

PROFESSIONAL/CONSULTING SERVICES AGREEMENT

1. **PARTIES**

This Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and Avocette Technologies, Inc. (“Contractor”), a Corporation for Accela Consulting Services, and is effective on July 1, 2021 (“Effective Date”).

2. **SERVICES**

Contractor agrees to provide the services and perform the tasks (“Services”) set forth in detail in Scope of Services, attached here and incorporated as **Exhibit A**. Contractor further agrees to carry out its work in compliance with the City’s Shelter In Place and Social Distancing Requirements, attached here and incorporated as **Exhibit A-A**.

3. **TIME OF PERFORMANCE**

3.1 This Agreement begins on the Effective Date and ends on June 30, 2022 (“Contract Time”), unless terminated earlier as provided herein. Contractor’s Services shall begin on the effective date and shall be completed by June 30, 2022. The City’s appropriate department head or the City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City’s purchasing policy.

3.2 Schedule of Performance. Contractor must deliver the Services in accordance with the Schedule of Performance, attached and incorporated here **Exhibit B**.

3.3 Time is of the essence for the performance of all the Services. Contractor must have sufficient time, resources, and qualified staff to deliver the Services on time.

4. **COMPENSATION**

4.1 Maximum Compensation. City will pay Contractor for satisfactory performance of the Services an amount that will be based on actual costs but that will be capped so as not to exceed \$87,000.00 (“Contract Price”), based upon the scope of services in **Exhibit A** and the budget and rates included in **Exhibit C**, Compensation attached and incorporated here. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor’s actual costs exceed the capped amount. No extra work or payment is permitted without prior written approval of City.

4.2 Invoices and Payments. Monthly invoices must state a description of the deliverable completed and the amount due for the preceding month. Within thirty (30) days of completion of Services, Contractor must submit a requisition for final and complete payment of costs and pending

claims for City approval. Failure to timely submit a complete and accurate payment requisition relieves City of any further payment or other obligations under the Agreement.

5. INDEPENDENT CONTRACTOR

51 Status. Contractor is an independent contractor and not an employee, partner, or joint venture of City. Contractor is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. Contractor is not entitled to health benefits, worker's compensation, or other benefits from the City.

52 Contractor's Qualifications. Contractor warrants on behalf of itself and its subcontractors that they have the qualifications and skills to perform the Services in a competent and professional manner and according to the highest standards and best practices in the industry.

53 Permits and Licenses. Contractor warrants on behalf of itself and its subcontractors that they are properly licensed, registered, and/or certified to perform the Services as required by law and have procured a City Business License, if required by the Cupertino Municipal Code.

54 Subcontractors. Only Contractor's employees are authorized to work under this Agreement. Prior written approval from City is required for any subcontractor, and the terms and conditions of this Agreement will apply to any approved subcontractor.

55 Tools, Materials, and Equipment. Contractor will supply all tools, materials and equipment required to perform the Services under this Agreement.

56 Payment of Benefits and Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor's business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Contractor, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Contractor agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

6. PROPRIETARY/CONFIDENTIAL INFORMATION

In performing this Agreement, Contractor may have access to private or confidential information owned or controlled by the City, which may contain proprietary or confidential details the disclosure of which to third parties may be damaging to City. Contractor shall hold in confidence all City information provided by City to Contractor and use it only to perform this Agreement.

Contractor shall exercise the same standard of care to protect City information as a reasonably prudent contractor would use to protect its own proprietary data.

7. OWNERSHIP OF MATERIALS

7.1 Property Rights. Any interest (including copyright interests) of Contractor in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium (collectively, “Work Product”), prepared by Contractor in connection with this Agreement will be the exclusive property of the City upon completion of the work to be performed hereunder or upon termination of this Agreement, to the extent requested by City. In any case, no Work Product shall be shown to any third-party without prior written approval of City.

7.2 Copyright. To the extent permitted by Title 17 of the U.S. Code, all Work Product arising out of this Agreement is considered “works for hire” and all copyrights to the Work Product will be the property of City. Alternatively, Contractor assigns to City all Work Product copyrights. Contractor may use copies of the Work Product for promotion only with City’s written approval.

7.3 Patents and Licenses. Contractor must pay royalties or license fees required for authorized use of any third party intellectual property, including but not limited to patented, trademarked, or copyrighted intellectual property if incorporated into the Services or Work Product of this Agreement.

7.4 Re-Use of Work Product. Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Contractor or its sub-contractors prepared or created under this Agreement, to execute or implement any of the following:

- (a) The original Services for which Contractor was hired;
- (b) Completion of the original Services by others;
- (c) Subsequent additions to the original Services; and/or
- (d) Other City projects.

7.5 Deliverables and Format. Contractor must provide electronic and hard copies of the Work Product, on recycled paper and copied on both sides, except for one single-sided original.

8. RECORDS

Contractor must maintain complete and accurate accounting records relating to its performance in accordance with generally accepted accounting principles. The records must include detailed information of Contractor’s performance, benchmarks and deliverables, which must be available to City for review and audit. The records and supporting documents must be kept separate from other records and must be maintained for four (4) years from the date of City’s final payment.

9. ASSIGNMENT

Contractor shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of

City. Any attempt to do so will be null and void. Any changes related to the financial control or business nature of Contractor as a legal entity is considered an assignment of the Agreement and subject to City approval, which shall not be unreasonably withheld. Control means fifty percent (50%) or more of the voting power of the business entity.

10. PUBLICITY / SIGNS

Any publicity generated by Contractor for the project under this Agreement, during the term of this Agreement and for one year thereafter, will reference the City's contributions in making the project possible. The words "City of Cupertino" will be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles. No signs may be posted, exhibited or displayed on or about City property, except signage required by law or this Contract, without prior written approval from the City.

11. INDEMNIFICATION

11.1 To the fullest extent allowed by law, and except for losses caused by the sole and active negligence or willful misconduct of City personnel, Contractor shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers, and consultants ("Indemnitees"), through legal counsel acceptable to City, from and against any and all liability, damages, claims, actions, causes of action, demands, charges, losses, costs, and expenses (including attorney fees, legal costs, and expenses related to litigation and dispute resolution proceedings) of every nature, arising directly or indirectly from this Agreement or in any manner relating to any of the following:

- (a) Breach of contract, obligations, representations, or warranties;
- (b) Negligent or willful acts or omissions committed during performance of the Services;
- (c) Personal injury, property damage, or economic loss resulting from the work or performance of Contractor or its subcontractors or sub-subcontractors;
- (d) Unauthorized use or disclosure of City's confidential and proprietary Information;
- (e) Claim of infringement or violation of a U.S. patent or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.

11.2 Contractor must pay the costs City incurs in enforcing this provision. Contractor must accept a tender of defense upon receiving notice from City of a third-party claim. At City's request, Contractor will assist City in the defense of a claim, dispute, or lawsuit arising out of this Agreement.

11.3 Contractor's duties under this section are not limited to the Contract Price, workers' compensation payments, or the insurance or bond amounts required in the Agreement. Nothing in the Agreement shall be construed to give rise to an implied right of indemnity in favor of Contractor against City or any Indemnitee.

11.4. Contractor's payments may be deducted or offset to cover any money the City lost due to a claim or counterclaim arising out of this Agreement, a purchase order, or other transaction.

11.5. Contractor agrees to obtain executed indemnity agreements with provisions identical to

those set forth here in this Section 11 from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

11.6. This Section 11 shall survive termination of the Agreement.

12. INSURANCE

Contractor shall comply with the Insurance Requirements, attached and incorporated here as **Exhibit D**, and must maintain the insurance for the duration of the Agreement, or longer as required by City. City will not execute the Agreement until City approves receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Failure to comply with this provision may result in City, at its sole discretion and without notice, purchasing insurance for Contractor and deducting the costs from Contractor's compensation or terminating the Agreement.

13. COMPLIANCE WITH LAWS

13.1 General Laws. Contractor shall comply with all local, state, and federal laws and regulations applicable to this Agreement. Contractor will promptly notify City of changes in the law or other conditions that may affect the Project or Contractor's ability to perform. Contractor is responsible for verifying the employment authorization of employees performing the Services, as required by the Immigration Reform and Control Act.

13.2 Labor Laws. Contractor shall comply with all labor laws applicable to this Agreement. If the Scope of Services includes a "public works" component, Contractor is required to comply with prevailing wage laws under Labor Code Section 1720 and other labor laws.

13.3 Discrimination Laws. Contractor shall not discriminate on the basis of race, religious creed, color, ancestry, national origin, ethnicity, handicap, disability, marital status, pregnancy, age, sex, gender, sexual orientation, gender identity, Acquired-Immune Deficiency Syndrome (AIDS), or any other protected classification. Contractor shall comply with all anti-discrimination laws, including Government Code Sections 12900 and 11135, and Labor Code Sections 1735, 1777, and 3077.5. Consistent with City policy prohibiting harassment and discrimination, Contractor understands that harassment and discrimination directed toward a job applicant, an employee, a City employee, or any other person, by Contractor or its employees or sub-contractors will not be tolerated. Contractor agrees to provide records and documentation to the City on request necessary to monitor compliance with this provision.

13.4 Conflicts of Interest. Contractor shall comply with all conflict of interest laws applicable to this Agreement and must avoid any conflict of interest. Contractor warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement, in violation of California Government Code Section 1090 et seq. Contractor may be required to file a conflict of interest form if Contractor makes certain governmental decisions or serves in a staff capacity, as defined in Section 18700 of Title 2 of the California Code of

Regulations. Contractor agrees to abide by the City's rules governing gifts to public officials and employees.

13.5 Remedies. Any violation of Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursements or terminating this Agreement. City reserves all other rights and remedies available under the law and this Agreement, including the right to seek indemnification under Section 11 of this Agreement.

14. PROJECT COORDINATION

City Project Manager. The City assigns Nidhi Mathur as the City's representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. City reserves the right to substitute another Project manager at any time, and without prior notice to Contractor.

Contractor Project Manager. Subject to City approval, Contractor assigns Cynthia Tomey as its single Representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. Contractor's Project manager is responsible for coordinating and scheduling the Services in accordance with the Scope of Services and the Schedule of Performance. Contractor must regularly update the City's Project Manager about the progress with the work or any delays, as required under the Scope of Services. City written approval is required prior to substituting a new Representative.

15. ABANDONMENT OF PROJECT

City may abandon or postpone the Project or parts therefor at any time. Contractor will be compensated for satisfactory Services performed through the date of abandonment, and will be given reasonable time to assemble the work and close out the Services. With City's pre-approval in writing, the time spent in closing out the Services will be compensated up to a maximum of ten percent (10%) of the total time expended to date in the performance of the Services.

16. TERMINATION

City may terminate this Agreement for cause or without cause at any time. Contractor will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Contractor closes out the Services and delivers the Work Product.

17. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION

This Agreement is governed by the laws of the State of California. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Contractor must comply with the claims filing requirements under the Government Code prior to filing a civil action in court. If a dispute arises, Contractor must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

18. ATTORNEY FEES

If City initiates legal action, files a complaint or cross-complaint, or pursues arbitration, appeal, or other proceedings to enforce its rights or a judgment in connection with this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs.

19. THIRD PARTY BENEFICIARIES

There are no intended third party beneficiaries of this Agreement.

20. WAIVER

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of a breach shall not constitute waiver of another provision or breach.

21. ENTIRE AGREEMENT

This Agreement represents the full and complete understanding of every kind or nature between the Parties, and supersedes any other agreement(s) and understanding(s), either oral or written, between the Parties. Any modification of this Agreement will be effective only if in writing and signed by each Party's authorized representative. No verbal agreement or implied covenant will be valid to amend or abridge this Agreement. If there is any inconsistency between any term, clause, or provision of the main Agreement and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main Agreement shall prevail and be controlling.

22. INSERTED PROVISIONS

Each provision and clause required by law for this Agreement is deemed to be included and will be inferred herein. Either party may request an amendment to cure mistaken insertions or omissions of required provisions. The Parties will collaborate to implement this Section, as appropriate.

23. HEADINGS

The headings in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit, or amplify the terms or provisions of this Agreement.

24. SEVERABILITY/PARTIAL INVALIDITY

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal, or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect. The Parties agree to work in good faith to amend this Agreement to carry out its intent.

25. SURVIVAL

All provisions which by their nature must continue after the Agreement expires or is terminated, including the Indemnification, Ownership of Materials/Work Product, Records, Governing Law, and Attorney Fees, shall survive the Agreement and remain in full force and effect.

26. NOTICES

All notices, requests and approvals must be sent in writing to the persons below, which will be considered effective on the date of personal delivery or the date confirmed by a reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission:

<p>To City of Cupertino Office of the City Manager 10300 Torre Ave. Cupertino, CA 95014</p> <p>Attention: Nidhi Mathur Email: nidhim@cupertino.org</p>	<p>To Contractor: Avocette Technologies, Inc 422 Sixth Street-2nd Floor New Westminster BC V3L3B2</p> <p>Attention: Cynthia Tomey Email: Cynthia.Tomey@avocette.com</p>
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27. EXECUTION

The person executing this Agreement on behalf of Contractor represents and warrants that Contractor has full right, power, and authority to enter into and carry out all actions contemplated by this Agreement and that he or she is authorized to execute this Agreement, which constitutes a legally binding obligation of Contractor. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed.

CITY OF CUPERTINO

A Municipal Corporation

By Bill Mitchell

Name Bill Mitchell

Title CTO

Date Jul 10, 2021

CONTRACTOR

By Darrel Drab

Name Darrel Drab

Title VP, Local Government

Date Jul 7, 2021

APPROVED AS TO FORM:

Heather M. Minner

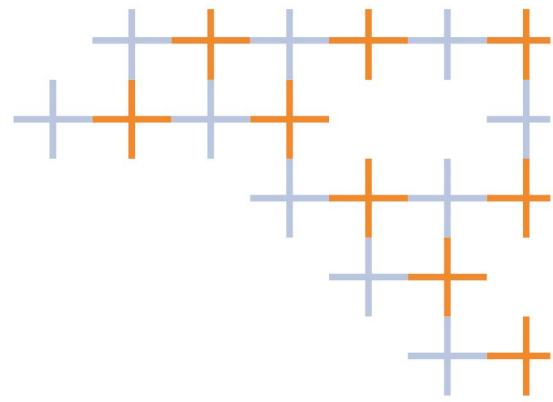
HEATHER M. MINNER
Cupertino City Attorney

ATTEST:

Kirsten Squarcia

KIRSTEN SQUARCIA
City Clerk

Date Jul 12, 2021



City of Cupertino

ServicePlus++

Operational Support Services Contract for Accela Automation

Deliver to:

City of Cupertino
Attn: Nidhi Mathur
Phone: (408) 777-3377
E-mail: nidhim@cupertino.org

Response Contact:

Darrel Drab
Avocette Technologies Inc.
Phone: (250) 389-2993 (X229)
E-mail: Darrel.drab@avocette.com

Head Office: 2nd Floor – 422 Sixth Street, New Westminster, BC V3L 3B2
Phone: (604) 395-6000
Fax: (604) 395-6004
Toll Free: 1-866-285-8885

GST # 889977195-RT0001

Service + Vendor Services Agreement

Between **Avocette Technologies Inc.** (the
VENDOR)
at the following address:

2nd Floor – 422 Sixth Street
New Westminster, BC
V3L 3B2
Phone: 604 395 6000
Phone Toll Free: 1 866 285 8885

City of Cupertino
(the CLIENT)
at the following address:

Cupertino City Hall
10300 Torre Avenue
Cupertino CA 95014-3202
Phone: (408) 777-3377

CLIENT AND THE VENDOR AGREE TO THE TERMS OF THIS DOCUMENT AND IN THE SCHEDULE OUTLINE BELOW.

SCHEDULE A – SERVICES:

ServicePLUS++ AS AND WHEN - Provide support and consulting services in support of the Client's Accela Automation system,

As Per Attached Schedule A.

Term:

From: **July 1, 2021**

To and including: **June 30, 2022**

Budget: **Not to exceed \$62,000**

SCHEDULE B – PROJECTS:

Licensing Implementation Statement of Work.

As Per Attached Schedule B.

Term:

From: **July 1, 2021**

To and including: **June 30, 2022**

Budget: **Not to exceed \$25,000**

READ TERMS ON THE FOLLOWING PAGES

Schedule “A” – “As and When”

ServicePlus++ level of Service selected: **AS AND WHEN**

Hourly Service Requests rate: \$130/Hour

1 ServicePlus++™ AS AND WHEN Service

Avocette’s ServicePlus++ AS AND WHEN service provides defined on-going support services aimed at maintaining a stable Accela environment.

ServicePlus++ AS AND WHEN Service Desk hours: 9:00 – 17:00 PST Monday to Friday exclusive of Statutory Holidays

1.1 Service Levels

The following service levels are included with ServicePlus++ AS AND WHEN service in order to achieve the level of support required for CLIENT’s Accela environment.

Service levels are divided into five priority levels and are monitored and measured against the service level commitment as shown below. Avocette uses the following definitions to measure service levels:

- **Acknowledge Request** is an email from an Avocette representative that confirms that the request has been received and a ticket number has been assigned in our service request management system (defined in section 2.1);
- **Incident Resolution Time** is the time from when the incident is reported to the time a work around or temporary solution has been implemented to address the specific incident;
- **Incident Closure** is the time from when the incident was reported to the time to hand over for production deployment with a permanent correction for the incident. If the incident closure requires an Accela fix, the Incident Closure times will not apply and will require direct participation of Accela which Avocette will assist with.

ServicePlus++[™] AS AND WHEN service levels

Priority	Definition	Acknowledgment	Resolution Time	Closure
Priority 1	<p>Service Disruption for major applications/systems and/or has major impact on business operations and/or impacts external customers</p> <p>Guideline – has significant business impact.</p> <p>Exclusive of CLIENT network or system issues not covered.</p> <p>Exclusive of external disaster or disruption.</p>	<p>< 1 Hour</p> <p>Phone call Acknowledgement is required</p>	<p>< 4 Hours</p> <p>Phone call to Accela Customer Support Center every 60 minutes with updates (if required)</p>	< 3 Business days
Priority 2	<p>Partial service disruption for major application/system and/or service disruption for minor system and/or has moderate impact on business operations</p> <p>Guideline – affects business operation for at least one department.</p>	< 2 Hour	< 4 Hours	< 5 Business days
Priority 3	<p>Minor service disruption impacting 1-2 users significantly and/or has minimal impact on business operations. Does not affect service delivery to external clients.</p> <p><u>Service Request</u> may be raised for incident remediation and resolution (refer section 2.1 for Service Request process).</p>	< 1 Business day		
Priority 4	<p>Minor Service disruption with insignificant or no impact on business operations</p> <p>Workaround available</p> <p>Guideline – Affects < 5people</p> <p><u>Service Request</u> may be raised for incident remediation and resolution (refer section 2.1 for Service Request process).</p>	< 1 Business day		

Priority	Definition	Acknowledgment	Resolution Time	Closure
Priority 5	<p>Causes no service disruption with no impact on business operations and does impact service deliver to clients. Additional work needed to perform some functions.</p> <p><u>Service Request</u> may be raised for incident remediation and resolution (refer section 2.1 for Service Request process).</p>	< 5 Business days		

Priority 3, 4 and 5 Service Levels are dependant on Avocette resource availability.

The following are required in order for Avocette to meet the above service levels:

CLIENT will provide all required subscription, software and/or hardware licenses required to support the application.

The support team will not be on-site at CLIENT's location and Avocette's support team will be able to access the CLIENT network remotely using an SSTP VPN connection to access the necessary application environments.

1.2 Service Level Reporting (optional for As and When)

Service level reporting is a key means of communication between CLIENT and Avocette. It is a forum to discuss the performance with respect to service levels, the accomplishments and challenges, and to have open honest dialog about the service delivery and relationship. It also allows potential risks to be discussed and addressed proactively. Service level reporting is provided through the Avocette service manager and as agreed to by the CLIENT. Service level meetings are recommended to review the report and to have dialog around the service delivery and support relationship.

1.2.1 Service Level Meetings

The following service level meetings are optional under AS AND WHEN service but Avocette recommends that they be conducted:

- Weekly Prioritization meeting to review and rank **incidents** in priority.
- Monthly Planning meeting to assess **service request** planning, status, priority and actions.
- Annual Service Delivery review meeting to review the previous year and determine what adjustments are required for the next year.

Attendees will include at least:

- Avocette Service Delivery Manager
- CLIENT Contract Manager

Note: Actual time spent conducting and documenting service level meetings will be charged at the contract rate.

Note: Avocette Weekly, Monthly, Quarterly and Annual meetings will occur via conference call unless otherwise requested.

1.2.2 Service Level Report

The service level report is prepared weekly and monthly and will include the following information:

An itemized list of all active requests/incidents annotated by Avocette ticket number in the current month and previous month.

Hourly usage for each ticket in the current month, the previous month and overall.

The status of each ticket as of the end of the period as well as any information that will assist both CLIENT and VENDOR in resolving the ticket.

Service Delivery

Service delivery is oriented around two specific processes:

- 1) Incident Management
 - a. The handling of Break Fix situations. In CLIENT terminology this is the 'support' type of requests that involve software fixes.
 - b. In the event of a Priority 1 or 2 incident, Avocette resources will be required to attend the Incident Report Meeting that will be scheduled by CLIENT within 48 hours of the incident.
- 2) Service Request Management
 - a. The handling of any request that is not expected to result in a software fix. This includes Maintenance, Enhancement and Operational (non-software related) requests. See section 5 for a list of optional services available.

The following sections will outline all the elements involved in Service Delivery and also walk through the expected workflow for both Incident Management and Request Management.

1.3 Service Request Management

Avocette uses a Service Management system to record and track all incidents and service requests under this contract. Once submitted, service request management application is used to support incidents and requests, assign tasks to internal team members and track time spent on specific requests. The features offered are:

- Application Change Management by logging and tracking requests, bugs, and enhancements by application and client
- Automatic email notifications within Avocette Systems for: new incidents; closed incidents; Escalations; Priority changes; Remediation, Resolution or Recovery; and Task Assignments
- Cross-referencing of incident reports
- Time recording for activities and reporting on effort
- Root Cause capture
- Control of user access to ensure security and privacy

The service request management application is configured for each client and can be modified to accommodate business related requirements for reporting. CLIENT will be defined along with the details necessary to provide the reporting and incident management required to meet CLIENT Service Level reporting needs.

1.4 Incident Management

The incident management process occurs when CLIENT has a request to fix a production problem with your Accela environment.

The goal of incident management is to:

- Maintain service level objectives; and
- Return to the normal service level as soon as possible with the smallest impact on the business and user.

The process is triggered when the authorized CLIENT individual or group makes the request through:

- Entry into the Cherwell Service Request Management System
- E-mail to Avocette (for non-emergency items only)
- Phone call to Avocette (for emergency and high priority issues, phone is mandatory)

1.4.1 Incident Management Process

The following describes how Avocette will respond to an incident request. This process can be reviewed and adjusted if necessary to meet CLIENT's specific needs. As noted previously, some incident may require an Accela fix and in those cases Avocette will support the reporting and communication with Accela.

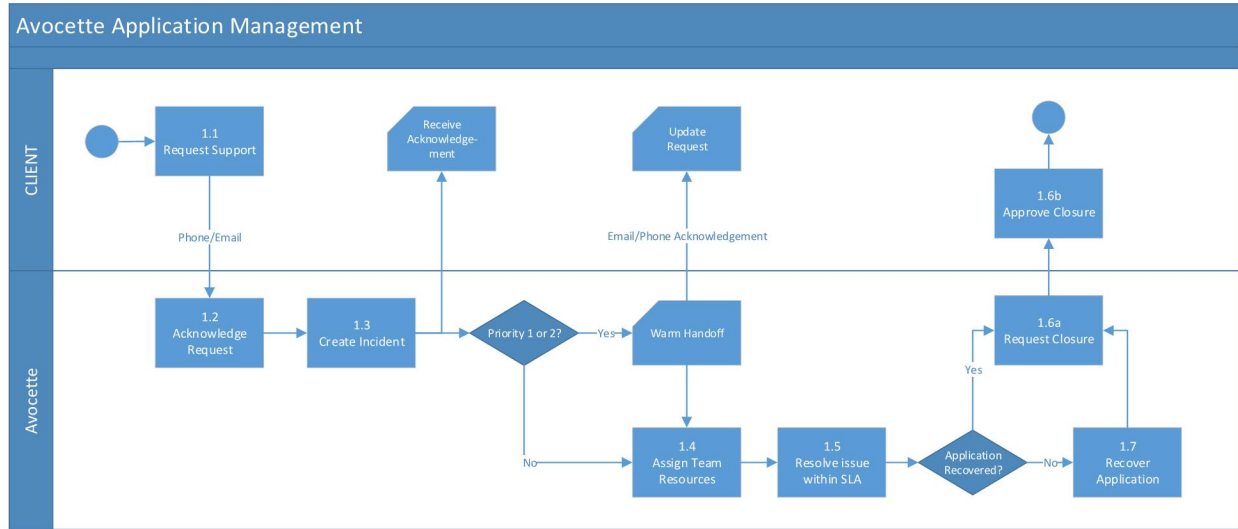


Figure 1: Procedure for Incident Management.

Task #	Task	Actor(s)
1.1	The CLIENT point-of-contact or Customer Service Center contacts the Avocette Service Desk via toll-free telephone number or email address.	CLIENT application point-of-contact
1.2	All contacts are acknowledged upon receipt. Acknowledgement can be through email or by phone. In the event an incident is submitted which in the judgement of the service desk should be a level 1 or 2 incident the service desk will acknowledge by phone and recommend an upgrade of the incident priority.	Avocette Service Desk
1.3	Avocette Service Desk creates a ticket for the request, assigning the request to Avocette's primary support person and Service Delivery Manager. Automatic email notifications are generated and sent to the Avocette Service Manager.	Avocette Service Desk
1.4	If the request is a priority 1 or 2, the Avocette Service Desk speaks to the support resource and Service Delivery Manager directly to ensure the request is received in a timely manner (i.e., warm handover). CLIENT and Avocette's managers are informed of priority 1 and priority 2 requests. The Service Delivery Manager liaises with the primary resource to coordinate a solution, and may approach service manager to assign additional support team resources to recover and resolve the issue.	Avocette Support Team
1.5	The support team works to recover the issue within the service levels. This may involve working directly with CLIENT staff to provide access to data, database logs, performance data, etc., in order to resolve the incident. The support team promotes the fix to the CLIENT environment and completes the necessary requests to migrate to production.	Avocette Support Team
1.6a	If resolution of the issue provides recovery of the application, the Service Delivery Manager will seek approval from CLIENT to close the request.	CLIENT point-of-contact

Task #	Task	Actor(s)
1.7	If resolution of the issue does not also provide recovery of the application, the support team will work to complete the long-term solution to the issue.	Avocette Application Support Team
1.6b	Avocette obtains approval from the CLIENT point-of-contact to close the request. The incident is only considered closed once it is successfully deployed to production and verified as being resolved by the CLIENT point-of-contact.	CLIENT point-of-contact

1.5 Request Management

Avocette's request management services support the management of service requests. This includes requests for maintenance, enhancements or other operational (non-software) requests. The goal of Request Management is to keep track of all requests, allow prioritization of the requests, track time spent, and report on the status of each request. Service request may be raised to address all Priority 3, 4 and 5 incident remediation and resolutions.

1.5.1 Request Management Process

The following describes how Avocette will respond to a service request.

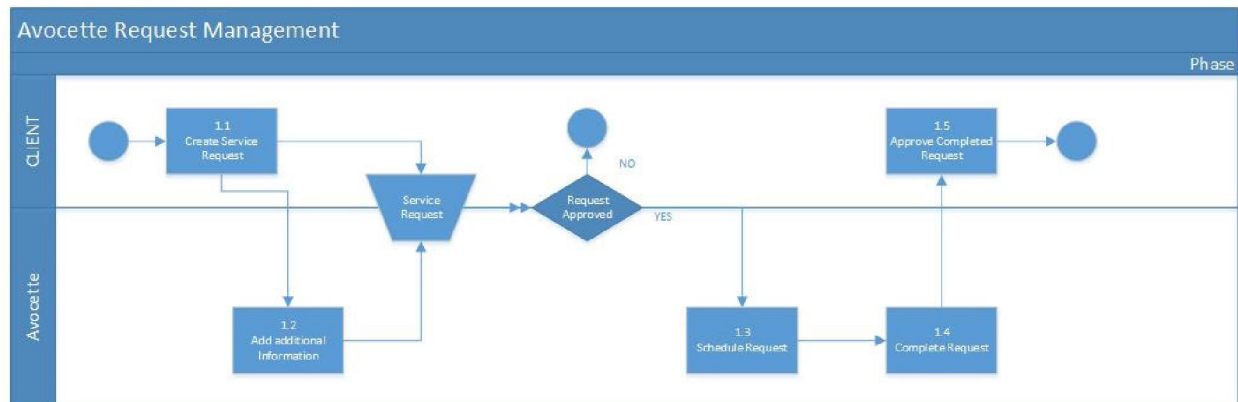


Figure 2: Procedure for Maintenance, Enhancement and Operational Requests

Task #	Task	Actor(s)
1.1	The CLIENT point-of-contact creates the initial service request by documenting the specific request and sending this to the Avocette's Service Desk by sending an email. A template is used to document the Service Request. This will be logged if not already initiated as a service request and assigned to the service delivery manager to assess.	CLIENT application point-of-contact
1.2	The Service Delivery Manager will coordinate the team to assess the Service Request, complete the request with impacts and estimates, and return the	Avocette Support Team

Task #	Task	Actor(s)
	service request to CLIENT for approval. The development of the service request may involve collaboration between CLIENT and Avocette to ensure the requirements are understood and impacts accurately accounted for.	
	CLIENT will review and approve the Service Request.	CLIENT
1.3	The service delivery manager will then schedule the work to be completed based on the agreed timeline expectations in the service request.	Avocette Support Team
1.4	The service request is executed and the deliverables provided to CLIENT.	Avocette Support Team
1.5	CLIENT will review the deliverables and complete any necessary user acceptance testing before giving the approval to proceed to production or accept the deliverable.	CLIENT

Service Requests must be approved and signed by the CLIENT Contract Manager and Avocette's Client Manager before any work proceeds.

1.6 Approach to Maintain Service Levels

Avocette will assign qualified and cross trained resources to the support of the Supported Application Components. The support team will include a primary and backup resource fully trained in the application as well as the support procedures necessary to adhere to CLIENT standards. The Service Delivery Manager will ensure that the backup resource is ready in the event that the primary resource is unavailable for any reason. The primary goal is to ensure that service levels are maintained regardless of the individual schedules of the support team.

In addition, the Avocette Service Desk is provided with primary and backup resource contact information and will be kept informed when the primary resource is unavailable.

Cross training of the backup resources will be provided as part of initial transition to support and will occur annually thereafter as a refresher.

Avocette will maintain a repository for information, materials and details pertaining to support of the Supported Application Components (Knowledge Management). This will also include details on the specific CLIENT policies and procedures that will apply to this support service.

The Service Delivery Manager will ensure that there is adequate coverage during any absences or traditional vacation periods (Christmas Holidays) and will also communicate any upcoming absences to CLIENT during the service level report meetings.

In the event of a disaster in the Avocette Offices, CLIENT will be notified immediately, provided direct contact phone numbers for the support team, and support resources will work from home.

1.7 Facilities and Equipment Requirements

CLIENT is not required to provide any permanent desk or office space. However, Avocette may require access to a drop in station at CLIENT from time to time during onsite visits. Avocette resources will require remote access into the CLIENT environment using a secure VPN or similar connection.

Support Team

Avocette's support team is comprised of the following roles and provides on-going operation support for CLIENT's Accela environment as follows:

Role	Role Description
CLIENT Contract Manager/Point of Contact	<p>The CLIENT will assign a CLIENT Contract Manager/Point of Contact to be the primary contact for the Avocette Service Delivery Manager. (Note that other roles may be assigned as required)The CLIENT Contract manager/Point of Contact will:</p> <ol style="list-style-type: none"> 1. Facilitate communications between Avocette and the CLIENT to clarify incident/service request particulars (as needed) 2. Facilitate communications between Avocette and other CLIENT departments or technical areas in order to diagnose and resolve the request 3. Arrange for User Acceptance Testing as required 4. Provide priorities and guidance to the Avocette support team for outstanding issues 5. Complete resolution details in the support tracking system and closing the ticket 6. Attend monthly service level meetings 7. The following additional responsibilities are primarily related to Service Request Management: 8. Facilitate Authorization of work to proceed. 9. Manage communication with other application stakeholders on implementation or significant changes 10. Facilitate approval of requirements and functional specifications
Avocette Service Desk Support Analyst	<p>Avocette's Service Desk is staffed with Service Desk Support Analysts who are responsible for receiving and acting upon incidents reported by ServicePlus++ clients.</p> <p>The Avocette Service Desk Support Analyst:</p> <ol style="list-style-type: none"> 1. Responds to incidents from ServicePlus++ clients submitted by email or phone. 2. Provides basic user support as required such as password resets and other user support issues. 3. Based on the priority of the incident takes appropriate action to respond to the incident by performing a warm handoff.

	4. Provides regular updates for high priority incidents.
Avocette Account Manager	<p>An Avocette Account Manager is assigned to each ServicePlus++ client and will be the person responsible for ensuring Avocette meets its commitments under this contract. The Client Account Manager is also responsible for approving service requests on behalf of Avocette.</p> <p>The Avocette Account Manager will:</p> <ol style="list-style-type: none"> 1. Be responsible for Avocette's commitments under the contract. 2. Be available when necessary to meet with the client to address issues and concerns. 3. Approve Service Requests in a timely manner.
Service Delivery Manager	<p>A Service Delivery Manager is assigned to each ServicePlus++ client and will be the primary contact for managing incident resolution and service requests. Avocette always assigns a backup Service Delivery Manager, typically the Subject Matter Expert, to each account so that service disruptions are avoided in the case of the primary service delivery manager not being available.</p> <p>The Service Delivery Manager will:</p> <ol style="list-style-type: none"> 1. Be responsible for ensuring service levels are met for all reporting incidents and communicating status of incident resolution processes to stakeholders 2. Manage the delivery team and ensures support coverage is in place to meet or exceed all service levels 3. Ensure proper communication to CLIENT regarding release scope and expected delivery schedule and status during the implementation process 4. Provide estimates for Service Requests and work with the CLIENT Contract Manager to set priorities 5. Work with the CLIENT Contract Manager to develop release plans for Service Requests 6. Ensure all required authorizations have been provided prior to initiating work or conducting migrations 7. Be responsible for adjusting the release processes if necessary in order to improve quality, reliability, timeliness or overall customer satisfaction with the releases and documenting the revised processes 8. Ensure decisions, priorities and action items are properly documented and communicated to the team members

	<ol style="list-style-type: none"> 9. Work with the CLIENT Contract Manager and the Avocette Support Team to prioritize incident resolution and closure 10. Conduct regular team meetings involving release scope, scheduling and status 11. Reports regularly to the Avocette Account Manager
Subject Matter Experts / Business Analyst	<p>A primary and secondary Subject Matter Expert is assigned to each ServicePlus++ client and is responsible for providing analysis of and recommendations for resolving incidents and providing analysis and design for service requests.</p> <p>The Subject Matter Expert will:</p> <ol style="list-style-type: none"> 1. Be responsible for understanding the business needs in relation to the application 2. Gather requirements for enhancements or service requests 3. Document both “as is” and “to be” to enable technical team members to effectively configure the application 4. Liaise with CLIENT staff to understand and document reporting requirements 5. Work with CLIENT to understand business problems in relation to the application 6. Works with the Avocette Service Delivery Manager to effectively timetable and deliver business analysis tasks as part of releases or service requests
Database Administrator	<p>Avocette’s core team also includes a Database Administrator. The Database Administrator is not assigned to the team but is available as and when needed.</p>

Assigned resources may hold one or more roles described above.

Schedule “B” – “Projects”

Project Overview

The City of Cupertino is expanding their current Accela Civic Platform Implementation to include functionality which will track Licences as well as their applications and renewals.

Project Objectives

The purpose of this project will be to allow the City of Cupertino facilitate the application of Business Licences within the Accela Civic platform. The following are the major objectives:

- A new Licensing module and associated records to streamline the licensing process.
- The new system functionality will allow the City of Cupertino to process applications, maintain licenses and renewals in Accela.

Methodology Overview

The Licensing Module Implementation project will follow a waterfall approach and will be completed in six stages. The data conversion stage will run concurrently to the Analysis and Documentation and Build and QA stages.

Scope

The following section describes the high-level scope for each stage of the project to meet the business objectives of City of Cupertino.

Stage	Scope
Project Initiation	Detailed planning and development of SOW and Project Plan, including approvals.
Analysis and Documentation	Requirements analysis and documentation of system configuration design.
Build and QA	Configuration, based on approved requirements and design and QA testing including test cases and remediation of defects.
Data Conversion	Data conversion from New World Licensing system to Accela.
UAT and Remediation	UAT including test cases and remediation of defects
GO-Live	Implementation readiness and final go-live

Project Timeline

Once Project Initiation is complete and the Project Charter is approved, the overall timeline to complete the project deliverables is approximately 6 months.

Phase 1 will have an approximate timeline of 6 weeks.

Stage	Approximate Dates
Project Initiation	Complete before SOW Sign Off
Analysis and Documentation	June 7 – June 18
Build and QA	June 21 – July 9
Data Conversion	June 14 – July 9
UAT and Remediation	July 12 – July 23
GO-Live	July 23

Project Estimate

The Special Events project will be implemented as fixed price based on a blended rate of \$130/hour. The following estimation is based on assumptions and scope within this document, based on knowledge of complexity and scope at the time of signing. Both Avocette and City of Cupertino agree, there may be unforeseen challenges that can affect this estimate, and that adjustments may need to be made.

Avocette will monitor progress against estimates for deliverables and will consult the City of Cupertino to adjust if necessary. The City of Cupertino and Avocette agree that if additional funds are required, Avocette will prepare and present a Change Request for additional funds based on a revised estimate to complete mutually agreed upon deliverables. The City of Cupertino will not unreasonably withhold or delay approval of such Change Requests. Avocette will communicate as early as possible, and as soon as it is known that a change request will be required.

Project Estimates	Estimated Units	Estimated Cost
Project Initiation	-	-
Analysis and Documentation	20	\$2,600.00
Build and QA	44	\$5,720.00
Data Conversion	40	\$5,200.00
UAT and Remediation	20	\$2,600.00
GO-Live	10	\$1,300.00
Project Management and Meetings	16	\$2,080.00
Total	150	\$19,500.00

Deliverables

The following section describes the specific deliverables that will be executed to meet the business objectives and business requirements of the City of Cupertino. In support of the implementation effort as described above, Avocette will provide the following detailed implementation services. For each deliverable, a description is provided as well as criteria for acceptance of the deliverable.

Deliverable #	Deliverable Name
1	Project Initiation
2	Analysis and Documentation
3	Build and QA
4	Data Conversion
5	UAT and Remediation
6	GO-Live

Project Management

Avocette's Project Manager will lead the project team to ensure all tasks are progressing according to the schedule. The Project Manager is empowered to make decisions on behalf of Avocette to best suit the needs of the City of Cupertino implementation and will work closely with the City of Cupertino Project Manager providing oversight to ensure synchronized execution of this agreement. Through the weekly status meetings, the Avocette Project Manager will coordinate with the City of Cupertino Project Manager to review and report on the following activities:

- Status Reporting
- Resource Management
- Executive Project Oversight (Avocette)

Deliverable 1: Project Initiation

The following key deliverable are completed and accepted in this stage:

Deliverable Name	Description
Project Initiation	Kick off the project and develop statement of work

In terms of specific output, the following will be executed for this deliverable:

- Statement of Work
- Project Plan – to be completed by Cupertino

Deliverable 2: Analysis and Documentation

The following key deliverable are completed and accepted in this stage:

Deliverable Name	Description
Analysis and Documents	Requirements analysis and documentation of system configuration design.

In terms of specific output, the following will be executed for this deliverable:

- Analysis data gathering activities including workshops and remote analysis sessions
- Analysis Documents

Acceptance Criteria:

- Completion of Analysis Sessions
- Delivery of Analysis documents resulting from analysis

Deliverable 3: Build and QA

Avocette will develop the solution in accordance with requirements established and documented in Deliverable 2: Analysis Sessions, Design and Documentation. Avocette will perform QA to ensure the implemented system aligns with the requirements outlined in Deliverable 2: Analysis Sessions, Design and Documentation.

Deliverable Name	Description
Build and QA	Build the solution and QA test of the system

In terms of specific output, the following will be executed for this deliverable:

- Completed Solution as detailed in the analysis documents
- QA Testing Results

Acceptance Criteria:

- Demonstration of the solution
- Approve the Solution is as detailed in the analysis documents
- Review and acceptance of QA Testing Results (verification that the test results are within acceptable tolerances)

Deliverable 4: Data Conversion

This deliverable is comprised of the development of data conversion scripts to import existing licensing data from the New World system into Accela and the running of the scripts. The deliverable includes two test runs. A final PRODUCTION run will be completed during Deliverable 6: Go Live.

Deliverable Name	Description
Data Conversion	Data conversion from New World Licensing system to Accela.

In terms of specific output, the following will be executed for this deliverable:

- Two test imports of data into SUPP environment
- Necessary remediation to prepare the data for PRODUCTION

Acceptance Criteria:

- Successful import of existing data into SUPP environment
- Sign off that the data conversion is complete and ready for PRODUCTION

Deliverable 5: User Acceptance Testing and Remediation

This deliverable is comprised of the assistance Avocette will provide to allow the City of Cupertino resources to accept that the solution meets the requirements as documented. Avocette will assist the City of Cupertino in the testing and validation of the solution and its readiness to be released for Production.

Deliverable Name	Description
User Acceptance Testing and Remediation	Provide UAT support for the City of Cupertino and remediate any issues found.

In terms of specific output, the following will be executed for this deliverable:

- Resolution of issues resulting from User Acceptance Testing
- Fully tested system that is ready to move to production

Acceptance Criteria:

- Completion of UAT
- Sign off that the solution is complete and ready for PRODUCTION

Deliverable 6: GO-Live and Support

Production Go-Live date is defined as the official date in which the solution moves from the test environment to production for daily City of Cupertino usage. This date will be agreed to by both Avocette and the City of Cupertino at project inception. In the weeks prior to moving to Production, Avocette will assist in final system validation, staff preparation assistance and training, and coordination of deployment.

Deliverable Name	Description
Go-Live and Support	Provide pre deployment and go-live support to facilitate the implementation of the solution

In terms of specific output, the following will be executed for this deliverable:

- Develop and deliver the Deployment Checklist
- Transfer of configuration data from Non-Prod to Production

Acceptance Criteria:

- Execution of deployment from Non-Prod to Production
- Production system is first used by the City of Cupertino for daily use

Appendix A: Definitions

The following definitions are used throughout this proposal:

“Acknowledge Request” means an email from an Avocette representative that confirms that a request has been received.

“Additional Support Services” means any additional work requested by CLIENT beyond the Base Support Services.

“Additional Support Services Fees” means the monthly fee paid to the VENDOR for the delivery of Additional Support Services.

“Approved Service Request” means a Service Request or a VENDOR Service Proposal for which the proposal and budget estimate provided by VENDOR has been approved by CLIENT and VENDOR has been instructed to proceed with delivery of the subject matter.

“Base Support Services Fee” means the monthly fee paid to the VENDOR for the delivery of Base Support Services.

“CLIENT Point of Contact” means the person in CLIENT responsible for managing the contract and approving all expenditures. This person is also the CLIENT reference of all administrative matters associated with this contract.

“Contract Manager” means the Avocette Manager responsible for the delivery of Managed Services across multiple clients. The Service Delivery Manager reports to the Contract Manager. The Contract Manager is present at Monthly, Quarterly and Annual Service Level Review meetings with CLIENT.

“Customer Support Center (CSC)” means CLIENT’s first level helpdesk service if used. The Customer Support Center is responsible for declaring the initial priority of an Incident.

“Incident” means an event that degrades or disrupts the normal operation of the application that is reported to the Service Desk and given a unique tracking number.

“Incident Resolution Time” means the time to complete the permanent corrective solution (resolve the root cause).

“On-call Hours” means those hours beyond the Standard Business Day. On-call services are available on request by CLIENT with one day’s notice.

“Preapproved Expenses” means those expenses incurred by the VENDOR in the execution of this contract including travel and living expenses as preapproved by the CLIENT.

“Priority” means the degree of impact that an incident has on CLIENT business areas and clients. The priorities are graded from 1 through 5 and agreed response and resolution times are based on these priorities in the form of a Service Level Agreement. The Priority definitions can be found in Section 2 Service Levels.

“Services” means Base Support Services and Additional Support Services.

“Service Desk” means the service desk operated by the VENDOR providing a single point of contact and 2nd level support for all Services Incidents, and 1st level support for all Service Requests and Approved Service Requests for In-Scope Servers and In-Scope Applications.

“Service Delivery Manager” means the Avocette resource responsible for ensuring CLIENT service levels are met and that CLIENT remains satisfied with the service being provided. The Service Delivery Manager manages the support team, ensures adequate coverage is in place, provides communication to CLIENT during incident recovery periods, and prepares the Service Level Reports. The Service Delivery Manager is present at Monthly, Quarterly and Annual Service Level review meetings at CLIENT.

“Service Levels” means the operational performance required of, and guaranteed by, the VENDOR in the delivery of the Services, as set out in Section 2.

“Service Management Reporting” means the design, generation and delivery by the VENDOR of reports and reporting sufficient to meet CLIENT’s operational management requirements for the Services.

“Service Request” means a formal request issued by CLIENT for maintenance (upgrades, preventative maintenance) and enhancements.

Service Requests are developed by CLIENT and typically include the description of the requested service, scope, expected deliverables and timeline expectations. Avocette will provide estimates for Service Requests within 5 business days. All service requests are sent to the Avocette Service Desk and given a unique tracking number.

“Standard Business Day” will be 7:00 a.m. to 5:00 p.m. Monday to Friday, not including Statutory Holidays.

“Statutory Holidays” – In the United States means New Year’s day, Martin Luther King day, Presidents Day, Memorial day, Independence day, Columbus Day, Veteran’s day, Thanksgiving day, Christmas day, Christmas day holiday and in Canada means New Year’s Day, Family Day (including Islander day, Louis Riel day, Viola Desmond day), Good Friday, Easter Monday, Victoria Day, Canada Day, Civic holiday (including AB, BC, SK, ON, NB, NU), Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day.

“Support Team” means the Avocette resources that are involved in the day to day support of the Supported Application Components.

“Ticket” is a generic term for a unique tracking number that is generated by the Customer Service Centre or Avocette’s service request management application.

Exhibit A-A – SHELTER IN PLACE AND SOCIAL DISTANCING REQUIREMENTS

A. Health Laws Acknowledged. It is acknowledged that Consultant's/Contractor's ("Contractor") duty to comply with Laws, as defined in Section 13 of the Contract/Agreement ("Contract"), includes immediate compliance by Contractor and its subcontractors with the restrictions on travel and the Social Distancing Requirements set forth in the most recent health order issued by the County of Santa Clara Health Department in response to the COVID-19 pandemic, and any subsequent amendments or superseding orders thereto (the "Health Order"), and any other local, state, or federal laws that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws").

B. Health Order Compliance. Contractor shall comply with any restrictions on travel and social distancing requirements in the Health Order when performing work under this Contract. If a scope of work item, notice to proceed, or work order under this Contract specifies work that cannot be performed in compliance with the Health Order or other Health Laws, Contractor shall refrain from conducting the work and immediately inform the City.

C. Individuals at High Risk of Severe Illness. Nothing in this Contract shall be interpreted to require any person at high risk of severe illness from COVID-19 to leave their residence to perform work under the Contract. Contractor will inform the City if other arrangements for the work must be made, and City will do so, with no penalty to Contractor, although Contractor will not be compensated for work performed by the City or third parties. Information from the Center for Disease Control ("CDC") on "high risk" categories is available at the CDC's website at: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html>.

D. Health Order Requirements and Best Practices. Contractor will immediately undertake all appropriate measures to ensure compliance with the Social Distancing Requirements in the Health Order by all individuals performing work under this Contract, including Contractor's or any subcontractor's workers, employees, representatives, vendors, or suppliers (collectively, "workers"), and shall maintain these measures for as long as required by the Health Order or other Health Laws. As long as required by the operative Health Order or other Health Laws, these measures shall include, but are not limited to, the following:

1. Meetings/Site Access. Use electronic alternatives to in person meetings, e.g., conference calls, video-conferencing, etc., to the greatest extent possible. Limit access to any project site or any work area to workers who are necessary to perform in-person work. Require non-essential personnel to work from home to the extent possible. Avoid all non-essential travel.

2. Distancing. Where workers perform in-person work at a project site or a work area, prohibit workers from being less than six feet apart, unless and only to the extent that would compromise worker safety or violate safety Laws for specific operations. Prohibit handshaking or any physical contact among workers, with the sole and limited exception

of any physical contact required for worker safety or to comply with safety Laws.
Prohibit workers from sharing a vehicle.

E. Changed Requirements. It is understood and acknowledged that circumstances pertaining to the COVID-19 pandemic are evolving rapidly and that new local, state, or federal requirements may modify the requirements under this Exhibit. Contractor agrees to work cooperatively with the City to implement new or changed requirements as quickly as possible.

F. Subcontracts. Contractor shall include the terms of this Exhibit in all subcontracts and require any agents, subcontractors, or subconsultants to comply with its provisions.

1229192.7

EXHIBIT D
Insurance Requirements
Design Professionals & Consultants Contracts

Consultant shall procure prior to commencement of Services and maintain for the duration of the contract, at its own cost and expense, the following insurance policies and coverage with companies doing business in California and acceptable to City.

INSURANCE POLICIES AND MINIMUMS REQUIRED

1. ***Commercial General Liability*** (CGL) for bodily injury, property damage, personal injury liability for premises operations, products and completed operations, contractual liability, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence (ISO Form CG 00 01). If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO Form CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
 - a. It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b. Additional Insured coverage under Consultant's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO Form CG 20 10 (04/13).
 - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.
2. ***Automobile Liability***: ISO CA 00 01 covering any auto (including owned, hired, and non-owned autos) with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. ***Workers' Compensation***: As required by the State of California, with Statutory Limits and Employer's Liability Insurance of no less than **\$1,000,000** per occurrence for bodily injury or disease.
 ✓ Not required. Consultant has provided written verification of no employees.
4. ***Professional Liability*** for professional acts, errors and omissions, as appropriate to Consultant's profession, with limits no less than **\$2,000,000** per occurrence or **\$2,000,000** aggregate. If written on a claims made form:
 - a. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
 - b. Insurance must be maintained for at least five (5) years after completion of the Services.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract Effective Date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

OTHER INSURANCE PROVISIONS

The aforementioned insurance shall be endorsed and have all the following conditions and provisions:

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers ("Additional Insureds") are to be covered as additional insureds on Consultant's CGL and automobile liability policies. General Liability coverage can be provided in the form of an endorsement to Consultant's insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or both CG 20 10 and CG 20 37 forms, if later editions are used).

Primary Coverage

Coverage afforded to City/Additional Insureds shall be primary insurance. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute to it.

Notice of Cancellation

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation

Consultant waives any right to subrogation against City/Additional Insureds for recovery of damages to the extent said losses are covered by the insurance policies required herein. Specifically, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Consultant, its employees, agents and subconsultants. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At City's option, either: the insurer must reduce or eliminate the deductible or self-insured retentions as respects the City/Additional Insureds; or Consultant must show proof of ability to pay losses and costs related investigations, claim administration and defense expenses. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the insured or the City.

Acceptability of Insurers

Insurers must be licensed to do business in California with an A.M. Best Rating of A-VII, or better.

Verification of Coverage

Consultant must furnish acceptable insurance certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements prior to commencement of the Contract. City retains the right to demand verification of compliance at any time during the Contract term.

Subconsultants

Consultant shall require and verify that all subconsultants maintain insurance that meet the requirements of this Contract, including naming the City as an additional insured on subconsultant's insurance policies.

Higher Insurance Limits

If Consultant maintains broader coverage and/or higher limits than the minimums shown above, City shall be entitled to coverage for the higher insurance limits maintained by Consultant.

Adequacy of Coverage

City reserves the right to modify these insurance requirements/coverage based on the nature of the risk, prior experience, insurer or other special circumstances, with not less than ninety (90) days prior written notice.

PRODUCER	Serial # 119421	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
WILLIS CANADA INC., A WILLIS TOWERS WATSON COMPANY 2650 - 666 BURNARD STREET VANCOUVER, BC V6C 2X8		
INSURED	INSURERS AFFORDING COVERAGE	NAIC#
AVOCETTE TECHNOLOGIES INC. 2ND FLOOR - 422 SIXTH STREET NEW WESTMINSTER, BC V3L 3B2		INSURER A: CONTINENTAL CASUALTY COMPANY
		INSURER B:
		INSURER C:
		INSURER D:
		INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	MPR 2755219 (INCLUDING CONTINGENT EMPLOYER'S LIABILITY)	09/30/20	09/30/21	EACH OCCURRENCE	\$ 4,000,000
		DAMAGE TO RENTED PREMISES (Ea occurrence)				\$	
		MED EXP (Any one person)				\$	
		PERSONAL & ADV INJURY				\$	
		GENERAL AGGREGATE				\$ 4,000,000	
		PRODUCTS - COMP/OP AGG				\$ 4,000,000	
		NON-OWNED AUTOS					
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> <input type="checkbox"/>	MPR 2755219 HIRED AUTOS \$75,000	09/30/20	09/30/21	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		BODILY INJURY (Per person)				\$	
		BODILY INJURY (Per accident)				\$	
		PROPERTY DAMAGE (Per accident)				\$	
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/>				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
							\$
							\$
		WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
						EL EACH ACCIDENT	\$
						EL DISEASE - EA EMPLOYEE	\$
						EL DISEASE - POLICY LIMIT	\$
A		OTHER PROFESSIONAL LIABILITY	PLP 2878253	09/30/20	09/30/21	\$2,000,000 PER CLAIM \$2,000,000 PER AGGREGATE	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

THE CITY OF CUPERTINO, ITS CITY COUNCIL, OFFICERS, OFFICIALS, EMPLOYEES, AGENTS, SERVANTS AND VOLUNTEERS ARE INCLUDED AS ADDITIONAL INSURED(S) AS RESPECTS TO LIABILITY COVERAGE(S) WHEN REQUIRED BY WRITTEN CONTRACT, SUBJECT TO POLICY TERMS & CONDITIONS, AS PERTAINS TO THE OPERATIONS OF THE INSURED. AS PER ATTACHMENT (PAGE 2)

CERTIFICATE HOLDER

CANCELLATION

THE CITY OF CUPERTINO
10300 TORRE AVE.
CUPERTINO CA 95014

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE WILLIS CANADA INC., A WILLIS TOWERS WATSON COMPANY

ACCOUNT MANAGER



Change Endorsement

Named Insured:	Avocette Technologies Inc.			
Policy Period:	From:	September 30, 2019	To:	September 30, 2020
Policy Number:	MPR 2755219			
Endorsement Type:	Change Endorsement			
Endorsement Number:	1			
Endorsement Effective Date:	October 24, 2019			

This endorsement changes the policy, please read it carefully.

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage

It is agreed that the following item(s) on the Additional Insured Schedule have been added as outlined below:

Additional Insured Schedule		
Description		Status
The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers, 10300 Torre Avenue Cupertino, CA 95014 USA	But only with respect to liability arising out of the operations performed by or on behalf of the Named Insured.	New

It is further agreed that the following Waiver of Subrogation – Designated Person(s) or Organization forming part of Commercial General Liability coverage is added to the policy as outlined attached.

All other terms and conditions remain unchanged.



Endorsement				
Named Insured:	Avocette Technologies Inc.			
Policy Period:	From:	September 30, 2019	To:	September 30, 2020
Policy Number:	MPR 2755219			
Endorsement Title / Reference:	Waiver of Subrogation - Designated Person(s) or Organization			
Endorsement Type:	Condition			
Endorsement Number:	CGL-CM 00-096 CE 103118			
Endorsement Effective Date:	October 24, 2019			

The following clause forms part of the 'Common Policy Terms and Conditions', solely in connection with the 'Commercial General Liability Coverage Section' to this Policy.

Waiver of Subrogation - Designated Person(s) or Organization

In the event of any payment under this Policy, the **Insurer** shall waive their rights of recovery against any person(s) shown in the Schedule below where such waiver has been included as part of a contractual undertaking by the **Insured**, but this waiver shall apply only in respect to the specific contract entered into prior to the date of **Loss**, existing between the **Insured** and such person(s), and will not be construed to be a waiver in respect to other operations of such person(s) in which the **Insured** has no contractual interest.

SCHEDULE

Name of Person(s) or Organization:

All other terms and conditions not otherwise modified by this endorsement remain unchanged.

September 30, 2020

City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

To Whom It May Concern:

Subject: Avocette Technologies Inc.

Willis Towers Watson is the insurance broker for Avocette Technologies Inc. (Avocette). This letter is to confirm that Avocette has Contingent Employers Liability insurance under their Commercial General Liability as evidenced on the attached certificate. In British Columbia, Canada, Primary Worker's Compensation insurance, including Employers Liability, is provided by the Provincial WorkSafe BC Program. The Contingent Employers Liability coverage will provide coverage for any employee who is ineligible for the WorkSafe BC coverage. Avocette does not have any US employees and, as such, is not required to purchase US Worker's Compensation insurance.

We can also confirm that the Endorsement adding the City of Cupertino as Additional Insured under Avocette's 2020-2021 Commercial General Liability coverage is in the process of being issued by their insurance carrier and will be forwarded upon receipt. In the meantime, we have attached a copy of the Endorsement from the 2019-2020 policy, which is being renewed on the same basis.

Should you have any questions please do not hesitate to contact the undersigned.

Sincerely,



Paula Hardie, BA, CIP, CAIB
Account Manager

Paula Hardie, BA, CIP, CAIB
Account Manager

2650 – 666 Burrard St.
Vancouver, BC V6C 2X8
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Accela Consulting Services

Final Audit Report

2021-07-12

Created:	2021-06-30
By:	City of Cupertino (webmaster@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGFnyn-CHujGX8DJ4nYrRY4gluM9IKe8W

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 Agreement completed.

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