CITY OF UPLAND
PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of April 25th, 2022 by and between the City of Upland, a public agency organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and Sidepath, Inc., a California Corporation with its principal place of business at 22892 Mill Creek Dr, Laguna Hills, CA 92653 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A.   City is a public agency of the State of California and is in need of professional services for the following project:
To provide contract services for the procurement, design and implementation of an updated virtual server environment
(hereinafter referred to as "the Project").

B.   Consultant is duly licensed and has the necessary qualifications to provide such services.

C.   The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1.   Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A."

2.   Compensation.

a.   Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "A."

b.   In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **$487,725.09.** This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed.

c.   The City Manager may approve Additional Work, as further defined in Section 3, up to fifty thousand dollars ($50,000.00). In no event shall the total sum of the agreement (original compensation amount and Additional Work) exceed five hundred thirty seven thousand seven hundred twenty five dollars and nine cents ($537,725.09). Any additional work in excess of this amount shall be approved by the City Council.

3.   Additional Work.

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If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

5. Time of Performance

The term of this Agreement shall be from 05/10/2022 to 12/01/2022, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed").

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9.   Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10.   Independent Contractor

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

a.   PERS Eligibility Indemnification

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

11.   Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a.   Commercial General Liability

(i)   The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

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(ii)   Coverage for Commercial General Liability insurance shall be at least as broad as the following:

            (1)   Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii)   Commercial General Liability Insurance must include coverage for the following:

(1)	Bodily Injury and Property Damage
(2)	Personal Injury/Advertising Injury
(3)	Premises/Operations Liability
(4)	Products/Completed Operations Liability
(5)	Aggregate Limits that Apply per Project
(6)	Explosion, Collapse and Underground (UCX) exclusion deleted
(7)	Contractual Liability with respect to this Agreement
(8)	Property Damage
(9)	Independent Contractors Coverage

(iv)   The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v)   The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi)   The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b.   Automobile Liability

(i)   At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii)   Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii)   The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status.

(iv)   Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c.   Workers' Compensation/Employer's Liability

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(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	Combined Single Limit
Commercial General Liability	$1,000,000 per occurrence/ $2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	$1,000,000 combined single limit
Employer's Liability	$1,000,000 per accident or disease
Professional Liability	$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

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f.   Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g.   Policy Provisions Required

(i)   Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii)   The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii)   The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv)   All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v)   The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h.   Qualifying Insurers

(i)   All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1)   Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i.   Additional Insurance Provisions

(i)   The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii)   If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii)   The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv)   Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j.   Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12.   Indemnification.

a.   To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees

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and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b.　　If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13.　　California Labor Code Requirements.

a.　　Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b.　　If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c.　　This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

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14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Reserved.

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

17 Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of consultant.

18 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization

Consultant shall assign Krunal Patel as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

DISTRICT: CONSULTANT:

City of Upland   Sidepath, Inc.

460 N. Euclid Avenue   22892 Mill Creek Dr.

Upland, CA 91786   Laguna Hills, CA - 92653

Attn: City Manager

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27.   Non-Waiver

None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is specifically specified in writing.

28.   Time of Essence

Time is of the essence for each and every provision of this Agreement.

29.   City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30.   Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF UPLAND
AND SIDEPATH, INC.**

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

CITY OF UPLAND   Sidepath, Inc.

By: _____   By: _____
    Michael Blay
    City Manager   Its: _____President/Owner_____

                                                  Printed Name:_____Jim Andronaco_____

                                                  **(Two Signatures of Corporate Officers Required
                                                  For Corporations)**

                                                  By: _____

                                                  Its: _____Secretary/Owner_____

                                                  Printed Name:_____Patrick Mulvee_____

ATTEST:

By: _____
    Keri Johnson
    City Clerk

APPROVED AS TO FORM:

By: _____
    Stephen P. Deitsch
    City Attorney

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EXHIBIT A

Scope of Services

City of Upland

Sidepath Service Description

Datacenter Refresh

Sidepath

Account Executive: Krunal Patel

Services Coordinator: Lauren Whitcomb

4.26.2022

Version: 1

Please note the pricing and other terms and conditions proposed in this Agreement are only valid for 30 calendar days from Sidepath's initial presentation of this Agreement.

1   PROJECT SPECIFICATIONS

1.1   SCOPE OF WORK

Sidepath will perform the work and deliver the Deliverables as described in this Agreement. Any and all additional work or Deliverables not specifically described in this Agreement will be addressed in separate written agreements. **The following items are within the scope of work contemplated by this Agreement:**

1.1.1   In-Scope Equipment

The following items are in scope for this agreement:

- Police Department
  - Five (5) E660F VxRail cluster
  - Two (2) S5212F network switches
- City Hall
  - Five (5) E660FF VxRail cluster
  - Two (2) S5212F network switches
- Up to fifteen (15) VMs Local and Remote RP4VM implementation

1.1.2   Work Locations

- Police Department
- City Hall

1.1.3   Scope Particulars

- Switches
  - Conduct a preinstallation review
  - Inventory equipment, unpack, and rack
  - Install optional modules in switches, as applicable
  - Mount rack related hardware into customer supplied and Dell supported rack
  - Mount switches into the rack
  - Install and route power cables
  - Power up switches
  - Configure switches for stacking as applicable
  - Configure customer-provided IP address, subnet mask and gateway information
  - Configure switches with up to five (5) VLANs, as applicable
  - Configure switches with up to five (5) link aggregations (eight (8) ports or less), as applicable
  - Configure redundant management module, as applicable
  - Configure up to ten (10) static routes, as applicable
  - Use customer-provided interconnect cables to connect the switches into the network
  - Verify link connectivity
- VxRail
  - Conduct pre-installation review to document environment, network and vCenter requirements
  - Inventory equipment, unpack, and rack
  - Attach nodes to the customer network
  - Configure the cluster utilizing VxRail Manager
  - Verify code versions, upgrade as required
  - Configure vRealize Log Insight for the logging server
  - Connect equipment to EMC Remote support via ESRS

- RP4VM
    - Provide pre-requisite template
    - Create necessary vLANs in switches and vCenter
    - Replication design
        - Identify VMs
        - Determine recovery windows at source and target
        - Document write activity and VM sizes
        - Determine estimated journal entries
        - Determine RP4VMs vRPA model, networking model, and quantity
    - Cluster Install
        - Download ova and create vmkernels
        - Build vRPAs
        - Build Cluster
        - Register Plug-in server
        - License cluster
    - Pilot test
        - Build consistency groups
        - Test replication via Test a Copy
        - Monitor consistency group protection windows
- Closure
    - As built documentation of deployed environments
    - Knowledge Transfer:
        - Up to four (4) hours onsite knowledge transfer
        - Up to four (4) client engineers

        The objective of the knowledge transfer is to review client specific product configurations and work flows and to provide enough information so the Client Staff is operationally efficient with specific deliverables in scope of this SOW. Knowledge transfer will be provided to:
        - Review As-Built Designs and Documentation
        - Provide an overview of administrative and operational functions
        *Please note: Knowledge Transfer is not a replacement for formal system training and certification.

1.1.4 Project Management

Formal Project Management services, such as maintaining a project plan, and managing external resources, are not included in this scope of work.

1.2 OUT OF SCOPE

The following items are outside the scope of Deliverables contemplated by this Agreement:

- Data migration
- Any specific tasks or deliverables not clearly stated in the scope above
- All levels of support.
- Creation of virtual machines
- Installation and configuration of guest operating systems
- Configuration, integration, or troubleshooting of
    - network services (DHCP, AD, SSO)
    - Fibre Channel switches

- o existing storage services
- o non-VMware management solutions
- o security solutions not listed above
- Design, planning, deployment, configuration and troubleshooting of previous existing vSphere environment
- Troubleshooting of existing virtual machines (VMs) performance or configuration issues

1.3　ASSUMPTIONS AND CONSTRAINTS

1.3.1　Services Assumptions

The following general assumptions will apply to the performance and delivery of the Deliverables:

- Prior to the Project Start Date, Client will perform a backup of all Client data to be affected or impacted by the Project.
- If requested by Sidepath, Client will provide a Sidepath field engineer with remote access to Client's IT environment with access to in-scope devices from a secure remote location. When feasible, Sidepath will complete all Project work remotely (a) over remote screen-sharing sessions with the parties' resources, or (b) over a VPN connection with Sidepath resources.
- This Agreement will apply to Sidepath's provision of Services and/or Equipment to Client.
- Except as may be acquired under a separate support or service agreement, Sidepath will not be responsible to Client for any application or host system access that encompasses coding, scripting, installation, patching, application analysis, system performance, troubleshooting, or applications logins outside the scope of the Deliverables contemplated by this Agreement.
- Changes to this Agreement will be mutually agreed to and documented in writing.

1.4　RESPONSIBILITIES

1.4.1　Sidepath Responsibilities

During the Term, Sidepath will undertake the following responsibilities reasonably applicable to the performance and delivery of the Deliverables:

- Sidepath will submit written reports to Client regarding the status of the performance and delivery of the Deliverables as mutually agreed upon by the parties.
- Sidepath will provide Client a lead contact person for the Project (the "Sidepath Project Lead") with such qualifications, expertise, and knowledge necessary and applicable for Sidepath to fulfill its obligations under this Agreement.

1.4.2　Client Responsibilities

During the Term, Client will undertake the following responsibilities reasonably applicable to the performance and delivery of the Deliverables:

- Client will provide Sidepath personnel assigned to work at Client's premises reasonable use of Client's facilities. Prior to the Project Start Date, Client will complete all necessary facilities arrangements, including, but not limited to, providing reasonable access to such items as power, network connections, floor and rack space, and cooling. Such required facility arrangements will remain in place during the Term.
- Client hereby grants Sidepath a limited, non-transferable license during the Term to use certain proprietary computer systems, technologies, and data owned by Client and its affiliates, which are necessary for Sidepath to perform and deliver the Deliverables.

- Client will make available to Sidepath knowledgeable Client personnel promptly upon a request from Sidepath via phone or e-mail to provide background information and clarification of information required by Sidepath personnel to perform and deliver the Deliverables.
- The documentation and information provided by Client to Sidepath personnel will be accurate, complete, and up-to-date.
- Client will be responsible for any business and data application testing and all necessary data backup in preparation for and during the performance and delivery of the Deliverables.
- If required by Sidepath, Client will participate in testing as directed by Sidepath.
- Client will provide Sidepath a lead contact person for the Project (the "*Client Project Lead*" and, together with the Sidepath Project Lead, the "*Project Leads*") with such qualifications, expertise and knowledge necessary and applicable to aid Sidepath to fulfill its obligations under this Agreement and who is authorized by Client to act as a liaison between the parties.
- Client will be responsible for validating all architecture is in agreement with all applicable industry compliance regulations.
- Client is responsible for ensuring proper licenses have been secured for all software to be integrated by Sidepath

In the event Client's failure to perform, or delay in performance of, any of its responsibilities causes Sidepath to incur significant uncompensated expenses, Sidepath may notify Client of such nonperformance. In such case, Sidepath's obligation to continue its efforts to work around Client's failure to perform will be subject to Client agreeing to reimburse Sidepath for its incremental uncompensated expense.

1.5   DATA LIABILITY DISCLAIMER

Sidepath personnel and/or its authorized agents are trained and committed to exercise all possible efforts to safeguard your hardware, software, and data by observing standard protection procedures and utmost precaution in the performance of their work. Nonetheless, examination, replacement and handling of hardware components and/or relocation, installation, upgrade and reconfiguration of operating systems and software applications can be uncertain.

IN NO EVENT WILL SIDEPATH OR ITS PERSONNEL OR ITS AUTHORIZED AGENTS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN CONNECTION WITH, OR ARISING FROM THE WORKS PERFORMED ON THE SYSTEM REFERENCED IN THIS SOW (INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, APPLICATION PROGRAMS, USE, PROFITS OR OTHER ADVANTAGES, OR ANY REPLACEMENT OF DATA RECONSTRUCTION COSTS).

CLIENT IS RESPONSIBLE FOR PERFORMING AND VERIFYING A FULL BACKUP OF ALL DATA HAS BEEN COMPLETED PRIOR TO THE COMMENCEMENT OF ANY WORK BY SIDEPATH OR ITS AUTHORIZED AGENT

sidepath

22892 Mill Creek Drive
Laguna Hills, CA 92653
Phone (949)748-8700; Fax (949)748-8706
www.sidepath.com

Quotation

Date: 04/05/22
Quotation #: SIDQ38333
Valid Until: 05/05/22
Prepared By: Kenna
Project ID: SIDPROJECT35513

Bill To:

City of Upland
Attn: Richard Jeganathan
460 N Euclid Ave
Upland, CA 91786

Phone: (909) 931-4312
Email: richard@ci.upland.ca.us

Ship To:

City of Upland
Attn: Richard Jeganathan
460 N Euclid Ave
Upland, CA 91786

Phone: (909) 931-4312
Email: richard@ci.upland.ca.us

Qty	Item Code	Description	Unit Price	Ext. Price
NASPO ValuePoint Contract # MNWNC-108. State Contract Number 7-15-70-34-003.				
Contract Code WN03AGW/C000000181156. Reseller Code 98AHB				
SITE A				
5 x VxRail E660F Nodes (5YR Pro Support Mission Critical)				
		$38,152.51 per node		
5	210-BBGQ	VxRail E660F All Flash		
5	329-BDWH	PSNT Info		
5	329-BGIM	E660F Branding		
5	379-BENB	vSAN Node		
5	379-BETD	VxRail E660/F PV670F Firmware Lock		
5	634-BZBH	VxRail Software 7.0.320 Factory Install		
5	379-BDYQ	No Transformational License Agreement		
5	321-BGKX	2.5" Chassis with up to 10 Hard Drives (SAS/SATA) including max of 2 Universal Drives, 1 PCIe Slot, 1 CPU		
5	325-BEBP	VxRail 1U Bezel V2		
5	338-CBXJ	Intel Xeon Gold 6326 2.9G 16C/32T 11.2GT/s 24M Cache Turbo HT (185W) DDR4-3200		
5	374-BBBX	No Additional Processor		
5	370-AEVR	3200MT/s RDIMMs		
40	370-AGDS	32GB RDIMM 3200MT/s Dual Rank 16Gb BASE		
10	400-AZQO	800GB SSD SAS ISE Mix Use 12Gbps 512e 2.5in Hot-plug AG Drive 3 DWPD		
15	400-BEWL	7.68TB SSD SAS ISE Read Intensive 12Gbps 512e 2.5in Hot-Plug AG Drive		
5	540-BCRX	Broadcom 57504 Quad Port 10/25GbE SFP28 OCP NIC 3.0		
5	461-AAIG	Trusted Platform Module 2.0 v3		
5	770-BECD	ReadyRails Sliding Rails Without Cable Management Arm or Strain Relief Bar		
5	450-AKLF	Power Supply 1100W RDNT D, Mixed Mode		

If you have any questions regarding this quotation, please contact:
Krunal Patel | (949) 396-3743 | krunal@sidepath.com

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Qty	Item Code	Description	Unit Price	Ext. Price
10	492-BBDH	Jumper Cord - C13/C14 0.6M 250V 13A (North American Guam North Marianas Philippines Samoa)		
5	149-BBLT	VxRail VMware, vSAN Advanced, 5 Years		
5	634-BYOZ	VxRail HCI System Software A		
15	634-BWZC	VxRail HCI System software 7.68TB AG RI SSD Capacity Drive		
40	634-BYME	VxRail HCI System Software Memory 32GB		
5	151-BBSV	VxRail VMware vSphere Enterprise Plus for 1 processor, 5 Years		
5	863-1708	ProSupport Mission Critical vSphere Ent Plus for 1 Proc Sftwr Spt-Maint		
5	863-2093	ProSupport Mission Critical vSphere Ent Plus for 1 Proc Sftwr Spt-Contract		
5	863-5521	Dell Harware Limited Warranty		
5	864-4083	ProSupport Mission Critical 4-Hour 7x24 Onsite		
5	864-4084	ProSupport Mission Critical 4-Hour 7x24 Onsite		
5	864-4089	ProSupport Mission Critical 7x24 Technical Su...		
5	975-3461	Dell Limited Hardware Warranty Extended Year(s)		
5	989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		
5	379-BEWY	Informational Purposes Only		
5	825-8624	Certified Deployment Partner T2		
5	343-BBQY	R650 Dell/EMC label (BIS) for 2.5" Chassis		
5	389-DYIB	PowerEdge R650 CE,CCC and BIS Marking on 2.5" Chassis		
5	379-BDSW	SAS/SATA/NVMe Capable Backplane		
5	340-CWLR	E660/F Shipping DAO		
5	340-CUQN	R650 Ship 4x3.5, 10x2.5, 8x2.5 NVMe		
5	379-BEID	10x2.5 Front Storage		
5	330-BBVU	VxRail E660/F Riser Config 0 1CPU 2A+3A 1x16LP		
5	329-BFGW	PowerEdge R650 Motherboard		
5	412-AAVN	Heatsink for 1 CPU configuration (CPU more than 165W)		
5	370-AAIP	Performance Optimized		
5	780-BCQQ	C35, No RAID, VxRail E660/F		
5	405-AAXY	Dell HBA355i Controller Front		
5	750-ACFQ	Front PERC Mechanical Parts for 2.5" x8 x10 x16 SAS/SATA or 2.5" NVMe Chassis		
5	403-BCMB	BOSS-S2 controller card + with 2 M.2 480GB (RAID 1)		
5	403-BCNP	BOSS Cables and Bracket for R650		
5	385-BBQV	iDRAC9 Enterprise 15G		
5	379-BCQY	iDRAC Group Manager Disabled		
5	379-BCSG	iDRAC Legacy Password		
5	379-BCRB	DHCP with Zero Touch Configuration		

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Qty	Item Code	Description	Unit Price	Ext. Price
5	750-ADIF	3 High Performance Fans for 1 CPU		
5	350-BBXM	No Quick Sync		
5	387-BBEY	No Energy Star		
5	800-BBDM	UEFI BIOS Boot Mode with GPT Partition		
5	350-BCFX	E660F Luggage Tag		
		SubTotal		$190,762.55
2 x S5212 (5YR Pro Support Mission Critical)				
		$6,434.32 per switch		
2	210-APHZ	Dell EMC S5212F-ON Switch 12x 25GbE SFP28 3x 100GbE QSFP28 ports PSU to IO air 2x PSU OS10		
2	343-BBRX	VLT Tech Sheet Document		
2	343-BBLP	Dell EMC S52XX-ON Series User Guide		
2	634-BRXD	OS10 Enterprise S5212F-ON		
2	470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper Direct Attach Cable 0.5 Meter		
10	470-ACES	Dell Networking Cable SFP28 to SFP28 25GbE Passive Copper Twinax Direct Attach Cable 1 Meter		
2	450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US		
2	450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US		
2	818-3530	Dell Hardware Limited Warranty 1 Year		
2	818-3539	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch		
2	818-3541	Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch Extended to		
2	818-3553	ProSupport Mission Critical:7x24 HW/SW Technical Support and Assistance		
2	975-3461	Dell Limited Hardware Warranty Extended Year(s)		
2	989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		
2	997-6306	Info 3rd Party Software Warranty provided by Vendor		
2	825-8624	Certified Deployment Partner T2		
2	848-8545	ProSupport OS10 Enterprise Software Support-Maintenance		
		SubTotal		$12,868.64
Dual Tray customer kit				
1	770-BDGR	Dell NW Dual Tray 4-post S5212F-ON Customer Kit	$142.69	$142.69
Recoverpoint for VM socket | 10 sockets				
1	210-ARXY	Data Protection Suite for VMWare		
1	528-BFNM	CloudBoost AWS Data Protection Suite Enabler		
1	528-BFNN	Data Protection Central for DPD		
1	528-BFNO	DPA Single Fed Reporting Server		
1	528-BFNQ	Data Protection Suite for VMware Avamar H Enabler		

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Qty	Item Code	Description	Unit Price	Ext. Price
1	528-BFNR	Data Protection Suite for VMware DPA Enabler		
1	528-BFNT	Data Protection Suite for VMware Search Enabler		
1	528-BFOB	NW 9.2+ Data Protection Suite Cap Enabler=CA		
1	528-BFOC	vRealize Data Protection Extension		
1	823-4365	ProSupport Mission Critical Software Entitlement		
1	929-3709	Thank you for Your Order		
1	935-6720	Thank you for Your Order		
10	823-4389	ProSupport Mission Critical Data Protection Suite for VMware 1 Socket		
10	528-BFNY	Data Protection Suite for VMware Sockets 5YR=IA		
2	528-BFNP	Data Protection Suite for Vmware 2TB AVE H Enabler=CA		
10	528-BFNS	Data Protection Suite for VMware RP4VM Enabler=IB		
1	900-9997	On-Site Installation Declined		
1	626-BBBG	Storage Software Info		
		SubTotal		$12,770.00

SITE B

5 x VxRail E660F Nodes (5 YR Pro Support Mission Critical)

Qty	Item Code	Description	Unit Price	Ext. Price
		$38,152.51 per node		
5	210-BBGQ	VxRail E660F All Flash		
5	329-BDWH	PSNT Info		
5	329-BGIM	E660F Branding		
5	379-BENB	vSAN Node		
5	379-BETD	VxRail E660/F PV670F Firmware Lock		
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5	450-AKLF	Power Supply 1100W RDNT D, Mixed Mode		
10	492-BBDH	Jumper Cord - C13/C14 0.6M 250V 13A (North American Guam North Marianas Philippines Samoa)		
5	149-BBLT	VxRail VMware, vSAN Advanced, 5 Years		
5	634-BYOZ	VxRail HCI System Software A		
15	634-BWZC	VxRail HCI System software 7.68TB AG RI SSD Capacity Drive		
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5	863-5521	Dell Harware Limited Warranty		
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5	975-3461	Dell Limited Hardware Warranty Extended Year(s)		
5	989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		
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5	379-BEID	10x2.5 Front Storage		
5	330-BBVU	VxRail E660/F Riser Config 0 1CPU 2A+3A 1x16LP		
5	329-BFGW	PowerEdge R650 Motherboard		
5	412-AAVN	Heatsink for 1 CPU configuration (CPU more than 165W)		
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5	385-BBQV	iDRAC9 Enterprise 15G		
5	379-BCQY	iDRAC Group Manager Disabled		
5	379-BCSG	iDRAC Legacy Password		

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Qty	Item Code	Description	Unit Price	Ext. Price
5	379-BCRB	DHCP with Zero Touch Configuration		
5	750-ADIF	3 High Performance Fans for 1 CPU		
5	350-BBXM	No Quick Sync		
5	387-BBEY	No Energy Star		
5	800-BBDM	UEFI BIOS Boot Mode with GPT Partition		
5	350-BCFX	E660F Luggage Tag		
		SubTotal		$190,762.55

2 x S5212 (5YR Pro Support Mission Critical)

Qty	Item Code	Description	Unit Price	Ext. Price
		$6,434.32 per switch		
2	210-APHZ	Dell EMC S5212F-ON Switch 12x 25GbE SFP28 3x 100GbE QSFP28 ports PSU to IO air 2x PSU OS10		
2	343-BBRX	VLT Tech Sheet Document		
2	343-BBLP	Dell EMC S52XX-ON Series User Guide		
2	634-BRXD	OS10 Enterprise S5212F-ON		
2	470-ABOU	Dell Networking Cable 100GbE QSFP28 to QSFP28 Passive Copper Direct Attach Cable 0.5 Meter		
10	470-ACES	Dell Networking Cable SFP28 to SFP28 25GbE Passive Copper Twinax Direct Attach Cable 1 Meter		
2	450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US		
2	450-AASX	Dell Networking Jumper Cord 250V 12A 2 Meters C13/C14 US		
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2	818-3553	ProSupport Mission Critical:7x24 HW/SW Technical Support and Assistance		
2	975-3461	Dell Limited Hardware Warranty Extended Year(s)		
2	989-3439	Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355		
2	997-6306	Info 3rd Party Software Warranty provided by Vendor		
2	825-8624	Certified Deployment Partner T2		
2	848-8545	ProSupport OS10 Enterprise Software Support-Maintenance		
		SubTotal		$12,868.64

Dual Tray customer kit

Qty	Item Code	Description	Unit Price	Ext. Price
1	770-BDGR	Dell NW Dual Tray 4-post S5212F-ON Customer Kit	$142.69	$142.69

Professional Services and Installation

Qty	Item Code	Description	Unit Price	Ext. Price
	SID-PS-SVC-FF-CUS-BAS	Sidepath Professional Services: This is a custom fixed fee service. A description of services may be provided in a separate Statement of Work or Service Description document	$45,000.00	$45,000.00

Payment Terms from Ship Date: Net 30

Pricing does not include Sales Tax or Shipping/Handling unless specifically stated in quote.

CA Shipments: CA Electronic Waste Recycling (eWaste) Fee will apply to monitors, laptops or tablets.

Product Total	**$465,317.76**
Taxes	**$22,407.33**

If you have any questions regarding this quotation, please contact:
Krunal Patel | (949) 396-3743 | krunal@sidepath.com

Shipping	$0.00
Grand Total	**$487,725.09**

Note: Sidepath does not collect sales tax for orders shipped out of the state of California. It will be the customer's responsibility to report the tax as Sales & Use Tax.

Please contact me if I can be of further assistance.

THANK YOU FOR YOUR BUSINESS!

Accepted by:_____ Title:_____ Date:_____ PO:_____

If you have any questions regarding this quotation, please contact:
Krunal Patel | (949) 396-3743 | krunal@sidepath.com