards desktop client
- Use of the SAP Lumira desktop client
- Use of the SAP BusinessObjects Design Studio desktop client, SAP BusinessObjects Design Studio runtime for SAP BW, and/or SAP BusinessObjects Design Studio runtime for SAP HANA
- Use of Analysis edition for Microsoft Office with the SAP NetWeaver platform

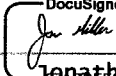
(1) **Users** are individuals who Use the Software. A "User" included in the Metric count cannot be assigned to more than one individual.

- For SAP Business Intelligence (BI). There is no license limit on number of processors or servers used. Users are identified at logon and do not consume a Concurrent Session license. Concurrent Session licenses and Users can be purchased in combination for a Deployment. Licensee may not utilize any program or system to cache or queue report requests. SAP BI users may be entered into the SAP NetWeaver BW system for the purposes of maintaining security. This metric does not replace the overall SAP Named User licensing requirement.

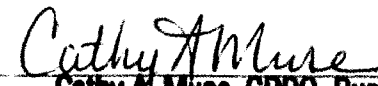
(2) **Concurrent sessions** are the aggregated numbers of sessions accessing the licensed Software at any one time. A session refers to the time between logon and logoff or time out where a unique user, application or platform accesses the licensed Software either directly or indirectly via a custom application. The number of sessions accessing each deployment must be limited by corresponding license key mechanisms. The maximum number of sessions enabled on a deployment by such limitations may not exceed the Licensed Level for the number of Concurrent Sessions assigned to that deployment for such licensed Software product. The aggregate number of sessions enabled on all deployments may not exceed the Licensed Level of Concurrent Sessions. There is no license limit on number of processors or servers used. Licensee may not utilize any program or system to cache or queue report requests. SAP BusinessObjects BI users accessing any deployment using a Concurrent Session license may be entered into the SAP NetWeaver BW system for the purposes of maintaining security.

7. **PUBLICITY:** In consideration of the additional Software discount, Licensee agrees to participate in reference activities for the Software including but not limited to reference calls and stories, press testimonials, site visits, SAPPHIRE participation, etc., at times mutually agreeable to the parties. SAP will make reasonable efforts to avoid having the reference services unreasonably interfere with Licensee's business.
8. **VALIDITY OF OFFER:** The validity of this offer will expire on **June 30, 2018**, unless sooner executed by Licensee, or extended in writing by SAP.

Accepted By:
SAP Public Services, Inc.
 (SAP)

DocuSigned by:

 Name: Jonathan Miller
 Title: Corporate Counsel
 Date: June 28, 2018

Accepted By:
Fairfax County
 (Licensee)


 Name: Cathy A. Muse, CPPO, Purchasing Agent
 Title: Fairfax County, Virginia
 Department of Procurement
 and Material Management
 Date: 6/27/18

DS


Customer Information	
Customer Name	Fairfax County
Net License Fee	150,937.50 USD
Support Type	SAP Enterprise Support
Support Percent %	22.00%
BSI Support Percent %	N/A
Maintenance Base	150,937.50 USD
Annual Support Fee	33,206.25 USD

Software Breakdown						
Product	TPP	SAV	License Metric	Blocks of (units)	License Quantity	Net License Fee
SAP BusinessObjects Enterprise, professional edition (CS)			Concurrent sessions	10	5	115,000.00
SAP BusinessObjects Enterprise, professional edition (user)			Users	1	50	35,937.50

Legend:

TPP- Third Party Product: 'X' indicates the software product is a Third Party Product licensed from SAP

SAV-SAP Application Value: "X" indicates that the product is part of the SAP application value and thus relevant for runtime databases licensed by SAP.