CITY OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT FOR INTIME SCHEDULING SOFTWARE WITH INTIME SERVICES INC.

This AGREEMENT is made at Fairfield, California, as of _____ 2024 (the "Effective Date"), by and between the City of Fairfield, a municipal corporation (the "City") and inTime Services Inc. ("Service Provider"), who agree as follows:

1) <u>SERVICES</u>. Subject to the terms and conditions set forth in this Agreement, Service Provider shall provide to the City the services described in Exhibit "A" (the "Scope of Services"), which consists of the following: (a) Exhibit A-1 – Statement of Work, (b) Exhibit A-2 – Services, (c) Exhibit A-3 – Service Level Agreement. Service Provider shall provide Services at the time, place, and in the manner specified in Exhibit "A."

2) <u>PAYMENT</u>. City shall pay Service Provider for the services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to Service Provider for services rendered pursuant to this Agreement. Service Provider shall submit all billings for said services to the City in the manner specified in Exhibit "B."

3) <u>FACILITIES AND EQUIPMENT</u>. Service Provider shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing Services pursuant to this Agreement.

4) <u>COMPLETE AGREEMENT</u>. The provisions set forth in Exhibits "A," "B," "C,", "D," and "E" are part of this Agreement. In the event of any inconsistency between the general provisions of Exhibit "C" and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control. All provisions in this Agreement control over any provision in Exhibit "A." In the event of a disagreement among the documents comprising Exhibit "A," Exhibit A-1 controls over Exhibits A-2.

5) <u>INSURANCE REQUIREMENTS</u>. The insurance requirements set forth in Exhibit "D" are part of this Agreement. Notwithstanding any other provision to the contrary, in the event of any inconsistency between any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.

6) <u>BUSINESS LICENSE.</u> The SERVICE PROVIDER shall obtain and keep current a business license for work within the City of Fairfield pursuant to Chapter 10B of the Fairfield City Code, with respect to the gross receipts received pursuant to this Agreement. No payments shall be made to any SERVICE PROVIDER until such business license has been obtained, and all fees paid therefore, by the SERVICE PROVIDER. Business license applications and information may be obtained from the Community Development Department, Fairfield City Hall, 1000 Webster Street, Fairfield, CA 94533-4883, (707-428-7509) and online at www.fairfield.ca.gov/biz.

7) <u>EXHIBITS</u>. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

City OF FAIRFIELD
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8) TERM. This Agreement shall be effective upon the Effective Date and shall remain in effect for a period of five (5) years following the Effective Date (the "Initial Term"). Following the Initial Term, this Agreement shall automatically renew for additional one (1) year terms, unless terminated pursuant to this Agreement or the City Manager, or his/her designee, provides Service Provider written notice of the City's intent to not renew the Agreement.

9) Where applicable, vehicles with a GVWR greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at ***https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets***

EXECUTED as of the day first above-stated.

City of Fairfield, a municipal corporation

By: _____
(signature)

Printed: _____

inTime Services Inc.

By: _*Jason de Boer*_____
(signature)

Printed: Jason de Boer, VP Sales _____

City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

EXHIBIT "A"

<u>SCOPE OF SERVICES</u>

Services are described more particularly in the following exhibits, which comprise this Exhibit A:

Exhibit A-1 – Statement of Work
Exhibit A-2 – Services
Exhibit A-3 – Service Level Agreement
Exhibit A-4 – Payroll Integration Statement of Work

Exhibit "A-1"

Statement of Work

1.0 DEFINITIONS: In this Agreement, the following terms have the following meanings, and all other capitalized terms have the meaning given to them elsewhere in this Agreement:

1.01 "Authorized Persons" as used in this document means the Service Provider's employees, contractors, subcontractors or other agents who need to access the City's personal data to enable the Service Provider to perform the services required.

1.02 "Data Breach" as used in this document means the unauthorized access by non-authorized person/s that result in the use, disclosure or theft of a City's unencrypted personal data.

1.03 Not applicable"

1.04 "Non-Public Data" means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the City because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

1.05 "Personal Data" means data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g. Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.

"**Personally Identifiable Information**" **(PII)** PII refers to a combination of data elements (e.g. Social Security number, driver's license or other government- issued identification number, passport number, financial account number, or credit or debit card number in combination with security codes) that, when linked to the individual's first name or first initial and their last name, and not encrypted or otherwise could lead to the loss, theft or unauthorized use of the individual's personal information.

1.10 "City Data" as used in this document means all data created or in any way originating with the City, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the City, whether such data or output is stored on the City's hardware; the Service Provider's hardware or exists in any system owned, maintained or otherwise controlled by the City or by the Service Provider.

1.11 "**City Identified Contact**" means the person or persons designated in writing by the City to receive security incident or breach notification.

1.12 "**Security Incident**" means the potentially unauthorized access by non-authorized persons to personal data or non-public data that could reasonably result in the use, disclosure or theft of a City's unencrypted personal data or non-public data within the possession or control of a Service Provider. A security incident may or may not turn into a data breach.

1.13 "**Service Level Agreement**" **(SLA)** is as referenced in Exhibit A-3.

1.14 "**Service Provider**" means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

1.15 "**Software-as-a-Service**" **(SaaS)** means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure, including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

1.16 "**Statement of Work**" is a written statement in a solicitation document or contract that describes the City's service needs and expectations.

1.17 "**Confidential Information**" means information concerning any information relating to the business and technology of either party which is not generally available to third parties and which is treated by the parties, in accordance with their policies, as confidential information or a trade secret and specifically includes the Services, either parties business processes, information about either parties customers or users in any manner, shape or form or other like information. For the purposes of this Agreement, a party disclosing Confidential Information is a Discloser and the party receiving Confidential Information is a Recipient. Confidential Information does not include information which is:

a) at the time of disclosure, or thereafter becomes part of the public domain without any violation of this Agreement by the Recipient;

b) already in the Recipient's possession before disclosure of such information to the Recipient by the Discloser;

c) following the Effective Date is furnished to the Recipient by a third party without that third party being in breach directly or indirectly of an obligation to the Discloser to keep such information secret confidential and secret; and

    d) developed independently by the Recipient without use of Discloser's Confidential Information as evidenced by reasonably detailed written records.

1.18 **"City"** means the City of Fairfield.

1.19 **"Proposal"** means the document provided by InTime to City containing a price quote, setting out the term and if applicable, specifying applicable governing law.

1.20 **"Support"** means technical support provided by InTime to City relating to City's use of the Services, on a remote basis by telephone, e-mail, and fax, and optionally at the City's site, and is subject to the availability of support personnel and facility infrastructure services Such support includes problem diagnosis, consultation, dial-in diagnosis services, and problem resolution with the Support levels defined in Exhibit A-3.

2.0   DESCRIPTION OF SERVICES

2.1   Scope of Services

The scope of services to be performed by Service Provider under this Agreement is as described in this Statement of Work in Exhibit A of this Agreement.

2.2   Data Ownership

The City will own all right, title and interest in its data that is related to the services provided by this contract. SERVICE PROVIDER shall not access City user accounts or City data, except

(1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the City's written request.

2.3   Data Protection

Protection of personal privacy and data shall be an integral part of the business activities of the Service Provider to ensure there is no inappropriate or unauthorized use of City information at any time. To this end, the Service Provider shall safeguard the confidentiality, integrity and availability of City information and comply with the following conditions:

    a. The Service Provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Service Provider applies to its own personal data and non-public data of similar kind.

    b. All data obtained by the Service Provider in the performance of this contract shall become and remain the property of the City.

    c. All personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Service Provider

is responsible for encryption of the personal data. Any stipulation of responsibilities will identify specific roles and responsibilities and shall be included in the service level agreement (SLA), or otherwise made a part of this contract.

d. Unless otherwise stipulated, the Service Provider shall encrypt all non-public data at rest and in transit. The City shall identify data it deems as non-public data to the Service Provider. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.

e. At no time shall any data or processes – that either belong to or are intended for the use of a City or its offers, agents or employees – be copied, disclosed or retained by the Service Provider or any party related to the Service Provider for subsequent use in any transaction that does not include the City.

f. The Service Provider shall not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.

2.4   Data Location

The Service Provider shall provide its services to the City and its end users solely from data centers in the U.S. Storage of City data at rest shall be located solely in data centers in the U.S and Canada. The Service Provider shall not allow its personnel or contractors to store City data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The Service Provider shall permit its personnel and contractors to access City data remotely only as required to provide technical support. The Service Provider will provide support in the manner set out in Exhibit A-3

2.5   Security Incident

Service Provider shall inform the City of any security incident or data breach.

a. Incident Response: The Service Provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the City should be handled on an urgent as-needed basis, as part of Service Provider communication and mitigation processes as mutually agreed upon, defined by law or contained in this Agreement. This will be accomplished on a best efforts basis having regards to industry standards.

b. Security Incident Reporting Requirements: The Service Provider shall report a security incident to the appropriate City identified contact promptly.

c. Breach Reporting Requirements: If the Service Provider has actual knowledge of a confirmed data breach that affects the security of any City content that is subject to applicable data breach notification law, the Service Provider shall (1) promptly notify the appropriate City identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and

(2) take commercially reasonable measures to address the data breach in a timely manner.

2.6 Breach Responsibilities

This section only applies when a data breach occurs with respect to personal data within the possession or control of the Service Provider.

a. The Service Provider, unless stipulated otherwise, shall promptly notify the appropriate City identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The Service Provider, unless stipulated otherwise, shall promptly notify the appropriate City identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a data breach. The Service Provider shall (1) cooperate with the City as reasonably requested by the City to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

c. Unless otherwise stipulated, if a data breach is a direct result of the Service Provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the Service Provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) a credit monitoring service required by state (or federal) law; (4) a website or a toll- free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently $201 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonable determined by Service Provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

2.7 Notification of Legal Requests

The Service Provider shall contact the City upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the City's data under this contract, or which in any way might reasonably require access to the data of the City. The Service Provider shall not respond to subpoenas, service of process and other legal requests related to the City without first notifying the City, unless prohibited by law from providing such notice.

2.8 Termination and Suspension of Service

a. In the event of a termination of the contract, the Service Provider shall implement an orderly return of City data in a CSV or another mutually agreeable format using the functionality of the services, at a time agreed to by the parties and the subsequent secure disposal of City data by providing read-

only access to the City's data for a period of six months without charge.

b. During any period of service suspension, the Service Provider shall not take any action to intentionally erase any City data.

c. In the event of termination of any services or agreement in entirety, the Service Provider shall not take any action to intentionally erase any City data for a period of:

- 10 days after the effective date of termination, if the termination is in accordance with the contract period;
- 30 days after the effective date of termination, if the termination is for convenience;
- 60 days after the effective date of termination, if the termination is for cause.

After such period, the Service Provider shall have no obligation to maintain or provide any City data and shall thereafter, unless legally prohibited, delete all City data in its systems or otherwise in its possession or under its control.

d. The City shall be entitled to any post- termination assistance generally made available with respect to the services, with post-termination services other than maintenance and transfer of City data subject to payment for Service Provider's standard charges for post-termination services, unless a unique data retrieval arrangement has been established as part of the SLA.

e. The Service Provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the City. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the City.

2.9 Background Checks

The Service Provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Service Provider shall promote and maintain an awareness of the importance of securing the City's information among the Service Provider's employees and agents.

2.10 Contract Audit

The Service Provider shall allow the City to audit conformance to the contract terms provided that such audit be carried out in a manner so as to not disrupt Service Provider's operations.

2.11 Data Center Audit

On City's request, the Service Provider shall request Service Organization Control (SOC) 2 audit report or approved equivalent sets from Service Provider's data center.

2.12 Change Control and Advance Notice

The Service Provider shall give advance notice (to be determined at the contract time and included in the SLA) to the City of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service

availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

2.13   Non-disclosure and Separation of Duties

The Service Provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of City data to that which is absolutely necessary to perform job duties.

2.14   Import and Export of Data

The City shall have the ability to import or export data at its discretion using the functionality of the Services without interference from the Service Provider. This includes the ability for the City to import or export data to/from other Service Providers.

2.15   Responsibilities and Uptime Guarantee

The Service Provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the Service Provider. The system shall be available and provide service to customers as defined in the SLA.

2.16   Subcontractor Disclosure

The Service Provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the Service Provider, and who shall be involved in any application development and/or operations.

2.17   Right to Remove Individuals

The City shall have the right at any time to require that the Service Provider remove from interaction with City any Service Provider representative who the City believes is detrimental to its working relationship with the Service Provider. The City shall provide the Service Provider with notice of its determination, and the reasons it requests the removal. If the City signifies that a potential security violation exists with respect to the request, the Service Provider shall immediately remove such individual. The Service Provider shall not assign the person to any aspect of the contract or future work orders without the City's consent.

2.18   Business Continuity and Disaster Recovery

The Service Provider shall provide a business continuity and disaster recovery plan upon request and ensure that the City's recovery time objective (RTO) of 24 hours is met.

2.19   Web Services

The Service Provider shall use Web services exclusively to interface with the

City's data in near real time when possible.

2.20 **Encryption of Data at Rest**
The Service Provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data, unless the City approves the storage of personal data on a Service Provider portable device in order to accomplish work as defined in the statement of work.

3.0   SERVICES

3.1 InTime provides an application for scheduling personnel as a service delivered over the Internet ("Services") to its customers which includes the City The application is proprietary to InTime.

3.2 In conjunction with such Services, InTime also provides Support to its customers to allow them to use the Service.

3.3 City desires to obtain such Services from InTime.

Rev. 01/18/2024

Exhibit "A-2"

Services

1.0 SERVICES

1.1 InTime will provide the Services to City in accordance with applicable laws and regulation. The Services will be provided on the following basis:

1.1.1 planned downtime (and InTime will give City at least 72 hour's notice of such downtime and will attempt to schedule such downtime to the extent practicable during weekend hours from 6:00 p.m. Pacific time Friday to 3:00 a.m. Pacific time Monday), or

1.1.2 any unavailability caused by circumstances beyond InTime's reasonable control.

1.2 Under no circumstances can City allow other commercial entities to access the Services. City is prohibited from providing or repurposing the Services to other parties in any manner, including as a service bureau or application service provider.

1.3 Violation of any of the terms of this Agreement or use of the Services in a way that breaches applicable law or regulation in any way entitles InTime to terminate this Agreement and City's access to the Services. InTime will give its City's written notice of such breach. If such breach is not corrected in 30 days InTime may terminate this Agreement. PLEASE NOTE THAT INTIME STRICTLY ENFORCES THIS POLICY AND WILL PROSECUTE ANY VIOLATION OF THIS AGREEMENT TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

1.4 It is City's own responsibility to:

1.4.1 provide for its own access to the Internet, arrange for secure Internet access therefore and pay any service fees associated with such access;

1.4.2 be responsible for the accuracy, quality, integrity and legality of data which is processed using the Services, including the exclusion of Social Insurance Numbers (SIN) and Social Security Numbers (SSN), and of the means by which such data was acquired;

1.4.3 use commercially reasonable efforts to prevent unauthorized access to or use of the Services and notify InTime promptly of any unauthorized access or use;

1.4.4   use the Services only in accordance with any documentation and applicable laws and regulations.

1.5   City may not use InTime trademarks such as "InTime" without the prior written permission of InTime.

1.6   No other services are provided with the Service unless agreed to otherwise by InTime and the City.

Exhibit "A-3"

Service Level Agreement

1.0 **Support Level Definition**

    1.1   All City requests for Support shall be managed as described below. The degree of InTime's responsiveness ("Severity") shall be based on the nature of the initial City Support request. The City will always make every effort to respond in a timely fashion to requests from InTime for assistance in providing Support.

    1.2   "Normal Support Hours" are 6:00 AM through 5:00 PM (Pacific Time), Monday through Friday, excluding statutory holidays.

Critical Severity	Available: 24 hours/day, 7 days/week, via special toll-free number in North America.
Description:	A City detected critical Software error that renders the entire live InTime production system, or an essential part of it, inoperable or "down".
Initial Response:	All support requests will be dispatched with call details and problem description within 5 minutes of receipt of support request. During Normal Support Hours, warm transfer immediate response if an InTime Support representative is available, otherwise a callback response within 15 minutes average, one (1) hour maximum. Outside of Normal Support Hours a callback response within eight (8) hours average, sixteen (16) hours maximum.
Resolution Response:	Once an InTime Support representative has made contact with the customer regarding the support request, InTime will work continuously to return the InTime production system to normal "up" operation, with an average resolution time of not more than eight (8) hours.
Chargeable Service:	If the Critical Severity support service is used by the City for non-critical support, then the service is chargeable at InTime's current hourly support service rates.

High Severity	Available: Normal Support Hours
Description:	A City detected non-critical Software error in a module of the live InTime production system, which seriously impairs system operation but does not render it "down". Non- critical Software errors exclude cosmetic, documentation, or reporting problems, and also

	questions regarding the operation of the software, its installation or training.
Initial Response:	During Normal Support Hours, immediate response if an InTime Support representative is available, otherwise a callback response within two (2) hours. However, if the request is made within the last hour of the day or after the close of day, then within the first two (2) hours of the next Normal Support Hours day.
Resolution Response:	InTime will work continuously to restore system operation within Normal Support Hours.

Normal Severity	Available: Normal Support Hours
Description:	All other Support requests not described above.
Initial Response:	During Normal Support Hours, immediate response if an InTime Support representative is available, otherwise a callback response within four (4) hours. However, if the request is made within the last four hours of the day or after the close of day, then within the first four (4) hours of the next Normal Support Hours day.
Resolution Response:	InTime will correct documentation errors in upcoming releases of the documentation. InTime will provide Software error corrections in the course of its standard development and upgrade methodology for the Software.

Exhibit "A-4"

Payroll Integration

Statement of Work

Professional Services Agreement ("Agreement")
between
InTime Services Inc. ("INTIME")
and
City of Fairfield ("CITY")

Project Name: InTime Payroll Integration

This Statement of Work and the terms and conditions of the Agreement, describes the Services to be provided to CITY in support of the Project at the rates listed in Exhibit 2 (which is hereby incorporated by reference), as authorized by CITY by signing this Statement of Work with Exhibits.

1.   Project Approach

CITY requires INTIME services for the duration of the Project. The INTIME Project Manager assigned to this Project will assist in coordination of the required development and liaison with CITY staff for the duration of the Project.

CITY is the owner of the Project and is responsible for the scope, targeted development, and costs as described in the attached Exhibit 2, which is incorporated herein by reference. The entire scope of the Project is set forth in the attached Exhibit 1, which is incorporated herein by reference. In addition to the Deliverables specified in Exhibit 1 hereto, CITY agrees to provide any pertinent information requested by the InTime Project Manager, appropriate and cooperative personnel (including administrative support), to facilitate the development of the Deliverables. CITY shall designate a Project Manager to work with the INTIME Project Manager to facilitate the provisions of this Statement of Work with Exhibits. It is mutually understood that business requirements, resources and dates may change.

CITY is responsible for ensuring the Deliverables described in Exhibit 1 meet their requirements for the Project and are responsible for requesting any changes to the requirements from INTIME. The INTIME Project Manager will assist in planning the Project, checking on progress, and coordinating and approving all Change Orders following the Procedure in the attached Exhibit 3, which is incorporated herein by reference.

The Project is estimated to start on execution of the Agreement by both parties and has a schedule of deliverables as detailed in Exhibit 2.

2.   Assumptions and Responsibilities

Project Assumptions and Responsibilities are set forth in Exhibit 1.

3. Assigned INTIME Project Manager

INTIME will support the Project by providing a Project Manager accessible to CITY. CITY agrees and understands that the assigned INTIME Project Manager will coordinate the Project from a remote location. The Project Manager currently assigned to work on this Project is:

Robert Cote
Implementation Manager
rcote@intime.com
1.877.603.2830
INTIME shall not remove the Project Manager without good cause and in consultation with CITY. If Project Manager is not performing adequately, as determined by CITY, INTIME agrees to meet with CITY to discuss remedies, including replacement of Project Manager.

4. Compensation of INTIME

The Services provided by INTIME will be invoiced in accordance with the schedule of payments as detailed in Exhibit 2.

INTIME will email invoices to the following address:

Jeffery Bertany: jbertany@fairfield.ca.gov

INTIME contact for invoice questions: Ian Komenic, ikomenic@intime.com; 1-778-655-6499

5. Terms and Definitions

5.1 Acceptance of Deliverables

CITY agrees that Acceptance of a Project Deliverable means the verification by CITY that the Deliverable meets the agreed upon CITY design and/or requirement as enumerated in Exhibit 2, Project Deliverables incorporated herein. For each Deliverable, production use by CITY of the Deliverable will constitute Acceptance. The INTIME Project Manager will notify CITY representative when a Deliverable is available for Testing/Acceptance. The CITY representative shall formally notify the INTIME Project Manager of Acceptance or Non-Acceptance (with specific reasons for Non-Acceptance) within five (5) business days of that notification. The authorized representative for accepting any Deliverable on behalf of CITY is:

Jeffery Bertany: jbertany@fairfield.ca.gov

5.2 Delivery / Access

The development, release, installation, and activation of the software for use by CITY.

6. Changes

Any change to this Statement of Work with Exhibits shall be subject to mutual written agreement of the parties and shall be made in accordance with Exhibit 3 hereto, Change Order, which is hereby incorporated by reference. INTIME shall not commence work on any such change unless and until the change has been agreed to in writing by both parties.

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TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT
<u>Attachments:</u>
Exhibit 1 = Project Definition
Exhibit 2 = Project Costs, Timelines, and Milestones
Exhibit 3 = Change Order Procedure

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Exhibit 1
to
Statement of Work
for
Professional Services Agreement ("Agreement")
between
InTime Services Inc. ("INTIME")
and
City of Fairfield ("CITY")

<u>Project Definition</u>

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The following addresses the Web Service Payroll Integrations and System Modifications required of the Project. It is mutually understood that business requirements, resources and dates may change subject to the applicable terms of this Statement of Work with Exhibits and that any such material change requested by CITY or as a result of CITY or INTIME's inability to provide agreed upon resources and to perform its other responsibilities set forth herein or the result of CITY errors or omissions may result in a **Change Order** in accordance with the Change Order Procedure as defined in Exhibit 3.

CITY is responsible for requesting changes to the scope of the Services. The INTIME Project Manager will assist in coordinating those changes for the Project, selecting resources, and managing the activities and progress. It is understood by INTIME and CITY that any material changes to the scope of the Project will be addressed through a formal Change Order process. Material changes are those which specifically will impact budget, scope, timeline, or resources.

1.0   <u>SOW Scope</u>

INTIME will provide a Payroll Export File to CITY which will allow for payroll integration between InTime and the **MUNIS** system. The details are as follows:

2.0   <u>Project Scope</u>

INTIME will provide a Payroll Export File which will extract the following field data from Submitted and Approved InTime Timesheets using Web Service methods to generate a CSV file according to the provisions of this Statement of Work with Exhibits.

Required Data for the export:
   a. Employee ID
   b. Start Date of Assignment
   c. End Dae of Assignment
   d. Hours Code
   e. Hours Quantity
   f. Unit Code
   g. Tracking Category Tag **
   h. Tracking Category Tag **

City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

3.0 Project Deliverable

INTIME will provide deliverable (Export Tool) as outlined below:

3.1 Export Format

The export generated by the InTime payroll tool will be configured in the format specified by the specification sheet. **Using example data**, the resulting export will appear like this:

Employee Nu ▼	FromDate ▼	ToDate ▼	Pay ▼	Quanti ▼	Org ▼	Object ▼	Project ▼
12345	2024-01-16	2024-01-16	100	8	101	5418	

[

3.1.1 Export Formatting Rules

1. File Format (XSLS)
2. Headers required
3. One row per hours code, per assignment date
4. Numeric Fields:
   o Carried out to 2 decimal points
   o No leading zeros
   o Date Format: MM/DD/YYYY
5. Time formatted as Fractions of an Hour

3.1.2 Column Logic

Columns:	Headers (if applicable):	Data Required:
Column 1	Employee Number	Employee ID
Column 2	FromDate	Start Date of Assignment
Column 3	ToDate	End Date of Assignment
Column 4	Pay Code	Hours Code (Regular, Leave Type, Hours Modifier Type, Timebank Reference)
Column 5	Quantity	Number of Hours Worked
Column 6	Org	Outside of Employee Unit Code. Can be blank when employee works in Employee Unit**
Column 7	Object	Tracking Category Tag with Reference "Object". Can be blank**
Column 8	Project	Tracking Category Tag with Reference 'Project'. Can be blank**

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3.1.3 Processing Rules

The following rules, by Work Group, are requested by CITY to be applied to the export to ensure a successful import into the **MUNIS** payroll system:

1 Work Group exporting with Code of 'Default'

Hours Reporting Rules:

Regular Hours
- Regular Hours Export when code present

FLSA Hours:
- Not Exporting

Manual Overtime Hours:
- Hours Modifier Overtime Export when Code present

Shift Differential Hours:
- Export code when present

Banked Time:
- Export Hours Modifier Codes when time is being banked

Bank Payouts:
- Export timebank Reference when Payout Requested

Standby:
- Export when Code Present

Unpaid Hours Modifiers:
- Export when Code Present

Paid/Unpaid Leave:
- Export when Code Present

Prior Pay Period Adjustments:
- Export actual Date of Assignment

Special Cases:
- Only export Org, Object and Project column when Employee is working outside of Home Unit **

3.2   City of Fairfield Liability for Deliverables

CITY does not assume liability or responsibility for the use of the deliverables by any other organization.

3.3   Scope of Deliverables Content

The project deliverables content shall be limited in all instances by the scope of INTIME'S Scheduling System persistence model and associated database schema version release level at the time of this agreement execution.

4.0 Client Requirements

CITY will adhere to the requirements listed below:

City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

4.1 Configuration Requirements

The following configuration requirements are necessary for the payroll tool to work as intended. If any of these settings are changed then the payroll tool will not work as intended and can break.

1. Work Group codes fields in InTime must not be changed and employees must be in the correct work group.
2. The correct codes must be entered in the corresponding code field and scheduled in the Work Schedule to export correctly in the export file.
3. Timesheets must be submitted and approved for the pay period to be included in the export.
4. Any codes that have been hard coded by our development team must not be changed.
5. Our intent to include Via, imp reserves right to place elsewhere and ensure it exports regardless of location

4.2 System Usage Requirements

The following scheduling scenarios must be followed to ensure that the timesheet data, and therefore the CSV. export data, is generated correctly.

1. Edits to the schedule made after timesheets are approved will not be reflected in the payroll export. If edits to the schedule are made, affected timesheets must be rejected, re-submitted and re-approved to ensure up-to-date information.
2. Hours Modifiers and Leaves must be applied to shifts in InTime to report these hours in the export.

4.3 Testing Requirements

InTime provides a window of 90 days to finalize all testing of the export file.

Any change requests beyond this date may be considered a Change Order.

**Exhibit 2
to
Statement of Work
for
Professional Services Agreement ("Agreement")
between
InTime Services Inc. ("INTIME")
and
City of Fairfield**

Project Costs, Timelines, and Milestones

The following addresses the Project Costs, Timelines, and Milestones as related to the Payment Schedule for the Project. It is mutually understood that timelines are good faith estimates and represent projected completion dates based on INTIME's understanding of the scope of this Project. Testing is to be complete by your agency within 120 days of the tool being received. Any changes not outlined in this Statement of Work will be considered a Request for Change and have associated cost.

1.0   Project Names and Costs

- **Payroll Export Tool**

TOTAL ONE TIME COST FOR DELIVERABLE:

2.0   Milestones – Timeframes, Deliverables, and Payment Schedule

Milestone: AGREEMENT SIGNING – START OF DEVELOPMENT WORK

TIMEFRAME	ACTIVITIES / DELIVERABLE	PAYMENT DUE
Agreement Signing	- Start Development work on Deliverable	- $26,000

Maintenance:

TIMEFRAME	ONGOING MAINTENANCE	ANNUAL COST
Included in yearly subscription renewal, *To Cover all Business Process changes, and support of interface*	- Standard Software Maintenance for Deliverable	- $13,000

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City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

Exhibit 3
to
Statement of Work
for
Professional Services Agreement ("Agreement")
between
InTime Services Inc. ("INTIME")
and
City of Fairfield ("CITY")

Change Order Procedure

Any change to this Statement of Work with Exhibits must be agreed to, in writing, by both parties. The following procedure (whether requested by CITY or INTIME) will be used to control all changes. All Requests for Change ("RFC") to the Statement of Work with Exhibits must be made in writing on a Change Order Form and shall be submitted to the Project Manager. Each request should contain the following information:

- **The requested change;**
- **The impact, if any, on the existing work product;**
- **Estimated impact, if any, on the project timeline schedule; and**
- **Estimated change, if any, in costs.**

Any approved Requests for Change which result in additional development will be charged at the rate of $2,500 USD per day, minimum of one day.

Initial Here ▢

The Project Manager shall review and accept or reject the RFC. If rejected, the RFC shall be returned to the submitting party with written reasons for rejection and, as appropriate, any alternatives to the proposed change.

All approved RFC's will be incorporated into the Change Order to this Statement of Work with Exhibits. INTIME will not perform any Services outside of the Statement of Work with Exhibits until the RFC has been signed by both parties to the Agreement.

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INTIME – CITY Schedule Enhancement, Web Services Project
<u>Change Order Form</u>

Date: _____ Change Order # _____

1. Describe the requested change:
   _____
   _____
   _____

2. Define the impact, if any, on existing work product:
   _____
   _____
   _____

3. Define additional work product required because of the requested change, if any:
   _____
   _____
   _____

4. Define the impact, if any, to the existing Project schedule. Provide an updated Project schedule, if appropriate.
   _____
   _____
   _____

5. Provide an updated work product and payment schedule, if appropriate.
   _____
   _____
   _____

Accepted By: **Accepted By:**
InTime Services, Inc.   **City of Fairfield**
(INTIME)   **(CITY)**

By: _____   By: _____

Print name: _____   Print name: _____

Title: _____   Title: _____

Date: _____   Date: _____

City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

EXHIBIT "B"

PAYMENT

1.0 The price for Services rendered by Service Provider shall be the following:

	Year 1	Year 2	Year 3	Year 4	Year 5
Implementation Services	$13,000				
Implementation Services - Timekeeping-To-Payroll Module	$13,000				
Inclusive of 10% Discount & 4% Annual Increase					
Secure Hosting	$1,620	$1,685	$1,752	$1,822	$1,895
Scheduling Module ($72/emp/yr)	$16,200	$16,848	$17,522	$18,223	$18,952
Timekeeping Module ($36/emp/yr)	$8,100	$8,424	$8,761	$9,111	$9,476
Timekeeping-To-Payroll Module	$12,150	$12,636	$13,141	$13,667	$14,214
Shiftbidding Module	$1,750	$1,820	$1,893	$1,969	$2,048
Total Year Cost	**$65,820**	**$41,413**	**$43,070**	**$44,793**	**$46,585**

1.1 Total costs of services over the five (5) year term totals **$241,681**. Implementation Fees are incurred at start of system build/configuration.

1.2 Proration of hosting and annual licensing costs will be incurred if system go-live is before July 1, 2024, when the five (5) year term commences.

2.0 City shall pay Service Provider within 30 days after receipt of Service Provider's invoice.

3.0 The obligation to pay for Services commences on signature of this Agreement.

4.0 **NON-REIMBURSABLE EXPENSES**
Service Provider shall be responsible for all costs and expenses incurred by Service Provider, personnel of Service Provider and subcontractors of Service Provider, in connection with this Agreement, including, without limitation, payment of salaries, fringe benefit contributions, payroll taxes, withholding taxes, and other taxes or levies, office overhead expenses, travel expenses, telephone and other telecommunication expenses, and document reproduction expenses.

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EXHIBIT "B"

inTime Solution Pricing

InTime Solution Pricing

Annual Subscription For: 250 Employees

SCHEDULING MODULE ($72/emp/year)	$18,000/Year
TIMEKEEPING MODULE ($36/emp/year)	$9,000/Year
SHIFTBIDDING MOUDLE ($36/emp/year) – For 54 Employees	$1,944/Year
TIMEKEEPING-TO-PAYROLL MODULE	$13,500/Year
CUSTOMER SUPPORT AND MAINTENANCE	Included
SECURE HOSTING • Top tier cloud service provider • Automatic failover • Real time data redundancy	$1,800/Year
REMOTE PROFESSIONAL SERVICES Implementation Services for Scheduling and Timekeeping Modules **2 Training Course** for Schedulers for the services and modules listed above. *All Training Courses have a maximum class size of 10 staff.*	$13,000 (one time fee)
REMOTE PROFESSIONAL SERVICES Implementation Services for development of Timekeeping to Payroll Module Requirement Analysis & Verification • Module Statement of Work (SOW) Completion • Module Configuration and set-up • Module delivered per signed SOW • Interface Testing • Interface Roll-out Support	$13,000 (one time fee)
Implementation fees for Scheduling, Timekeeping, and Timekeeping to Payroll Module:	$26,000 (Onetime fee)
Pro-ration for Scheduling Timekeeping, Shift Bidding, and Timekeeping to Payroll Module	(Pro-ration TBD) Depending on number of months selected
Annual Subscription to begin on July 1st:	$39,820 $44,244 (Multi Year Discount Applied)

EXHIBIT "C"

GENERAL PROVISIONS

1)   INDEPENDENT SERVICE PROVIDER. At all times during the term of this Agreement, Service Provider shall be an independent contractor and shall not be an employee of City. City shall have the right to control Service Provider only insofar as the results of Service Provider's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Service Provider accomplishes services rendered pursuant to this Agreement.

2)   LICENSES; PERMITS; ETC. Service Provider represents and warrants to City that Service Provider has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for Service Provider to practice Service Provider's profession. Service Provider represents and warrants to City that Service Provider shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Service Provider to practice his profession.

3)   TIME. Service Provider shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Service Provider's obligations pursuant to this Agreement.

4)   SERVICE PROVIDER NOT AN AGENT. Except as City may specify in writing, Service Provider shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Service Provider shall have no authority, express or implied, pursuant to this Agreement, to bind City to any obligation whatsoever.

5)   ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement, except that Service Provider may assign this Agreement in connection with a merger, amalgamation or corporate re-organization involving Service Provider, or in connection with the sale of all or substantially all the assets of Service Provider or to an affiliate or wholly-owned subsidiary of Service Provider, so long as Service Provider provides notice and contact information for merger, amalgamation or corporate re-organization assignment within thirty (30) days of such assignment. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6)   PERSONNEL. Service Provider shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Service Provider to perform services pursuant to this Agreement, Service Provider shall remove any such person immediately upon receiving notice from City of the desire of City for the removal of such person or persons.

7)   STANDARD OF PERFORMANCE. Service Provider shall perform all

services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which Service Provider is engaged in the geographical area in which Service Provider practices his profession. All products which Service Provider delivers to City pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in Service Provider's profession. City shall be the sole judge as to whether the product of the Service Provider is satisfactory.

8)   <u>CANCELLATION OF AGREEMENT.</u> Following Year 3 of this Agreement t h e A g r e e m e n t may be canceled at any time by the City at the discretion of the City Manager, or his/her designee, upon written notification to Service Provider. Service Provider is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the project. Service Provider shall be entitled to no further compensation for work performed after the cancellation date. All completed and incomplete reports and documents of the Service Provider provided under this Agreement up to the date of receipt of written notice to cease work shall become the property of City. Notwithstanding the above, at any time if the City fails to appropriate funds sufficient to maintain the Service(s) described in this Agreement, then the City may terminate the Service(s) at no additional cost or penalty by giving prior written notice documenting such non-appropriation to the Service Provider. City shall use reasonable efforts to provide at least thirty (30) days prior written notice of non-appropriation.

9)   <u>INDEMNIFY AND HOLD HARMLESS</u>.

a) If AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and Service Provider is a design professional, as defined in California Civil Code § 2782.8(c)(2), to the fullest extent allowed by law, Service Provider shall hold harmless, defend and indemnify the City, its officers, agents, employees, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Service Provider, except where caused by the active negligence, sole negligence, or willful misconduct of the City.

b) If AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or Service Provider is not a design professional as defined in subsection 10(a) above, to the fullest extent allowed by law, Service Provider shall indemnify, defend, and hold harmless the City, its officers, agents, employees and volunteers from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, serious errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by Service Provider or any person directly or indirectly employed by or acting as agent for Service Provider in the performance of this Agreement, including the concurrent or successive passive negligence of the City, its officers, agents, employees or volunteers.

It is understood that the duty of Service Provider to indemnify and hold harmless

includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Other than the indemnity obligation set out herein, THE SERVICES ARE PROVIDED "AS IS, WHERE IS". SERVICE PROVIDER DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SERVICES WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, DURABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY IS LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OR LOSS OF PROFITS RESULTING FROM THE SERVICES (OR ANY THIRD PARTY GOODS OR SERVICES) EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. If either party is liable to the other in no event will the total aggregate liability of a party to the other exceed the Total Year Cost, as set forth in Exhibit B, for that subscription year in which the claim is made.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Service Provider from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

Service Provider's responsibility for such defense and indemnity shall survive termination or completion of this agreement for the full period of time allowed by law.

10) <u>PROHIBITED INTERESTS</u>. No employee of the City shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the City if this provision is violated.

11) <u>SERVICE PROVIDER NOT A PUBLIC OFFICIAL</u>. Service Provider is not a "public official" for purposes of Government Code §§ 87200 et seq. Service Provider conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the City or any City official, other than normal contract monitoring. In addition, Service Provider possesses no authority with respect to any City decision beyond these conclusions, advice, recommendation, or counsel.

12) <u>EMPLOYMENT DEVELOPMENT DEPARTMENT REPORTING REQUIREMENTS</u>. When the City executes an agreement for or makes payment to Service Provider in the amount of $600 (six hundred dollars) or more in any one calendar year, Service Provider shall provide the following information to City to comply with Employment Development Department (EDD) reporting requirements:

a) Whether Service Provider is doing business as a sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation, non-profit corporation or other form of organization.

b) If Service Provider is doing business as a sole proprietorship, Service Provider shall provide the full name, address and social security number or federal tax identification number of the sole proprietor.

c) If Service Provider is doing business as other than a sole proprietorship,

Service Provider shall provide Service Provider's federal tax identification number.

_____

13)   <u>NOTICES</u>. All notices shall be given in writing to the following addresses or other such addresses as the parties may designate by written notice:

To City: City of Fairfield
Attn: IT Department
c/o Jeffrey Bertany
1000 Webster Street
Fairfield, California 94533

To inTime Services Inc:

_____

_____

_____

14)   <u>GOVERNING LAW AND VENUE</u>. This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of Solano.

15)   <u>PROPRIETARY AND CONFIDENTIAL INFORMATION</u>. Service Provider agrees that all of the information it obtains from City constitutes City's confidential property ("Confidential Information") regardless of whether such information is pre-marked as confidential or in any other manner to indicate its confidential nature. Except as expressly authorized herein, Service Provider agrees to hold in confidence and not disclose any Confidential Information. Service Provider further agrees to establish such systems and procedures as may be reasonable to maintain City's Confidential Information. Service Provider's nondisclosure obligation shall not apply to information which Service Provider can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of Service Provider; (c) is rightfully obtained by Service Provider from a third party without breach of any confidentiality obligation; or (d) is required to be disclosed pursuant to the order or requirement of a court, administrative agency, federal law, foreign state law, California state law, applicable regulatory authorities, or other governmental body.

16)   <u>DIVULGING OF CONFIDENTIAL OR PROPRIETARY INFORMATION</u>. Should City require the services of a third party to operate, maintain or modify the Product(s) nothing in this Agreement shall preclude City from doing so. City shall provide Service Provider with as much notice as practicable before utilizing or divulging any proprietary information or trade secrets so that Service Provider may coordinate and or limit the delivery of said information to the third party necessary to accomplish said operation, modification or maintenance. Any third party receiving Confidential or Proprietary Information or trade secrets under this paragraph must agree to the same prohibition against disclosure as

City. Additionally, it is understood that City is subject to the California Public Records Act (Gov. Code § 7920.000 et seq., "Public Records Act"). If a request under the Public Records Act is made to view Service Provider's designated confidential information, City will notify Service Provider of the request and the date that any such records will be released to the requester unless Service Provider obtains a court order enjoining that disclosure. If Service Provider fails to obtain a court order enjoining that disclosure, City will release the requested information on the date specified.

EXHIBIT "D"

INSURANCE REQUIREMENTS

Service Provider shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, its agents, representatives, or employees.

1) <u>MINIMUM SCOPE AND LIMITS OF INSURANCE</u>

       a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of $1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

       b)   Automobile Liability has been waived since Service Provider states it will never drive while conducting City business. However, if Service Provider drives, the following will apply: Service Provider shall obtain at its sole cost and keep in full force and effect during the term of this Agreement automobile liability insurance in the amount of no less than $1,000,000 per occurrence for bodily injury and property damage. Said insurance shall provide (1) that the City, its officers, agents, employees and volunteers shall be named as additional insureds under the policy, and (2) that the policy shall operate as primary insurance, and (3) that no other insurance effected by the City or other named insureds will be called upon to cover a loss covered thereunder.

       c)   Service Provider specifically represents and warrants that it has no employees working in the United States, including, but not limited to, California, and does not maintain any office within the United States, including, but not limited to, California. Service Provider is a Canadian entity and participates in Worksafe BC Canada's system and will continue to participate for the duration of the Agreement. If Service Provider ever has employees in the United States or opens an office in the United States, it will immediately purchase appropriate workers' compensation coverage for those employees. Service Provider shall be liable for any costs or penalties for not maintaining appropriate insurance.

2) <u>INDUSTRY SPECIFIC COVERAGES</u>

The following insurance is also required.

[X]   Cyber Liability Insurance in the minimum amount of $1,000,000 per occurrence

City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

3) <u>INSURANCE PROVISIONS</u>

a) <u>DEDUCTIBLES AND SELF-INSURED RETENTIONS</u>. Any deductibles or self- insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

b) The general and automobile liability policies (and if applicable, cyber liability, garage keepers liability and builder's risk policies) are to contain, or be endorsed to contain, the following provisions:

i) The City, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Service Provider; products and completed operations of the Service Provider; premises owned, occupied or used by the Service Provider; and automobiles owned, leased, hired or borrowed by the Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

ii) For any claims related to this project, the Service Provider's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Service Provider's insurance and shall not contribute with it.

iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

iv) The Service Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

vi) The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the Service Provider's policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

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c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

d) VERIFICATION OF COVERAGE. SERVICE PROVIDER shall furnish the CITY with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms equivalent to CG 20 10 11 85 subject to CITY approval. All insurance certificates and endorsements are to be received and approved by the CITY before work commences, these documents must be submitted electronically through the Exigis insurance system, certificates-fairfield@riskworks.com. At the request of the CITY, SERVICE PROVIDER shall provide complete copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

e) SUB-CONTRACTORS. Service Provider shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of Service Provider to verify existence of sub-contractor's insurance shall not relieve Service Provider from any claim arising from sub-contractors work on behalf of Service Provider.

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City OF FAIRFIELD
TECHNOLOGY SOFTWARE-AS-A-SERVICE (SaaS) AGREEMENT

EXHIBIT "E"

NON-DISCLOSURE AGREEMENT

MUTUAL NON-DISCLOSURE AGREEMENT

Regarding Sensitive Proprietary Infrastructure Information

This Mutual Non-Disclosure Agreement ("Agreement"), is entered into this 12 day of JULY, 2023 ("Effective Date"), by and between the City of Fairfield, ("City"), a municipal corporation of the State of California, and **InTime Solutions, Inc.** Each party (in such capacity, **"Discloser"**) may disclose or provide access to certain of its confidential or proprietary information to the other party (in such capacity, **"Recipient"**) pursuant to the terms of this Agreement.

WHEREAS, the City, acting through the Information Technology Department, will disclose certain Confidential Information to potential vendors who wish to work with the City, relating to the City's network configuration and infrastructure; and

WHEREAS, each potential entity who may work with the City, at the request of the Information Technology Department must have access to such information in order to configure hardware, software, application, or network services; and

WHEREAS, in order to release this Confidential Information to potential vendors, the City requires each vendor to enter into this Agreement through its authorized representative and return it to the City as a pre-condition of receiving supplemental documents that contain Confidential Information.

NOW THEREFORE, in consideration of the above recitals and the mutual promises of the parties herein contained, it is agreed by and between the parties as follows:

1. **"Confidential Information" as used in this Agreement shall mean any and all technical and non-technical information, data, documents, records, and materials provided by or on behalf of the Discloser to the Recipient, including without limitation patent, trade secret, proprietary, and systems security- related information and information related to the current, future, and proposed services of the Discloser, in any form or medium, written or oral. Confidential Information also includes other information that is marked or otherwise identified as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used.**

Confidential Information shall not include public records subject to disclosure under the California Public Records Act, Government code section 6250 et seq. and 7929.210.

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2.   The Recipient agrees that it will not make use of, disseminate, or in any way disclose the Discloser's Confidential Information to any person, firm, or business, except as necessary for the Recipient to work with the Discloser, and any purpose the Discloser has authorized or hereafter authorizes in writing. The Recipient agrees that it shall disclose Confidential Information only to those directors, officers, employees, agents, affiliates, advisors, representatives, or consultants who need to know such information and who have previously agreed, either as a condition to employment or service or in order to obtain the Confidential Information, to be bound by terms and conditions substantially similar to those of this Agreement.

3.   The Recipient agrees to hold all Confidential Information of the Discloser in the strictest confidence and treat it with the same degree of care as it accords to its own Confidential Information, and

the Recipient represents and warrants that it exercises reasonable care to protect its own Confidential Information.

4.   The Recipient's obligations under Sections 2 and 3 with respect to any portion of the Discloser's Confidential Information shall terminate if the Recipient can document that: (a) such information was in the public domain at the time it was communicated to the Recipient by the Discloser; (b) such information entered the public domain subsequent to the time it was communicated to the Recipient through no fault of the Recipient; (c) it was in the Recipient's possession free of any obligation of confidence at the time it was communicated to the Recipient by the Discloser (as shown by the Recipient's files and records as of the time of disclosure); (d) it was rightfully communicated to the Recipient by a third party free of any obligation of confidence subsequent to the time that it was communicated to the Recipient by the Discloser; (e) it was developed by employees or agents of the Recipient independently of and without reference to any information communicated to the Recipient by the Discloser; or (f) the communication was in response to a valid order by a court or other governmental body, was otherwise required by law, or was necessary to establish the rights of either party under this Agreement (provided that the Recipient has provided the Discloser with a reasonable opportunity to seek protective legal treatment for such Confidential Information).

5.   All materials (including, without limitation, documents, drawings, models, apparatus, sketches, designs, and lists) furnished to the Recipient by the Discloser shall remain the property of the Discloser and shall be returned promptly upon request, together with any copies thereof, or destroyed with the consent of the Discloser.

6.   The Recipient shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of the Discloser.

7.   Recipient's obligations under this Agreement shall survive the termination of any other contractual agreement between the parties.

8.   This Agreement shall be governed in all respects by the laws of the United States of America and by the laws of the State of California. The sole jurisdiction and venue for any dispute arising under this Agreement shall be the state and federal courts located in Solano County, CA, and each party to this Agreement hereby submits to such jurisdiction and venue.

9.   This Agreement may only be changed by mutual agreement of authorized representatives of the parties in writing.

10.   The Recipient acknowledges and agrees that irreparable injury may result to the Discloser if the Recipient breaches the provisions of this Agreement and that damages may be an inadequate remedy in respect of such breach. The Recipient agrees in advance that, in the event of such breach, the Discloser shall be entitled to the granting of injunctive relief in the Discloser's favor, in addition to such other remedies, damages and relief as may be available under applicable law.

11.   This Agreement shall not be construed in any manner to be an obligation to enter into further contract or to reimburse the cost of any effort expended by Recipient.

12.   This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. In the event of a dispute or a claim by a party to enforce its rights under this Agreement, the non-prevailing party shall pay all of the prevailing party's reasonable legal fees. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees, and

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

RECIPIENT:

By: _____

Name: Derek Warburton

Title: Vice President, Sales

Date: July 12, 2023

CITY OF FAIRFIELD:

By: _____

Name: David Gassaway

Title: City Manager

Date: 7/14/23