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NEW

State of Maine



Master Agreement

Effective Date: 02/01/23

Expiration Date: 01/31/25

Master Agreement Description: Implement, Maintain, and Support Tableau Server

Buyer Information

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Issuer Information

Chris Boudreau 207-621-5186 ext. christopher.l.boudreau@maine.gov

Requestor Information

Chris Boudreau 207-621-5186 ext. christopher.l.boudreau@maine.gov

Agreement Reporting Categories

Authorized Departments

ALL

Vendor Information

Vendor Line #: 1

Vendor ID

VC0000248302

Vendor Name

PASSERELLE CORPORATION

Alias/DBA

Vendor Address Information

22 MONUMENT SQUARE STE 202

PORTLAND, ME 04101

US

Vendor Contact Information

KAREN COOK
207-730-1169 ext.
KCOOK@PASSERELLEDATA.COM

Commodity Information

Vendor Line #: 1

Vendor Name: PASSERELLE CORPORATION

Commodity Line #: 1

Commodity Code: 92031

Commodity Description: Implement, Maintain, and Support Tableau Server

Commodity Specifications:

Commodity Extended Description: AS PER THE SPECIFICATIONS ATTACHED AND MADE PART OF THIS MA.

Quantity 0.00000	UOM	Unit Price 0.000000
Delivery Days	Free On Board	
Contract Amount 0.00	Service Start Date 02/01/23	Service End Date 01/31/25
Catalog Name	Discount 0.0000 %	
	Discount Start Date	Discount End Date

Please see authorized signatures displayed on the next page

Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.

State of Maine - Department of Administrative and Financial Services

DocuSigned by:
David Morris 2/3/2023
2A644AE5681E482

Signature Date

David Morris, Acting Chief Procurement

Officer

DocuSigned by:
Vendor
Pat Dionne 2/2/2023
E47170B36AF6424

Signature Date

Pat Dionne President/CEO

Print Representative Name and Title

DocuSigned by:
Fred Brittain 2/3/2023
052B9AC7F56A489...

Fred Brittain Chief Info. Officer

RIDERS

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Rider A – Scope of Work and/or Specifications
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input type="checkbox"/>	Rider C - Exceptions
<input type="checkbox"/>	Bid Cover Page and Debarment Form
<input checked="" type="checkbox"/>	Debarment, Performance, and Non-Collusion Certification
<input type="checkbox"/>	Price sheet (attach excel spreadsheet to post on website)
<input type="checkbox"/>	Other – Included at Department's Discretion

AGREEMENT TO PURCHASE SERVICES (BP54-IT)

STATE OF MAINE
DEPARTMENT OF **Administrative and Financial Services** Agreement to Purchase Services

THIS AGREEMENT made this 31st day of January, 2023 is by and between the State of Maine, Department of Administrative and Financial Services (DAFS), hereinafter called "Department," and **Passerelle Corporation, PO Box 2354. South Portland, Maine 04116**, hereinafter called "Provider", for the period of **February 1, 2023, to January 31, 2025**. Additionally, State of Maine DAFS reserves the right to exercise renewal options for additional years.


The AdvantageME Vendor/Customer number of the Provider is **VC0000248302**

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Work to be Performed
- Rider B-IT - Payment and Other Provisions
- Rider C – Exceptions to Rider B-IT
- Rider D/E/F – At Department’s Discretion
- Rider G – Identification of Country in Which Contracted Work will be Performed

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in one original copy.

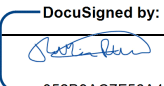
Provider: **Passerelle Corporation** _____

By:  _____
DocuSigned by:
E47170B36AE6424...

Pat Dionne, CEO - Founder at Passerelle

Date: 2/2/2023

**Department of Administrative and Financial Services
Office of Information Technology**

By:  _____
DocuSigned by:
052B9AC7F56A489...

Frederick Brittain, Chief Information Officer

Date: 2/3/2023

Total Agreement Amount \$ 0.00

RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

The Provider is to provide enhanced functionality for data analysis, governance, visualization, presentation, and communication for a wide range of available data including both structured and semi-structure data sources. Audiences for these data capabilities include both internal personnel and external customers. Provider will implement, maintain, and support Tableau Server by performing the following services:

1. Provisioning and managing cloud-based Tableau Server assets, including assets co-located in the State's Azure Government Cloud tenant
2. Provisioning and managing licensing for Tableau products
3. Providing services from a menu of a la carte Tableau-related service offerings
4. Providing technical and application support for Tableau Server based on service levels.

Provider will work with Customer to build upon the architecture that has already been proven through the CDC program as it is built to be scalable throughout the entire organization.

Tableau Server Technology Services

1. **Provide a standardized service catalog of options available to Customer for Tableau Services.**

Rider F

2. **Deploy Tableau software and application onto State provisioned VM within the State of Maine Azure Government Environment and follow the appropriate compliance requirements.**

a. Provider currently provides (3) managed Tableau Server instances, IIS Proxy server, and support to the State of Maine CDC, which Provider will leverage for use by the State as a whole. Our methodology is based on lessons learned and best practices derived from the assortment of public sector projects across our portfolio combined with the policies and procedures defined by customer, including the use of the State of Maine Azure Government Environment.

b. Provider acknowledges compliance with state standards referenced in Rider B, paragraph 38.

3. **Configure deployed infrastructure to be scalable as demand requires, while staying within the specified Reservation scope of the VM series that will be used for the environment.**

<https://azure.microsoft.com/en-us/pricing/reserved-vm-instances/>

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- a. While the current Tableau instances are on the State of Maine Azure Government Environment, the instances are utilizing the on-demand pricing and will need to be migrated to the Reserved Instance model.
 - b. Continued server monitoring will continue to occur. If resource constraints become problematic, Provider will propose solutions to scale up and/or scale out based on the need.
4. **Administer and configure everything inside the virtual machines, from the operating system to the application.**
- a. The State of Maine Computing Infrastructure & Services (CIS) group will administer the resources in the Microsoft Azure platform for the underlying infrastructure (networking, firewalls, storage, server, and virtualization).
 - b. Provider supports the current instances of Tableau Server utilizing the above framework. Application and operating system maintenance is critical to enabling the organization and its agencies to serve the state of Maine. Each environment follows Microsoft's and Tableau's best practice patching schedules. Refer to and follows the Customer security requirements.
5. **The VMs must comply with the CIS Benchmarks standards (found here <https://www.cisecurity.org/cis-benchmarks/>) for Windows Server 2022 and, subject to the data being transacted, the VMs will be required to meet specific Federal compliance mandates, as these VMs will not be domain joined.**
- a. The current Tableau Server instances are running on the Windows Server 2019 operating system. Provider will need to coordinate and implement a migration to Windows Server 2022 for each instance in compliance with this mandate.
 - b. On a defined schedule, Provider will run the CIS Benchmark software to comply with compliance mandates as needed under the direction of Customer. Provider is familiar with validating the results and resolving issues that arise from such process. Cost associated with CIS Benchmark software is assumed by State.
6. **The infrastructure will be configured following hub and spoke model, and best positions the resources for consumption by multiple agencies aligned with chargeback business model.**
- a. Provider utilizes the Tableau recommended Server-Site-Project hub and spoke model (see Figure 1). A Tableau Server instance can have many Sites that are provisioned per agency or cross-agency based on need. If two agencies need to collaborate, Provider can create a cross agency site that allows such. Each agency's site can then have as many projects as needed.
 - b. Security can be provisioned for each site and project, based on the needs of the agency. Currently permissions are granted to users by the site administrator and project owner roles, in compliance with policies referenced in paragraph 38. as best practice. The CDC instances use this process today and Provider will scale it practice state-wide. This is the best practice Provider (and Tableau) see across the US.

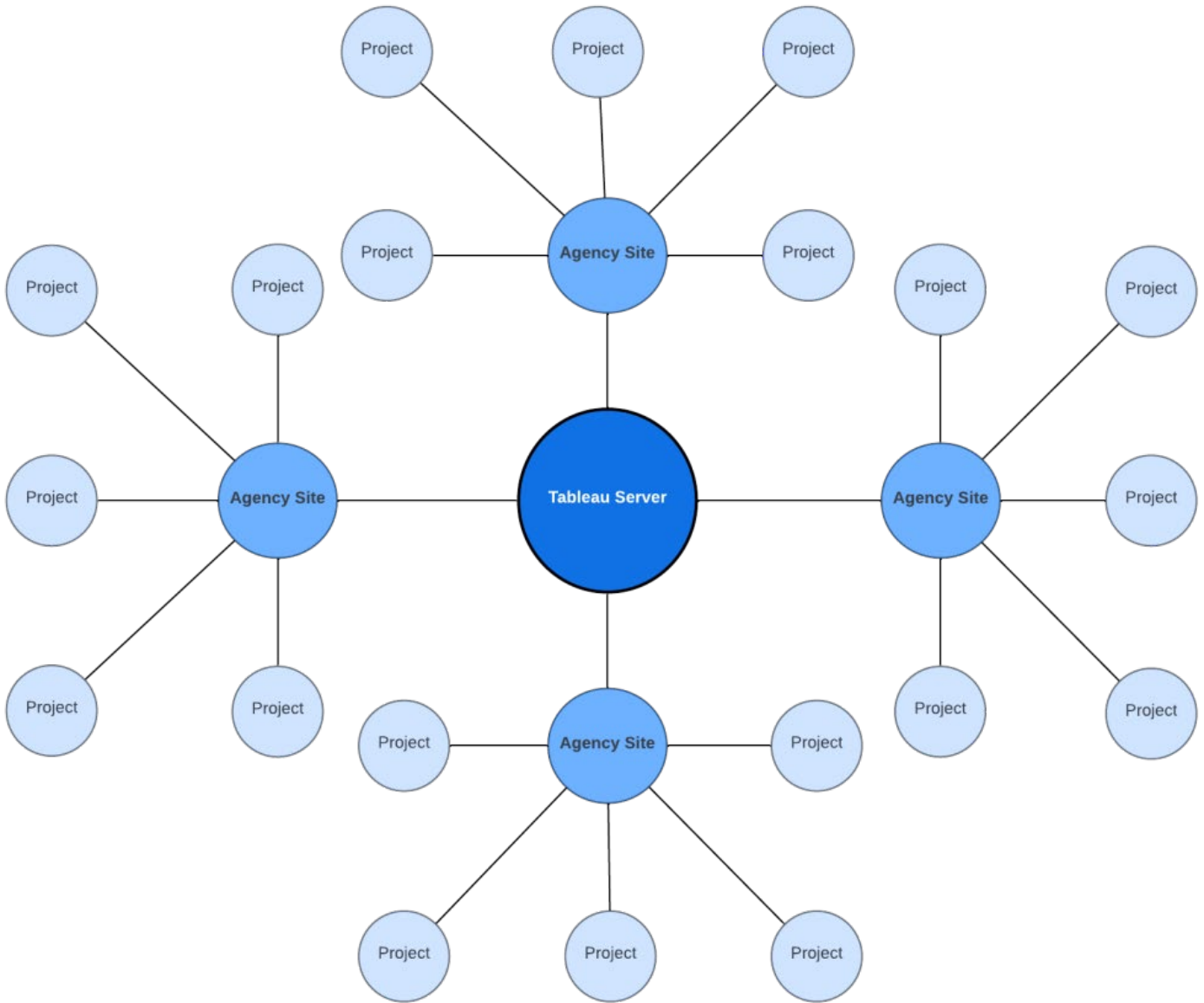


Figure 1

- c. Chargeback can be based on the aggregation of the following metrics for each site/agency daily if using the Tableau Server Management add-on. The current Tableau instances do not have this add-on installed. State of Maine will procure the add-on and Provider will install and configure to enable the charge-back model. Provider suggests using the following formula for the charge back model, State will ultimately determine what chargeback model works best for the State:
$$\text{Extract Disk Space Usage (MB)} * \text{dollar amount} + \text{View Load Time Minutes} * \text{dollar amount}$$

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- d. + Extract Refresh Time Minutes * dollar amount
- e.

7. State and Provider Responsibilities:

	State of Maine	Provider
Provision Networking and Firewalls	Responsible	Informed
Provision virtual machines in Azure	Responsible	Informed
Configure Operating System	Informed	Responsible
Configure Backups	Informed	Responsible

- a. Provider configures the Operating Systems for all VMs used in the current deployment and will continue to do with existing and new VM as the Tableau platform expend.
- b. Provider will maintain VM snapshots daily with a 30-day lookback for all Tableau Server instances and the IIS reverse proxy server used by the external Tableau Server instance. This schedule can continue, or Provider can modify the schedule based on Customer requirements. Each VM can have its own schedule if needed.

Tableau licensing and support:**1) Provide licensing management for all Tableau license types.**

- a. Internal State of Maine user will manage the assignment of keys based on a spreadsheet. State of Maine owns the Tableau keys. Provider will work with this user to manage desktop license keys and server access.
- b. Provider runs a report from Tableau portal to uncover users that have not used the license in days/months, allowing the organization to decide if this user's license can be revoked and become available for a new user.
- c. Provider assumes the responsibility as the Tableau portal administrator. The portal administrator manages licensing and keys for the Tableau deployments. These responsibilities include:
 - a) Key Activation – uploading and saving Tableau product keys to Tableau Server using Tableau Server Manager.
 - b) Key Deactivation – when moving or decommissioning servers a key may need to be deactivated to be used on a new instance of Tableau Server.
 - c) Adding users – each user who access resources on Tableau Server must be licensed.
 - d) Deactivating users – removing licenses from users that are no longer permissioned to use Tableau or users that have left or moved around the organization.

2. Ensure best government pricing for each license type available from Tableau.

- a. Provider ensures best government pricing is provided for the State of Maine by working closely with departments to understand their licensing needs, by recommending the best license type and structure to meet those needs, and by working with Tableau to provide best pricing as a Tableau reseller in good standing.
- 3. **Provide for dynamic management of licenses to account for staffing changes, and changing program needs on no less than a quarterly basis.**
 - a. Provider will configure the internal production Tableau Server instance to a Login-based licensing model to simplify Creator license key distribution.
- 4. **Provide ad-hoc consulting and technical assistance (TA) services billed on a time-used basis.**
 - a. Provider has provided consulting rates in Rider F to support ad hoc and technical assistance services. Examples of services available using the hourly rate process include:
 - d. Development and delivery of custom training classes
 - e. ii. TA hours to assist staff with:
 - 1. Tableau Server use
 - 2. Governance advice
 - 3. Data modeling support
 - 4. Dashboard development assistance
 - j. **Facilitate access to Tableau support for more complex TA as needed.**
 - a. Provider and customer will work together to facilitate access.
 - k. **Facilitate a monthly Tableau User Group for all license holders.**
 - l. **Track response and resolution times for TA requests and meet targets based on identified priority levels. (See Performance Measures below.)**
 - m. **Provide biannual Tableau Roadmap briefings to the Director of Enterprise Data Services.**
 - n. **As Tableau product offerings changes, the provider must update the service catalog and make available new Tableau products and features.**

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a. Provider will provide to customer updates inclusive of updated features within: Tableau Server, Tableau Creator, Tableau Explorer, Tableau Viewer, Tableau Data Management, Tableau Server Management features. With State of Maine approval, Provider will update the service catalog as we are provided with information.

Tableau Development Services

1. Single point of contact for licensing and development requests from Customer.

a. Provider has the capability to provide a Jira service request portal with dedicated phone support that goes directly to a technician. Currently, Provider has a single point of contact that acts as the gatekeeper for licensing and development request. This contact ensures that the correct technician is assigned to the request. Provider can continue with this model or move to the request portal if needed.

2. Provide an option for Time and Materials (T&M) based custom solutions based on a T&M rate sheet.

3. Transition existing Tableau Server infrastructure from the current provider to the new enterprise configuration.

a. Provider's proposed Tableau Server migration to transition the existing Tableau Server infrastructure from the current provider to the new enterprise configuration is as follows:

i. Build three new Windows Server 2022 VMs for Dev, Internal, and External environments in The State of Maine Microsoft Azure platform

ii. Install and configure Tableau Server to all Windows Server 2022 VMs

iii. Request and install new SSL certificates for each environment as needed

iv. Create Tableau Server backups of current environments

v. Copy backups to new Tableau Servers

vi. Provider will work with the end users and stakeholders on scheduling a brief downtime for each environment and will migrate one at a time, starting with Dev to benchmark how long the migration will take before scheduling production servers.

vii. For each environment, remove the Windows Server 2019 VMs from the network

viii. For each environment, restore the Tableau Server backup to the new server

ix. Create a new DNS name for the Dev server

x. Point new DNS name to new Dev server

xi. Create a new DNS name for the Internal production server

xii. Point new DNS name to new internal production server

xiii. Reprint the DNS for External production (this name is reusable as it does not specify CDC in the naming)

xiv. Perform application configurations, security checks, and user acceptance testing

Note: Above effort to move existing Tableau Server environment from Windows Server 2019 to Windows Server 2022 will be equal to or less than the cost specified in Rider F, Item 'New Tableau Server Instance Install'. A fourth environment will need to be configured for the IIS Proxy Server, as well.

- 4. Perform Application support and maintenance of the Tableau Server Environment including:**
 - a. Application incident/problem handling**
 - i. Provider will track incidents and problems, adding them as issues to the monthly progress report agenda with a resolution documented when resolved. However, if Customer needs Provider to track incidents and problems in an internal ticketing system (Footprints), this can be done with the correct access to the system.
 - b. Ticket resolution: diagnostic, technical troubleshooting & bug fixing for incidents escalated by Level 1 (OIT help desk) team**
 - i. Provider will work with the OIT help desk to resolve any issues that are escalated.
 - c. Debugging/bug analysis**
 - d. Configuration & code changes**
 - e. Maintain internal team documentation including process changes, configuration documents etc.**
 - f. Interact with users to drive incidents/problems to resolution**
- 5. Perform monitoring activities including:**
 - a. Implement and maintain application monitoring**
 - i. Provider routinely monitors the server performance and application health to ensure Tableau Server is performing optimally. Tableau Server includes dashboards to monitor application and server performance as well as built in alerts to notify administrators when system thresholds have been reached.
- 6. Monitor environment and process for proper execution**

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a. Provider routinely monitors the server performance and application health to ensure Tableau Server is performing optimally. Tableau Server includes dashboard to monitor application and server performance as well.

7. Identify causes of disruption to the server operation and implement resolutions

a. Provider currently monitors and maintains server uptime and is committed to the availability of Tableau Server for end users. As such, identifying causes of disruption and identifying resolution is of very high importance for us.

8. Maintenance and Administration of software platform (Upgrades & patching)

a. Provider will perform all upgrades and patching to all servers including Operating Systems and Tableau Server. Operating System updates are checked nightly and are installed when required. Tableau Server upgrades are performed quarterly and co-planned with end users to minimize business disruption. Provider will continue this requirement based on the schedule that Customer desires.

9. Collaborate & escalate to other support teams if resolution can't be found at level

10. Track response and resolution times for Application support requests and meet targets based on identified priority levels. (See Performance Measures below.)

11. Facilitate standard meetings on the governance of the Tableau Server, document these meetings and distribute notes to participants.

12. Certify Deployments according to Customer Policy

<http://www.maine.gov/oit/policies/ApplicationDeployment-Certification.pdf>

Performance Measures

Provider will perform all services, and agrees to comply and submit reports outlined in tables 1,2 and 3 below:

Table 1 Mandatory Performance Targets and Reporting			
Ticket Types	Response Target	Resolution Target	Technical Support and Application Support Measures

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Priority 1	A request/incident is designated to be a Priority 1 when these types of conditions are experienced: Any business, technical, or facility outage where services are stopped. Any incident which results in non-compliance with Federal regulators Any security breach (Confidentiality, integrity and availability of information is compromised)	30 minutes: Core Business Hours	95% in 3 hours 100% in 6 hours	% Response in 30 Minutes % Resolved in 3 Hours % Resolved in 6 Hours
Priority 2	A request/incident is designated to be a Priority 2 when users can continue to perform their work using a work around or delay work for up to 2 business days.	60 minutes: Core Business Hours	90% in 4 hours 100% in 2 days	% Response in 60 Minutes % Resolved in 4 Hours % Resolved in 4 Days
Priority 3	A request/incident is designated to be a Priority 3 when users can continue to perform their work using a	4 hours: Core Business Hours	100% in 5 days	% Response in 4 Hours
	work around or delay work for up to 5 business days.			% Resolved in 5 Days
Priority 4	A request/incident is designated to be a Priority 4 when users can continue to perform their work using a work around or delay work for up to 10 business days Security vulnerabilities are P4.	8 hours: Core Business Hours	100% in 10 days	% Response in 8 Hours % Resolved in 10 Days

Table 2 – Required Reports	
Name of Report	Description or Appendix #
a. Provider's Performance Measures Report	Report of requests for technical assistance and application support with monthly response and resolution timeframes as listed in the Performance table above.

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b.	Progress Report	Report of progress on projects, deliverables, and performance measures.
C.	License inventory audit	Supplier to issue quarterly report of licenses deployed

Table 3 – Required Reports Timelines		
Name of Report or On-Site Visit	Period Captured by Report or on-site visit:	Due Date:
a. Provider's Performance Measures Report	Each quarter	Thirty (30) days after each quarter
b. Department On-Site Visit	Point-in-time	Annually, at Customer's discretion

Policies

1. All Policies, Standards and Procedures must be followed by the managed service provider. These policies, standards and procedures can be found at: [Maine IT Policies & Standards](#). Specific policies as a point of emphasis include:

- a. [Rules of Behavior](#)
- b. [Vulnerability Management](#)
- c. [Change Management](#)
- d. [Application Deployment Certification](#)
- e. [Infrastructure Deployment Certification](#)
- f. [Accessibility](#)
- g. [Information Security](#)

Implementation - Work Plan

Provider will be performing all work in the timeline below after Customer provisions the VMs. Provider will not be using subcontractors.

Typical Tableau architecture includes a development and production pair of environments. However, if an environment needs to be public facing, Provider recommends a third instance with a separate IIS Reverse Proxy server. So, for the current 3 tableau instances, there are 4 servers (see Figure 4.)

Instance creation includes the following:

- a. Migration planning

- b. VM Server operating system install and configuration
- c. CIS Benchmarking
- d. Security Validation
- e. Tableau Server Installation
- f. Tableau Server Configuration including:
 - 1. Product key activation
 - 2. SSL Certificates
 - 3. Restoring the backup from the current servers
 - 4. SAML configuration
 - 5. SMTP configuration
 - 6. DNS configuration
 - 7. Firewall configuration
 - 8. Server event notifications
 - 9. Site creation
 - 10. User imports
 - 11. Schedule creation
 - 12. Driver installation

Instance creation does not include:

- a. Tableau visualization planning, creation, or troubleshooting
- b. Tableau data source planning, creation, or troubleshooting
- c. Tableau training
- d. Or any other activity that falls into the realm of development or training

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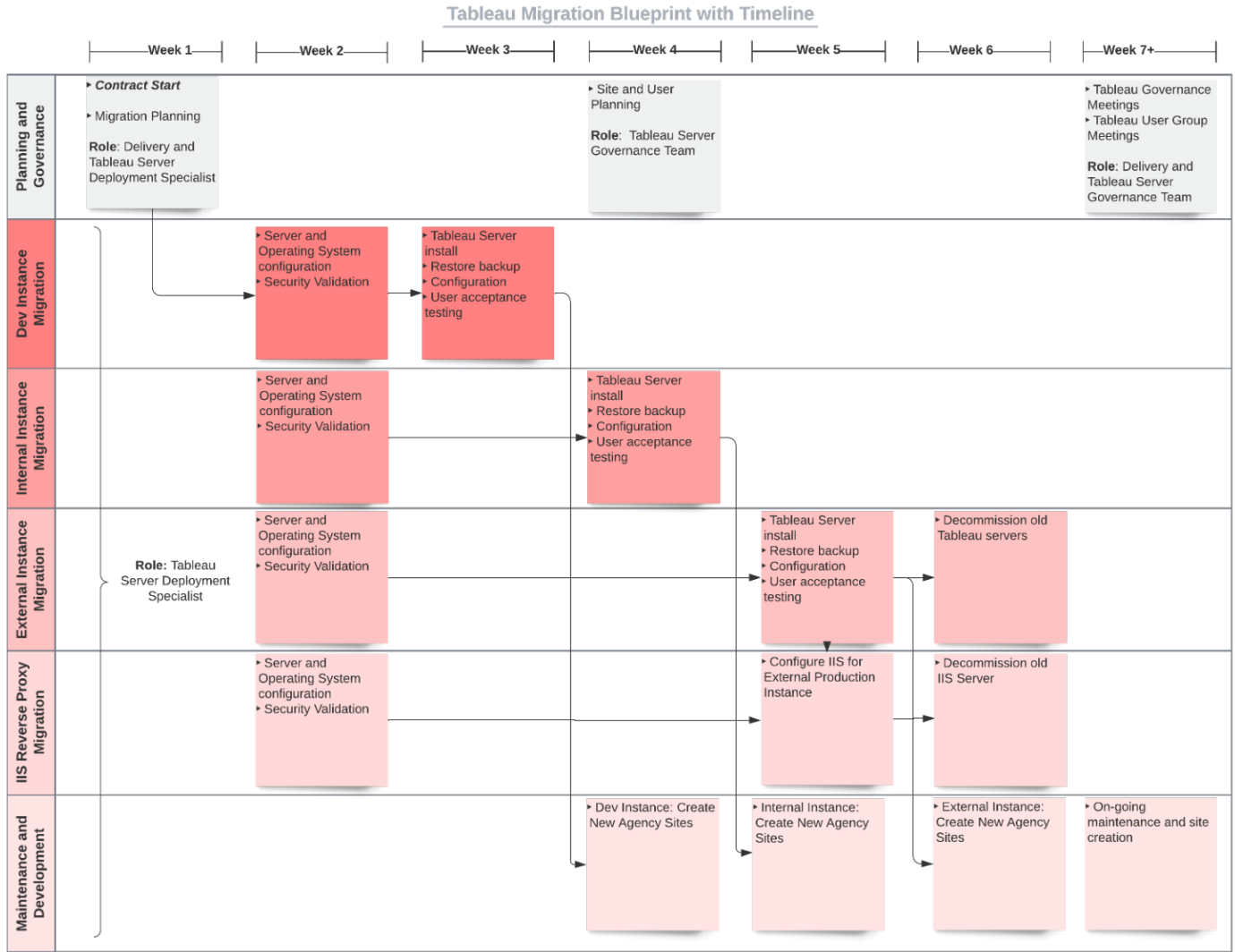


Figure 1

Rider B
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT \$ 500,000.00**
2. **INVOICES AND PAYMENTS** The Department will pay the Provider as follows:

Invoicing will be based on the rate table is Rider F

Invoices for payment, submitted on forms approved by the Department, shall be submitted to the Agreement Administrator. Invoices shall contain sufficient detail to allow proper cost allocation and shall be accompanied by supporting documentation. No invoice will be processed for payment until approved by the Agreement Administrator. All invoices require the following:

- A. All invoices must include the Vendor Code number assigned when registering as a vendor with the State of Maine. This number appears on all Contracts and Purchase Orders and can be acquired from the agency contact.
- B. All invoices must include the vendor's Federal ID Number.
- C. All invoices must include either the Purchase Order number or the Contract number relating to the commodities/services provided.
- D. In cases where hourly rates of contracted resources are concerned, invoices must contain a copy or copies of time sheets associated with that invoice. Time sheets will need to be reviewed and approved by the State's contract administrator.

Payments are subject to the Provider's compliance with all items set forth in this Agreement. The Department will pay the Provider within thirty (30) days following the receipt of an approved invoice. The Department may withhold a Retainage for project-based services in the following manner:

- The allowable payment amount from each project milestone payment will be multiplied by ten (10) percent, giving the amount that will be withheld from payment. Ninety (90) percent of the allowable project milestone payment amount will be paid to the Provider.
- The Retainage will be held by the Department until the end of the warranty period.

The charges described in this Agreement are the only charges to be levied by the Provider for the products and services to be delivered by it. There are no other charges to be made by the Provider to the Department, unless

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they are performed in accordance with the provisions of Section 5, Changes in the Work. The Provider shall maintain documentation for all charges against the Department under this Agreement.

3. **INDEPENDENT CAPACITY** In the performance of this Agreement, the Provider shall act in the capacity of an independent contractor and not as an employee or agent of the State.

4. **AGREEMENT ADMINISTRATOR** The Agreement Administrator is the Department's representative for this Agreement. S/he is the single authority to act on behalf of the Department for this Agreement. S/he shall approve all invoices for payment. S/he shall make decisions on all claims of the Provider. The Provider shall address all contract correspondence and invoices to the Agreement Administrator. The following person is the Agreement Administrator for this Agreement:

Name: Chris Boudreau
Title: Acting Director Enterprise Data Service
Address: 51 Commerce Drive, 3rd Floor, Augusta, ME 04330
Telephone: 207 621 5186
E-mail address: Chris.Boudreau@maine.gov

The following individual is designated as the Program Administrator for this Agreement and shall be responsible for oversight of the programmatic aspects of this Agreement. All project status reports, day to day operational issues and project program material and issues shall be directed to this individual.

Name: Same as above
Title: _____
Address: _____
Telephone: _____
E-mail address: _____

5. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to the execution of the changed work.

6. **SUBCONTRACTORS** The Provider may not enter into any subcontract for the work to be performed under this Agreement without the express written consent of the Department. This provision shall not apply to contracts of employment between the Provider and its employees.

The Provider is solely responsible for the performance of work under this Agreement. The approval of the Department for the Provider to subcontract for work under this Agreement shall not relieve the Provider in any way of its responsibility for performance of the work.

All Subcontractors shall be bound by the terms and conditions set forth in this Agreement. The Provider shall give the State immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement. The Provider shall indemnify and hold harmless the Department from and against any such claim, loss, damage, or liability as set forth in Section 16, State held Harmless.

7. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign, or otherwise dispose of this Agreement, or any portion thereof, or of its right, title, or interest therein, without the written approval of the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work under this Agreement.

8. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider certifies as follows:

1. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a *bona fide* occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Provider shall, in all solicitations or advertising for employees placed by, or on behalf of, the Provider, relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
3. The Provider shall send to each labor union, or representative of the workers, with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment

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under this section, and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

4. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights, etc.) against itself by any individual, as well as any lawsuit regarding alleged discriminatory practice.
5. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment, and in the provision of service, to include accessibility and reasonable accommodations for employees and clients.
6. Contractors and Subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.
7. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. EMPLOYMENT AND PERSONNEL The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Provider shall not engage on a full-time, part-time, or any other basis, during the period of this Agreement, any personnel who are, or have been, at any time during the period of this Agreement, in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time, or any other basis, during the period of this Agreement, any retired employee of the Department, who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement, so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

10. STATE EMPLOYEES NOT TO BENEFIT No individual employed by the State at the time this Agreement is executed, or any time, thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed, or any time, thereafter, shall be admitted to any share or part of this Agreement, or to any benefit that might arise there from, directly or indirectly, due to his employment by, or financial interest in, the Provider, or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each Subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. NO SOLICITATION The Provider certifies that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to

solicit or secure this Agreement, and that it has not paid, or agreed to pay, any company or person, other than a *bona fide* employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Agreement. For breach or violation of this provision, the Department shall have the right to terminate this Agreement without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

12. **ACCOUNTING, RECORDS, AND AUDIT**

1. The Provider shall maintain all books, documents, payrolls, papers, accounting records, and other evidence pertaining to this Agreement, including interim reports and working papers, and make such materials available at its offices at all reasonable times during the period of this Agreement, and for a period of five (5) years following termination or expiration of the Agreement. If any litigation, claim, or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims or audit findings involving the agreement have been resolved.

2. Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all documents and records pertaining to this Agreement for a period of five (5) years from the date of termination of this Agreement.

3. Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals.

4. Authorized Federal and State representatives shall have access to, and the right to examine, all pertinent documents and records during the five-year post-Agreement period. During the five-year post Agreement period, delivery of, and access to, all pertinent documents and records will be at no cost to the Department.

5. The Provider shall be liable for any State or Federal audit exceptions, if applicable, that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable, the Provider shall have thirty (30) days to remedy that exception. If the Provider fails to remedy that exception within this time period, the Provider shall immediately return to the Department all payments made under this Agreement which have been disallowed in the audit exception.

6. Authorized State and Federal representatives shall at all reasonable times have the right to enter the premises, or such other places, where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate, the work being performed. All inspections and evaluations shall be performed in such a manner that will not compromise the work unreasonably.

7. **ACCESS TO PUBLIC RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws

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to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

13. TERMINATION The performance of work under this Agreement may be terminated by the Department in whole or in part, whenever, for any reason the Agreement Administrator shall determine that such termination is in the best interests of the Department. Any such termination shall be affected by the delivery to the Provider of a Notice of Termination specifying the extent to which the performance of work under this Agreement is terminated, and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination and modified accordingly. The Provider shall be able to terminate this Agreement upon thirty (30) days' notice for any breach by the Department or ninety (90) days' notice for convenience.

Upon receipt of the Notice of Termination, the Provider shall:

1. Stop work under this Agreement on the date and to the extent specified in the Notice of Termination.
2. Take such action as may be necessary, or as the Agreement Administrator may direct, for the protection and preservation of the property, information, and data related to this Agreement, which is in the possession of the Provider, and in which the Department has, or may acquire, an interest.
3. Terminate all orders to the extent that they relate to the performance of the work terminated by the Notice of Termination.
4. Assign to the Department in the manner, and to the extent directed by the Agreement Administrator, all of the rights, titles, and interests of the Provider under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders.
5. With the approval of the Agreement Administrator, settle all outstanding liabilities and claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement.

6. For the avoidance of doubt, in no case shall any intellectual property of the Provider be the property of the Department or any improvements thereupon during the course of the provision of services.
7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
8. Proceed immediately with the performance of the preceding obligations, notwithstanding any delay in determining or adjusting the amount of any compensation under this section.

Notwithstanding the above, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Provider.

14. **GOVERNMENTAL REQUIREMENTS** The Provider shall comply with all applicable governmental ordinances, laws, and regulations.
15. **GOVERNING LAW** This Agreement shall be governed by, interpreted, and enforced in accordance with the laws, statutes, and regulations of the State of Maine, without regard to conflicts of law provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and of the Uniform Computer Information Transactions Act shall not apply to this Agreement. Any legal proceeding against the Department regarding this Agreement shall be brought in the State of Maine in a court of competent jurisdiction.
16. **STATE HELD HARMLESS** The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.
17. **LIMITATION OF LIABILITY** The Provider's liability to the Department, for damages sustained by the Department, as the result of Provider's default, or acts, or omissions, in the performance of work under this Agreement, whether such damages arise out of breach, negligence, misrepresentation, or otherwise, shall the actual direct damages in no case to exceed 3 times the value of this Agreement.

Notwithstanding the above, Provider shall not be liable to the Department for any indirect, punitive, special or consequential damages.

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18. NOTICE OF CLAIMS The Provider shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to this Agreement, or which may affect the performance of duties under this Agreement, and prompt notice of any claim made against the Provider by any Subcontractor, which may result in litigation related in any way to this Agreement, or which may affect the performance of duties under this Agreement.

19. APPROVAL This Agreement must be approved by the State Controller and the State Purchases Review Committee before it can be considered a valid enforceable document.

20. INSURANCE REQUIREMENTS The Provider shall procure and maintain insurance against claims for injuries to persons, or damages to property, which may arise from, or in connection to, the fulfillment of this Agreement, by the Provider, its agents, representatives, employees, or Subcontractors. The insurance shall be secured by the Provider, at the Provider's expense, and maintained in force, at all times during the term of this Agreement, and, for any claims-made (as opposed to occurrence-based) policy(ies), for a period of not less than one (1) years thereafter.

1. Minimum Coverage

1. Errors & Omissions, or Professional Liability Insurance, or Insurance by any other name, covering the following:

A) All acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret) in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate.

B) Network security and privacy risks, including, but not limited to, unauthorized access, failure of security, breach of privacy, wrongful disclosure, collection, or other negligence in the handling of confidential information, related regulatory defense, and penalties in an amount not less than \$1,000,000 per occurrence, and as an annual aggregate.

C) Data breach expenses, in an amount not less than (*see NOTE below and insert the appropriate limit based upon the number of Personally Identifiable Information records*) \$ 5,000,000.00, and payable, whether incurred by the Department or the Provider; for and on behalf of the Department, including, but not limited to:

1. Consumer notification, whether or not required by law.
2. Forensic investigations.
3. Public relations and crisis management fees; and
4. Credit or identity monitoring, or similar remediation services.

The policy shall affirm coverage for contingent bodily injury and property damage arising from the failure of the Provider's technology services, or an error, or omission, in the content of, and information from, the Provider. If a sub-limit applies to any element of the coverage, the certificate of insurance must specify the coverage section and the amount of the sub-limit.

NOTE: *Personally Identifiable Information (PII) is information that can be used to identify a single person, such as name, social security number, date and place of birth, mother's maiden name, driver's license, biometrics, etc. Maine State law also has a more specific definition in 10 M.R.S. §1347(6).*

The Data Breach component of the Insurance (per occurrence) is pegged to the number of PII records that are the subject of this Agreement.

Number of PII Records	Insurance per Occurrence
<i>1 through 3,000</i>	<i>\$400,000</i>
<i>3,001 through 100,000</i>	<i>\$1,000,000</i>
<i>100,001 through 1,000,000</i>	<i>\$5,000,000</i>
<i>Greater than 1,000,000</i>	<i>\$10,000,000</i>

2. Workers' Compensation and employer's liability, as required by law.
 3. Property (including contents coverage for all records maintained pursuant to this Agreement): \$1,000,000 per occurrence.
 4. Automotive Liability of not less than \$400,000 per occurrence single limit if the Provider will use vehicles to fulfill the contract.
 5. Crime, in an amount not less than \$ 1,000,000.00 _____ *(The total monetary amount potentially at risk due to this contract; or Cash Currency and Negotiable Securities actually entrusted to this Provider); and*
 6. Business Interruption, in an amount that would allow the Provider to maintain operations in the event of a property loss.
2. **Other Provisions** Unless explicitly waived by the Department, the insurance policies shall contain, or be endorsed to contain, the following provisions:
1. The Provider's insurance coverage shall be the primary and contributory. Any insurance or self-insurance maintained by the Department for its officers, agents, and employees shall be in excess of the Provider's insurance and shall not contribute to it.
 2. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 3. The Provider shall furnish the Department with certificates of insurance, and with those endorsements, if any, affecting coverage, required by these Insurance Requirements. The

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certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Department before this Agreement commences. The Department reserves the right to require complete, certified copies of all required insurance policies at any time.

4. All policies should contain a revised cancellation clause allowing thirty (30) days notice to the Department in the event of cancellation for any reason, including nonpayment.
5. The Department will not grant the Provider, or any sub-contractor of the Provider, "Additional Insured" status and the Department will not grant any Provider a "Waiver of Subrogation".

21. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the Department does not receive sufficient funds to pay for the work to be performed under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the Provider may terminate this Agreement on five (5) days' written notice with all accrued fees due and payable.
22. **SEVERABILITY** The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the remainder of said provision, or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
23. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B-IT (except for expressed exceptions to Rider B-IT included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.
24. **FORCE MAJEURE** Either party may be excused from the performance of an obligation under this Agreement in the event that performance of that obligation by a party is prevented by an act of God, act of war, riot, fire, explosion, flood, or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, strike or labor dispute, provided that any such event, and the delay caused thereby, is beyond the control of, and could not reasonably be avoided by that party, except the obligation to make payment hereunder which is not excused.
25. **SET-OFF RIGHTS** The State shall have all of its common law, equitable, and statutory rights of setoff. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement, up to any amounts due and owing to the State with regard to this Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

26. **INTERPRETATION OF THE AGREEMENT**

1. **Reliance on Policy Determinations** The Department shall determine all program policy. The Provider may, from time to time, request the Department to make policy determinations, or to issue operating guidelines required for the proper performance of this Agreement, and the Agreement Administrator shall respond in writing in a timely manner. The Provider shall be entitled to rely upon, and act in accordance with, such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Agreement, or in any agreement, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and Federal laws, regulations, policies, procedure, and guidelines, to be in complete compliance and conformity therewith.

2. **Titles Not Controlling** Titles of sections and paragraphs used in this Agreement are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of the language.

3. **No Rule of Construction** This is a negotiated Agreement, and no rule of construction shall apply that construe ambiguous or unclear language in favor of or against any party.

27. **PERIOD OF WORK** Work under this Agreement shall begin no sooner than the date on which this Agreement has been fully executed by the parties and approved by the Controller and the State Purchases Review Committee. Unless terminated earlier, this Agreement shall expire on the date set out on the first page of this Agreement, or at the completion and acceptance of all specified tasks, and delivery of all contracted products and services as defined in this Agreement, including performance of any warranty and/or maintenance agreements, whichever is the later date.

28. **NOTICES** All notices under this Agreement shall be deemed duly given: 1) upon delivery, if delivered by hand against receipt, or 2) five (5) business days following posting, if sent by registered or certified mail, return receipt requested. Either party may change its address for notification purposes by giving written notice of the change and setting forth the new address and an effective date.

29. **ADVERTISING AND PUBLICATIONS** The Provider shall not publish any statement, news release, or advertisement pertaining to this Agreement without the prior written approval of the Agreement Administrator. Should this Agreement be funded, in whole or in part, by Federal funds, then in compliance with the Steven's Amendment, it will be clearly stated when issuing statements, press releases, requests for proposals, bid solicitations, and other documents: (1) the percentage of the total cost that was financed with Federal moneys; and (2) the dollar amount of Federal funds.

30. **THIS ITEM LEFT INTENTIONALLY BLANK**

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31. LOBBYING

1. **Public Funds** No Federal or State-appropriated funds shall be expended by the Provider for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress or State Legislature, an officer or employee of Congress or State Legislature, or an employee of a member of Congress or State Legislature, in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this Agreement fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.

2. **Federal Certification** Section 1352 of Title 31 of the US Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as the Department) certifies that no Federal funds will be used to lobby or influence a Federal officer or member of Congress.

The certification the Department has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including sub-agreements, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

3. **Other Funds** If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this section, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form to the Department.

32. PROVIDER PERSONNEL

1. The parties recognize that the primary value of the Provider to the Department derives directly from its Key Personnel assigned in the performance of this Agreement. Key Personnel are deemed to be those individuals whose résumés were offered by the Provider in the Proposal. Therefore, the parties agree that said Key Personnel shall be assigned in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without the prior written consent of the Agreement Administrator. Replacement of such personnel, if approved, shall be with personnel of equal or greater abilities and qualifications.

2. The Department shall retain the right to reject any of the Provider's employees whose abilities and qualifications, in the Department's judgment, are not appropriate for the performance of this Agreement. In considering the Provider's employees' abilities and qualifications, the Department shall act reasonably and in good faith.

3. During the course of this Agreement, the Department reserves the right to require the Provider to reassign or otherwise remove any of its employees found unacceptable by the Department. In considering the Provider's employees' acceptability, the Department shall act reasonably and in good faith.
4. In signing this Agreement, the Provider certifies to the best of its knowledge and belief that it, and all persons associated with this Agreement, including any Subcontractors, including persons or corporations who have critical influence on or control over this Agreement, are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal or State department or agency.
5. During the course of this Agreement, the Department reserves the right to require a background check on any of the Provider's personnel (employees and Subcontractors) that are in any way involved in the performance of this Agreement.

33. STATE PROPERTY The Provider shall be responsible for the proper custody and care of any Department or State-owned property furnished for the Provider's use in connection with the performance of this Agreement, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted.

34. PATENT, COPYRIGHT, AND OTHER PROPRIETARY RIGHTS

1. The Provider certifies that all services, equipment, software, supplies, and any other products provided under this Agreement do not, and will not, infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider, at its expense, shall defend, indemnify, and hold harmless the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney fees.
2. The Provider may not publish or copyright any data without the prior approval of the Department. The State and the Federal Government, if applicable, shall have the right to publish, duplicate, use, and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

35. PRODUCT WARRANTY The Provider expressly warrants its products and services for one full year from their final written acceptance by the Department. The responsibility of the Provider with respect to this warranty is limited to correcting deficiencies in any deliverable using all the diligence and dispatch at its command, at no additional cost to the Department. Efforts at correcting deficiencies will fall under the standard of commercially reasonable. The Provider is also responsible for correcting and/or updating any documentation affected by any operational support performed under this warranty provision.

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36. OPPORTUNITY TO CURE The Agreement Administrator may notify the Provider in writing about the Department's concerns regarding the quality or timeliness of a deliverable. Within thirty (30) days of receipt of such a notice, the Provider shall submit a corrective action plan, which may include the commitment of additional Provider resources, to remedy the deliverable to the satisfaction of the Agreement Administrator, without affecting other project schedules. The Department's exercise of its rights under this provision shall not be construed as a waiver of the Department's right to terminate this Agreement pursuant to Section 13, Termination.

37. COVER If, in the reasonable judgment of the Agreement Administrator, a breach or default by the Provider is not so substantial as to require termination, and reasonable efforts to induce the Provider to cure the breach or default are unavailing, and the breach or default is capable of being cured by the Department or by another contractor without unduly interfering with the continued performance by the Provider, then the Department may provide or procure the services necessary to cure the breach or default, in which event the Department shall withhold from future payments to the Provider the reasonable costs of such services.

38. ACCESSIBILITY All IT products must be accessible to persons with disabilities and must comply with State Accessibility Policy and Standards and the Americans with Disabilities Act. All IT applications must comply with the Digital Accessibility Policy (<https://www.maine.gov/oit/policies/DigitalAccessibilityPolicy.pdf>). All IT applications and content delivered through web browsers must comply with the State Web Standards (<https://www.maine.gov/oit/sites/maine.gov/oit/files/inline-files/WebStandards.pdf>) and the Digital Accessibility Policy.

39. STATE IT POLICIES All IT products and services delivered as part of this Agreement must conform to the State IT Policies, Standards, and Procedures (Maine.Gov/oit/policies) effective at the time this Agreement is executed

40. CONFIDENTIALITY

1. All materials and information given to the Provider or the Department by the Department or Provider, as applicable, or acquired by the Provider or the Department, as applicable, on behalf of the Department, whether in verbal, written, electronic, or any other format, shall be regarded as confidential information.
2. In conformance with applicable Federal and State statutes, regulations, and ethical standards, the Provider and the Department shall take all necessary steps to protect confidential information regarding all persons served by the Department, including the proper care, custody, use, and preservation of records, papers, files, communications, and any such items that may reveal confidential information about persons served by the Department, or whose information is utilized in order to accomplish the purposes of this Agreement.
3. In the event of a breach of this confidentiality provision, the Provider or the Department shall notify the Agreement Administrator immediately.

4. The Provider shall comply with the Maine Public Law, Title 10, Chapter 210-B (Notice of Risk to Personal Data Act).

41. OWNERSHIP

1. All data(including Geographical Information Systems data), notebooks, plans, working papers and other works produced, and equipment and products purchased in the performance of this Agreement are the property of the Department, or the joint property of the Department and the Federal Government, if Federal funds are involved. The State (and the Federal Government, if Federal funds are involved) shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Agreement, or equipment and products purchased pursuant to this Agreement. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable Federal and State laws.
2. Upon termination of this Agreement for any reason, or upon request of the Department, the Provider agrees to convey to the Department good titles to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

Notwithstanding anything to the contrary in this Agreement (or this Section 41) and for the avoidance of doubt, Provider shall at all times maintain its right, title and interest to its Intellectual Property (whether used in the provision of services or otherwise) and the improvements, modifications or alterations to such Intellectual Property developed during the provision of the services hereunder. Nothing in this Agreement shall be construed as transferring any use or ownership right to such Intellectual Property and the improvements, modifications and alterations thereto to the Department. In no circumstance shall the Department transfer, convey, license, sub-license or lease the Provider's Intellectual Property to any third party. For the purposes of this paragraph, "Intellectual Property" means any and all U.S. or foreign patents, patent applications, copyrights and copyright registrations and applications, inventions, invention disclosures, protected formulae, formulations, processes, methods, trade secrets, computer software, computer programs and source codes, manufacturing research and similar technical information, know-how, customer and supplier information, assembly and test data drawings or royalty rights.

42. CUSTOM SOFTWARE For all custom software furnished by the Provider as part of this agreement, the following terms and conditions shall apply:

1. The Department shall own all custom software. The Department shall grant all appropriate Federal and State agencies a royalty-free, non-exclusive, and irrevocable license to reproduce, modify, publish, or otherwise use, and to authorize others to do so, all custom software. Such custom software shall include, but not be limited to, all source, object and executable code, operating system instructions for execution, data files, user and operational/administrative documentation, and all associated administrative, maintenance, and test software that are relevant to this Agreement.

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2. A fundamental obligation of the Provider is the delivery to the Department of all ownership rights to the complete system, free of any claim or retention of rights thereto by the Provider. The Provider acknowledges that this system shall henceforth remain the sole and exclusive property of the Department, and the Provider shall not use or describe such software and materials without the written permission of the Department. This obligation to transfer all ownership rights to the Department on the part of the Provider is not subject to any limitation in any respect.

43. OFF-THE-SHELF (OTS) SOFTWARE For all OTS software purchased by the Provider as part of this Agreement, the following terms and conditions shall apply.

1. This Agreement grants to the Department a non-exclusive and non-transferable license to use the OTS software and related documentation for its business purposes. The Department agrees that the Provider may, at its own expense, periodically inspect the computer site in order to audit the OTS software supplied by the Provider, installed at the Department's site, at mutually agreed upon times. In the event that a separate license agreement accompanies the OTS software, then the terms of that separate license agreement supersede the above license granted for that OTS software.
2. This Agreement does not transfer to the Department the title to any intellectual property contained in any OTS software. The Department will not decompile or disassemble any OTS software provided under this Agreement or modify any OTS software that bears the copyright notice of a third party. The Department will make and maintain no more than one archival copy (for back-up purpose) of each OTS software, and each copy will contain all legends and notices, and will be subject to the same conditions and restrictions as the original.
3. If the CPU on which any OTS software is licensed becomes temporarily unavailable, use of such OTS software may be temporarily transferred to an alternative CPU until the original CPU becomes available.

44. SOFTWARE AS SERVICE When the software is fully owned, hosted, and operated by the Provider, and the Department uses said software remotely over the Internet, the following terms and conditions shall apply:

1. The Provider, as depositor, shall enter into an escrow contract, upon terms reasonably acceptable to the Department, with a recognized software Escrow Agent. The escrow contract must provide for the Department to be an additional party/beneficiary. The Provider shall deposit with the Escrow Agent the software, all relevant documentation, and all of the Department's data, and all updates thereof (the "Deposit Materials"), in electronic format. Deposits will occur no less frequently than once a month.
2. The escrow contract shall provide for the retention, administration, and controlled access of the Deposit Materials, and the release of the Deposit Materials to the Department, upon receipt of a joint written instruction from the Department and the Provider, or upon receipt of written notice from the Department that:

- a. The Provider has failed to carry out its obligations set forth in this Agreement; or
- b. A final, non-appealable judicial determination that the Provider has failed to continue to do business in the ordinary course; or
- c. The Provider has filed a voluntary petition in bankruptcy, or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, or becomes subject to an involuntary petition in bankruptcy, which petition, or proceeding is not dismissed or unstayed within sixty (60) days from the date of filing; or
- d. The Provider is in material breach of its maintenance and support obligations and has failed to cure such breach within thirty (30) days from the date of receipt by the Provider of written notice of such breach; or
- e. A condition has occurred that materially and adversely impacts the Provider's ability to support the software and the Provider has failed to cure such condition within thirty (30) days from the date of receipt by the Provider of written notice of such condition.

3. The Provider is responsible for all fees to be paid to the Escrow Agent.

4. The Escrow Agent may resign by providing advance written notice to both the Department and the Provider at least thirty (30) calendar days prior to the date of resignation. In such an event, it is the obligation of the Provider to establish a new escrow account with a new Escrow Agent.

45. **PRICE PROTECTION THIS ITEM LEFT INTENTIONALLY BLANK**

46. **THIS ITEM LEFT INTENTIONALLY BLANK**

47. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to this Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this Agreement, or to exercise an option or election under this Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option, or election, but the same shall continue in full force and effect. Use of one remedy shall not waive the Department's right to use other remedies. Failure of the Department to use a particular remedy for any breach shall not be deemed as a waiver for any subsequent breach. No waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedies under this Agreement.

AGREEMENT TO PURCHASE SERVICES (BP54-IT)

Rider C
EXCEPTIONS TO RIDER B-IT

RIDER D
Not Required: For use at Department's Discretion

RIDER E

Not Required: For use at Department's
Discretion

RIDER F
Proposed Rate Card

Bidder's Organization Name:		
Service		Cost for initial Contract Period 9-1-2022 – 8/31/2024
Tableau Server Deployment per instance		\$6,200 per Tableau Server Deployment instance Notes: <ul style="list-style-type: none"> • 2 Tableau Server Deployment Instances are typically needed for Internal (Dev & Prod) or External (Reverse Proxy & Prod) Tableau Implementation: • Cost: \$12,400
Monthly Tableau Server Maintenance per instance		\$1,250/month/instance Note: <ul style="list-style-type: none"> <input type="checkbox"/> Maintenance for current installation is \$5,000 for the 4 server instances (Internal Dev & Prod; External Reverse proxy & Prod).
Monthly Tableau Server Maintenance per new Department A new Department (DOL, DOC, DOE, ...) can be added to the existing Tableau Deployment in place today using the Tableau recommended site (hubspoke) model.		\$1,000/month/new department
Hourly Rate for Development		\$155 / hour
Support Hourly Rate for Issue Resolution		\$150/ hour

Below list proposed Tableau servers, licensing, client software and associated costs. Below pricing assumes State of Maine will at least renew what is in place today with CDC, and this pricing is for informational purposes only (subject to change):

Menu of Tableau Licensing Pricing	
Licensed product	Cost per license
Tableau Core Server- annual subscription cost	\$140,000
Tableau Server Core Embedded - annual subscription cost (External / Public Facing SKU option)	\$105,000-
Tableau Creator - annual subscription cost	\$672 each
Tableau Explorer - annual subscription cost	\$336 each
Tableau Viewer - annual subscription cost	\$116 each
Tableau Data Management	TBD - Price based on annual spend
Tableau Server Management	TBD - Price based on annual spend

Tableau eLearning Creator	\$120/User/yr- discount based on volume
Tableau eLearning Explorer	\$60/User/yr- discount based on volume

Note: We recommend considering 8 cores for each internal and public facing servers, growing to 16 cores when performance requirements demand **if** funding is available now to implement this. If not, we will need to grow into this model as funding allows. **Costs to onboard a new Agency/Office/Bureau/Department site is covered under the lower hourly rate for Support Hourly Rate for Issue Resolution in Rider F.** The cost to onboard a new site will be significantly lower than the cost for installing a new instance.

RIDER I

RIDER G

IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:

United States. Please identify state: Primarily in Maine, California, Michigan, Virginia.

Other. Please identify country: Canada

Notification of Changes to the Information

The Provider agrees to notify the Division of Procurement Services of any changes to the information provided above. BP54IT (Rev 11/2016)


Debarment, Performance, and Non-Collusion Certification

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
 - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
 - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

- **Failure to provide this certification may result in the disqualification of the Bidder's proposal, at the discretion of the Department.**

To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.

Name: pat Dionne	Title: president/CEO
Authorized Signature:  <small>DocuSigned by: E47170B36AE6424...</small>	Date: 2/2/2023