



County of Fairfax, Virginia

AMENDMENT

Date: JUN 22 2020

AMENDMENT NO. 18

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. 15.

All other terms and conditions remain the same.

Steve Pierson, CPPB
Contracts Manager

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Finance – Accounts Payable/e
DIT – Hildegard Kjersgard/e
DIT – George Coulter/e

Contractor – david.gust@sap.com
Cathleen.kiscaden@sap.com
ACS, Team 1 – Cynthia Parker
Contract Specialist – Jamie Pun



**Software Order Form No. 15 ("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")**

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 FEES.** The Software products 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 \$1,200,000.00 USD which shall be invoiced upon execution of this Order Form and is payable net thirty (30) days from date of invoice.
- 2. SAP SUPPORT SERVICES AND FEES:** SAP and Licensee agree that SAP Enterprise Support is the applicable support ("SAP Support") offered by SAP for the Software licensed under this Order Form as set forth in the applicable 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% for the Initial Term and first renewal. 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 allowing download of the Software through the SAP ServiceMarketplace (<https://support.sap.com/swdc>) and 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. **DATABASE:** The Software licensed hereunder may require a database product. This Agreement does not contain a license to use any database product, even where integrated or pre-installed as part of the Software. Except for the SAP HANA database(s) licensed pursuant to Schedule 1 hereof, this Agreement does not contain a license to use any database product, even where integrated or pre-installed as part of the Software.

Each database product is subject to its respective vendor license agreement. SAP makes no representations or warranties as to the terms of any license or the operation of any database product obtained directly from a third-party vendor by Licensee. Licensee is responsible for support and maintenance of any database product obtained from a third-party vendor, and SAP has no responsibility in this regard.

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, 2020**, unless sooner executed by Licensee, or extended in writing by SAP.

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

By: _____

Title: _____

Date: _____

Accepted by:
Fairfax County
(Licensee)

By:  _____

Title: **Steve Pierson, CPPB**
Contracts Manager

Date: 6/16/2020

Schedule 1 to Order Form	
Net License Fee	1,200,000.00 USD
Support Type	SAP Enterprise Support
Support Percent %	22.00%
Maintenance Base	1,200,000.00 USD
Annual Support Fee	264,000.00 USD

Software Licensed						
Product	TPP	SAV	License Metric	Blocks of (units)	License Quantity	Net License Fee
SAP HANA, enterprise edition		X	GB of Memory	64	21	1,200,000.00

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.