



Services Agreement

Project Description

HTE VAR, L.L.C. is a Vertical VAR Company and is wholly owned by Vertical VAR, LLC and its employees.

Vertical VAR, L.L.C. SELLER agrees to provide Services described in a Statement of Work below or in an Attachment to the City of College Station, a Texas home-rule municipal corporation (Purchaser) under the terms of this Agreement. Purchaser is responsible for project management and for any results achieved, unless specified otherwise in the Statement of Work. SELLER does not provide Services under the terms of City's purchase order.

Services are provided and billed on a fixed-price ("Fixed-Price Services") basis.

For Fixed-Price Services, the Statement of Work specifies the fixed-price and estimated maximum expenses. This expense estimate is a fixed-price commitment for the stated number of hours. Allowed charges will not exceed the stated not to exceed amounts in the statement of work without Purchaser's prior written authorization. Purchaser is a tax-exempt entity and will provide HTE VAR L.L.C. with its tax exempt number.

Statement of Work

Project Name: AS 400 Replacement

Fixed-Price Services: \$20,970.00 Invoiced within seven (7) days of completion of work

Actual Travel & Living Expenses, Not to Exceed: \$2,750.00

Start Date: No later than 30 Days from Contract Signing

End Date: 60 Days from Start Date

Services: SELLER and its agents will assist the City of College Station, OTIS Department personnel, to replace the existing IBM 9406-820 computer running application software from Sungard HTE, Inc. to a new IBM i5 Model 520 Production server and a new IBM i5 Model 520 i5 Target server, both running Business Continuity High Availability Software. This Statement of Work includes onsite, at Purchaser's designated location(s), installation, configuration, data migration and training.

Services covered under this statement of work include coordination necessary to prepare for new equipment delivery and installation. These services include, but are not limited to:

- Assist in the development of a Project Plan to accomplish the installation, configuration, data migration and training necessary to complete the project.
- Conduct a Systems Assurance Check of existing system
- Provide recommended Hardware and Software configuration changes and modifications to prepare for the new system

Once equipment ("Machines") are received, by Purchaser, Purchaser is responsible for unpacking and mounting of the Machines in equipment racks in Purchaser's desired location. Once mounted, SELLER will provide on-site services to assist Purchaser with additional set-up, configuration and cabling necessary to make machines operable and ready for data migration from the existing system.

Continuity of Service is one of Purchaser's primary concerns. Migration from the existing 820 to the new Production 520 server will be accomplished over a weekend. In preparation for the 820 to 520 migration, SELLER will provide onsite assistance to complete a full system backup of existing AS/400 Server data and verification that backup was successful and complete. The switch-over will include, but not be limited to, the following tasks by onsite personnel:

- Load Operating System on the i5
- Migrate data, applications and IBM licensed products to the i5
- Migrate hardware devices and/or device and controller cards to the i5
- Restore Purchaser's application libraries on the i5
- Restore Purchaser's profiles to the new i5
- Restore the required configuration objects to the new i5
- Change any configuration objects on the new system as required

Services Agreement

- Attach, configure and verify operability of peripherals to the new i5
- Install and configure dialup support connection to Vision Solutions
- Validate the installation
- Perform a complete system backup
- Test applications, network connections, printers and user profiles on new i5
- Instruct Purchaser's personnel on administering the new system.

Installation, configuration and testing on the High Availability (HA) Target i5 will be of secondary importance to the i5 Production server installation and successful data migration from the existing 820. Onsite services provided by HTE VAR L.L.C. to install, configure and make operational the Target i5 will include, but are not limited to, the following:

- Verification of installation
- Verify and assist with initial configuration
- Install the Operating system
- Install applications an IBM licensed products, applications and validate Software License Keys

Onsite installation of Vision's High Availability Software on both Production and Target i5 will include, but is not limited to, the following:

- Pre-Installation preparation (if not already completed)
- Product Installation (if not already completed)
- Initial Sync Point/Startup
- Product Training
- Configuration and Mirroring Validation
- Preparation for software role swap subsystems
- Execute software role swab Test
- Preparation and testing of hardware switching
- Preparation for production role swap
- Execute successful production role swap

Training for Purchaser's technicians on the High Assurance Software operation, configuration and maintenance will consist of no less than **eight hours** of total instruction for up to five technicians. Individual training manuals will be provided for each trainee. This training will satisfy Vision's requirement for Authorized Contacts to complete a technical education course for the High Availability software to qualify for receipt of CustomerCare Services.

Acceptance criteria will be met when both Production and Target i5 servers are fully operational, all applications and data is migrated from the existing 820 server and it has been disconnected from the Purchaser's network, successful role swap has occurred, and specified training has been held.

This Project Description, the Statement of Work and the Additional Terms and Exhibits form our complete agreement (the "Agreement") regarding these Services and replace any prior oral or written communication between us. By signing below, both Parties agree to these terms.

Agreed to:

City of College Station
1101 Texas Ave.
P.O. Box 9960
College Station, Texas 77842-0960

By: _____
Thomas E. Brymer, City Manager

Date: _____

APPROVED:

Rocanne Hemick

City Attorney

Date: _____

Agreed to:

HTE VAR, LLC.
3168 Mercer University Dr.
Suite 100
Atlanta, GA 30341

Authorized Signature

Name (print): _____
William J. Boyk

Title: _____
General Manager

Date: _____
12/5/04

Agreement Number:

Services Agreement

Jeff Kersten, Finance & Strategic
Planning Director

Date: _____



Services Agreement

Additional Terms

Billing

Fixed-Price Services are invoiced as specified in the Statement of Work. Travel and other expenses are invoiced weekly using IRS mileage allowances for automobile transportation and actual cost for all other expenses. Travel and other expenses will not exceed the "not to exceed" amount specified in the Statement of Work and will be itemized on each invoice.

Within seven (7) calendar days of completion of the work, the SELLER shall submit its application for payment to Purchaser, and Purchaser shall pay SELLER for the work performed no later than thirty (30) calendar days from the date of Purchaser's receipt and Purchaser's approval of the work and the application for payment.

Purchaser is a tax exempt entity and will supply its tax exempt number.

Project Completion and/or Termination

Fixed-Price Services will end when the tasks described in the Statement of Work are complete.

Either party may terminate this Agreement after written notice to the other and a 30 day opportunity to cure any breach if the other breaches any material provision of this Agreement, including nonpayment of any undisputed charges hereunder. Upon termination, we will immediately stop our work in an orderly manner.

Purchaser agrees to pay for all Services in the Statement of Work, all materials (including programs, program listings, documentation, reports or other similar works of authorship) we deliver and all reasonable and verifiable travel expenses charged as authorized under this Agreement Seller incurs through the project's termination.

At any time, Purchaser may terminate the Project for convenience, in writing. At such time, Purchaser shall notify SELLER, in writing, who shall cease work immediately. HTE VAR L.L.C shall be compensated for the services performed under the contract up to the date of termination.

Customer Obligation

Purchaser agrees to provide us reasonable access to the premises where Services will be provided during business hours and during non-business hours only for work identified in the Statement of Work to be accomplished during non-business hours. Purchaser will also provide other onsite cooperation and assistance as may be reasonably requested by us. Purchaser agrees to sign and deliver to us the Acknowledgment of Completion of Services when the tasks described in the Statement of Work are complete.

Subcontractors

We have the right to subcontract any part of the Services to a third party as we deem appropriate, provided that we will remain ultimately responsible for the Services, subject to the terms of this Agreement.

The term "subcontractor" shall mean and include only those hired by and having a direct contact with HTE VAR L.L.C. for performance of work on the Project. Purchaser shall have no responsibility to any subcontractor employed by HTE VAR L.L.C. for performance of work on the Project, and all subcontractors shall look exclusively to HTE VAR L.L.C. for any payments due. Purchaser will **not** be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. HTE VAR L.L.C. shall be fully responsible to the Purchaser for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and Purchaser

Changes to Statements of Work

The Statement of Work may only be changed by a written Change Authorization signed by both parties. The terms of the Change Authorization will prevail over those of the Project Description, the Statement of Work and any previous Change Authorizations.

No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid except upon the prior written order from authorized personnel of the Purchaser. We shall not execute change orders on behalf of Purchaser or otherwise alter the financial scope of the Project.

Written change orders may be approved by the City Manager or his delegate provided that the change order does not increase the amount set forth in the Statement of Work to more than \$50,000.00. Changes in excess of this amount must be approved by the City Council prior to commencement of the services or work. Any request by the Seller for an increase in the Scope of Services and an increase in the amount listed in the Scope of Work of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.

Services Agreement

No "Notice to Proceed" may be given nor any work commenced until this Contract is fully executed and all exhibits and other attachments are completely filled out and attached hereto.

Warranty

We warrant that we perform Services using reasonable care and skill in accordance with recognized standards in the industry. Seller shall maintain a trained staff or use subcontractors capable of rendering the services set forth in this Agreement.

SELLER DOES NOT PROVIDE ANY OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. We do not warrant uninterrupted or error free operation of any Service.

Limitation of Liability

In the event that either party is entitled to recover damages from the other, in each instance, regardless of the basis on which a party may claim damages from the other, either party is only responsible for an amount no greater than the sum of all payments made under this Agreement. **Under no circumstances is SELLER or our subcontractors responsible to Purchaser or third parties for 1) loss of, or damage to, your records or data. Further, neither party is responsible to the other for special, incidental, consequential or other indirect damages (including lost profits or savings), even if the nonbreaching party is informed of their possibility.**

Applicable Law and Venue

This Agreement shall be governed by the laws of the State of Texas excluding any conflicts of law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state. Any action or court proceeding which may arise from this Agreement shall be heard in the Courts in the County of Brazos, Texas and the parties hereto submit to the jurisdiction of said courts.

Insurance

We shall procure and maintain, at our sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by us, our agents, representatives, volunteers, employees, or subcontractors. Said insurance shall list College Station, its employees, and officials as additional named insureds. See Exhibit A for required limits of insurance. Certificates of insurance evidencing the required insurance coverages shall be attached hereto as Exhibit B.

Indemnity

It is further agreed that Seller (separately and collectively the "Indemnatee") shall indemnify, hold harmless, and defend the Purchaser, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, expert fees and other related expenses for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the HTE VAR L.L.C. under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the Purchaser, any other party indemnified hereunder, HTE VAR L.L.C., or any third party.

By entering into this Agreement City does not consent to suit, waive its governmental immunity or the limitations as to damages contained in the Texas Tort Claims Act.

Effective Date

This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.

Relation with HTE, Inc.

Vertical VAR and HTE, Inc. a Florida corporation, are independent contractors. Neither party is the agent of the other. Neither party is authorized to make any representations or create any obligation or liability on behalf of the other party.



Services Agreement

Acknowledgement of Completion of Services

Customer hereby acknowledges that the Services required to be provided under Services Agreement No. _____ have been completed, and such Services are hereby accepted.

[name of Customer]

By: _____

Name: _____

Title: _____

Date: _____

Services Agreement

Exhibit A

INSURANCE REQUIREMENTS

1. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officials, employees, or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it.
2. The Contractor shall include all subcontractors as additional insureds under his policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
3. **All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as Exhibit C, and approved by the City before work commences.**
4. The following standard insurance policies shall be required:
 - (a) Commercial General Liability Policy
 - (b) Business Automobile Liability Policy
 - (c) Worker's Compensation Policy
5. Except as noted, the following general requirements are applicable to **all** policies:
 - (a) General Liability and Automobile Liability insurance shall be written by a carrier with an A:VIII or better rating in accordance with the current Best Key Rating Guide.
 - (b) Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
 - (c) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a "per occurrence" basis for property damage only.
 - (d) "Claims Made" Policies will not be accepted.
 - (e) The City of College Station, its officials, employees, and volunteers, are to be added as "Additional Insureds" to the Commercial General Liability and the Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, or volunteers.
 - (f) A Waiver of Subrogation in favor of the City of College Station with respect to Workers' Compensation insurance must be included.
 - (g) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or 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 of College Station.
 - (h) Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
6. The following **Commercial General Liability** will be required:
 - (a) Minimum Combined Single Limit of \$600,000 per occurrence for Bodily Injury and Property Damage.
 - (b) Coverage shall be at least as broad as Insurance Service's Office form number CG 00 01.

Services Agreement

- (c) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
 - (d) The coverage shall include but not be limited to the following: premises/operations; independent contracts; products/completed operations; and contracted liability (insuring the indemnity provided herein).
7. The following **Business Automobile Liability** will be required:
- (a) Minimum Combined Single Limit of \$600,000 per occurrence for Bodily Injury and Property Damage.
 - (b) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
 - (c) The coverage shall include owned or leased autos, non-owned autos, and hired cars.
8. The following **Workers' Compensation** insurance will be required:
- (a) Employer's Liability limits of \$100,000 for each accident is required.
 - (b) Texas Waiver of Our Right To Recover From Others Endorsements, WC 42 03 04 shall be included in this policy.
 - (c) Texas must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, WY.
9. **Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent.** The certificate shall contain provisions warranting the following:
- (a) The company is licensed and admitted to do business in the State of Texas.
 - (b) The insurances set forth by the insurance company are underwritten on forms which have been approved by the Texas State Board of Insurance or ISO.
 - (c) Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
 - (d) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
 - (e) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

Services Agreement

Exhibit B

CERTIFICATES OF INSURANCE



CERTIFICATE OF INSURANCE

This certifies that

- STATE FARM FIRE AND CASUALTY COMPANY, Bloomington, Illinois
- STATE FARM GENERAL INSURANCE COMPANY, Bloomington, Illinois
- STATE FARM FIRE AND CASUALTY COMPANY, Scarborough, Ontario
- STATE FARM FLORIDA INSURANCE COMPANY, Winter Haven, Florida
- STATE FARM LLOYDS, Dallas, Texas

insures the following policyholder for the coverages indicated below:

Policyholder: VERTICAL VAR LLC
 Address of policyholder: 3168 MERCER UNIVERSITY Dr, CHAMBLEE GA 30341-4136
 Location of operations: 3168 MERCER UNIVERSITY DR, Chamblee Ga 30341-4136
 Description of operations: computer sales

The policies listed below have been issued to the policyholder for the policy periods shown. The insurance described in these policies is subject to all the terms, exclusions, and conditions of those policies. The limits of liability shown may have been reduced by any paid claims.

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	
91-LQ-6972-6 F	Comprehensive Business Liability <input checked="" type="checkbox"/> Products - Completed Operations <input type="checkbox"/> Contractual Liability <input type="checkbox"/> Personal Injury <input type="checkbox"/> Advertising Injury <input checked="" type="checkbox"/> Hired auto <input checked="" type="checkbox"/> non owned auto <input type="checkbox"/>	03-15-04	03-15-05	BODILY INJURY AND PROPERTY DAMAGE Each Occurrence \$ 1000000 General Aggregate \$ 2000000 Products - Completed Operations Aggregate \$ 2000000
91-LQ-6971-4 F	EXCESS LIABILITY <input checked="" type="checkbox"/> Umbrella <input type="checkbox"/> Other	03-15-04	03-15-05	BODILY INJURY AND PROPERTY DAMAGE (Combined Single Limit) Each Occurrence \$ 1000000 Aggregate \$
	Workers' Compensation and Employers Liability			Part I - Workers Compensation - Statutory Part II - Employers Liability Each Accident \$ Disease - Each Employee \$ Disease - Policy Limit \$
POLICY NUMBER	TYPE OF INSURANCE	Effective Date	Expiration Date	LIMITS OF LIABILITY (at beginning of policy period)

THE CERTIFICATE OF INSURANCE IS NOT A CONTRACT OF INSURANCE AND NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE APPROVED BY ANY POLICY DESCRIBED HEREIN.

Name and Address of Certificate Holder
 City of College Station
 1101 Texas Ave
 College Station, Tx 77842

If any of the described policies are canceled before their expiration date, State Farm will try to mail a written notice to the certificate holder days before cancellation. If however, we fail to mail such notice, no obligation or liability will be imposed on State Farm or its agents or representatives.

[Signature]
 Signature of Authorized Representative
 Agent
 Title
 Date 12-14-04

Agent Name
 Telephone Number 7067762246

Agent's Code Stamp
 Agent Code
 AFO Code
 '03 Legion of Honor
 D. HARTNESS
 ATHENS AFO
 11-1991