

DocuSign City Council Transmittal Coversheet

COOP	7533
File Name	Capital Project Software
Purchasing Contact	Lori Hewell
City Council Target Date	February 9, 2021
Piggy Back Option	Not Applicable
Contract Expiration	February 9, 2023
Ordinance	21-173



6309 Carpinteria Avenue
Carpinteria, CA 93013
(866) 477-6267

PROPOSED BY:

Nick Gianforte
nick.gianforte@procore.com

ORDER FORM

Customer Name	City of Denton
Quote Number	Q192533

Subscription Info

Subscription Start Date	February 1, 2021
Subscription Type	New Subscription
Service Start Date	February 1, 2021
Initial Term Months	24
Renewal Term Months	12
Billing Frequency	Annual
Payment Terms	Net 30
Payment Method	Check
Multi Year Paid up Front	
Currency	USD
Offer Valid Through	January 31, 2021

THIS IS NOT AN INVOICE – PRICES QUOTED BELOW ARE ESTIMATES

INVOICE INFORMATION

Invoice Dates	Estimated Invoice Amounts (Excludes Taxes)
02/01/21 - 01/31/22	\$189,789.00
02/01/22 - 01/31/23	\$173,289.00
Total Invoice Amounts	\$363,078.00
Next Invoice Amount	\$189,789.00

SUBSCRIPTION INFORMATION

Product	UOM	QTY	Project Cap	Service Period	Annual Fees
Analytics	ACV (MM)	106.000000	N/A	02/01/21 - 01/31/23	\$14,021.00
Field Productivity	FTE	30.000000	N/A	02/01/21 - 01/31/23	\$3,869.00
Invoice Management	ACV (MM)	106.000000	100	02/01/21 - 01/31/23	\$8,579.00
Maintenance & Support for Professional Services	Each	1.000000	N/A	02/01/21 - 01/31/23	\$10,600.00
Project Financials	ACV (MM)	106.000000	100	02/01/21 - 01/31/23	\$30,976.00
Project Management Pro	ACV (MM)	106.000000	100	02/01/21 - 01/31/23	\$75,418.00
Quality & Safety	ACV (MM)	106.000000	100	02/01/21 - 01/31/23	\$29,826.00

One Time Fees	UOM	QTY	Fees
QuickStart 4 4 Month Implementation Service Bundle	Each	1	\$15,000.00
Statement of Work Requires custom SOW.	Each	1	\$1,500.00

SPECIAL TERMS

Customer will have the Initial Term to consume the total Construction Volume purchased, regardless of annual Construction Volume so long as the total Construction Volume cap is not exceeded.

This Order Form incorporates the Terms and Conditions as executed by the Parties and attached hereto (the 'Procure MSA'), which shall govern the Customer's use of all line items except the Calance Line Items. The Procure MSA attached hereto shall govern over the link in the Terms and Conditions section, below.

The 'Maintenance & Support for Professional Services' line item above refers to the Calance Dimension JD Edwards integration product (the 'Calance Connector').

The 'Statement of Work Requires Custom SOW' line item above refers to the Calance Dimension JD Edwards integration implementation fee (the 'Calance Implementation Fee', and together with the Calance Connector, the 'Calance Line Items').

The Calance Line Items will be governed exclusively by the Calance Terms, which are attached hereto and which will be executed between Customer and Calance. Procure is not a party to the Calance Terms and the Calance Line Items are being provided as a Non-Procure Application, as defined in the Procure MSA.

The Calance Line Items are being provided as an open market item, and provided directly to Customer without any representations regarding their pricing, or any SHARE-program related discounts.

The pricing set forth herein reflects the 3.275% discount off of Procure's current MSPR list price consistent with, pursuant to, that certain North Texas Share Master Services Agreement #2020-064 effective on or about September 3, 2020 setting forth applicable pricing for which Customer is entitled to receive the benefit of.

Statement of Work - Professional Services:

This Agreement incorporates the attached SOW.

Customer's use of the Timesheets Tool is limited by the number of Full Time Equivalent ('FTE') persons employed by Customer, which shall be a cap on the maximum number of Authorized Users that can access and use the tool. FTE is the hours worked by one employee on a full-time basis, which can be used to convert the hours worked by several part-time employees into the hours worked by full-time employees. On an annual basis, an FTE is considered to be 2,080 hours.

BILL TO

City of Denton
Rachel Wood
901-A Texas Street
Denton, TX 76209
United States
rachel.wood@cityofdenton.com

SHIP TO

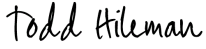

City of Denton
Rachel Wood
901-A Texas Street
Denton, TX 76209
United States
rachel.wood@cityofdenton.com

TERMS AND CONDITIONS

The Prices shown above have been rounded to two decimal places for display purposes. As many as eight decimal places may be present in the actual price. The totals for this order were calculated using the actual price, rather than the prices displayed above, and are the true and binding totals for this order. Prices quoted do not include taxes.


By signing this Order Form, I am authorized to place this order on behalf of the Customer and agree to all payments that are due to Procure, and Customer hereby agrees to all the terms and conditions of this Order Form and the Procure Subscription Terms ("Terms") as outlined at https://mkt-cdn.procure.com/legal/procure_MSA_V1_2019.pdf. The Product(s) purchased above are further described in the table below. Please note that if this is an upgrade to your current subscription, then the table below shall only reflect your new or changed products. The Order Form and Terms constitute the entire agreement between Procure and Customer, superseding any other terms (including, but not limited to, the terms of any Customer purchase order).

If this Order Form is executed and/or returned to Procore by Customer after the Service Start Date above, Procore may adjust the Service Start Date and Service End Date, without increasing the Estimated Invoice Amounts, based on the date the Order Form is fully executed and provided that the total term length does not change. Following activation, any adjustments to such Service Start Date and Service End Date may be confirmed by reference to the invoice sent by Procore to the Billing Email Address above, and/or by contacting the billing team at billing@procore.com.

PO #:		Tax Exempt:	
City of Denton ("Customer") DocuSigned by: Signature:  Name: Todd Hileman Title: City Manager Date: February 10, 2021		Procore Technologies, Inc. ("Procore") DocuSigned by: Signature:  Name: Dennis Lyandres Title: Chief Revenue Officer Date: 1/14/2021	


ATTEST:

ROSA RIOS, CITY SECRETARY

BY: 
 1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:


AARON LEAL, CITY ATTORNEY

BY: 
 4B070931B4AA428...

THIS AGREEMENT HAS BEEN

BOTH REVIEWED AND APPROVED

as to financial and operational obligations and business terms.


 CE9F2B4E4B6745F...
 SIGNATURE
 Rebecca Diviney
 PRINTED NAME
 Director of Capital Projects/City Engineer

TITLE
 Capital Projects/Engineering

DEPARTMENT

** In Addition to the tools listed below, all Procore clients have access to the following core tools: directory, documents, reports, and task, except for those clients who have purchased only Capital Planning and/or Portfolio Financials.

PRODUCT	TOOLS
Analytics	One Data Extract Per Day, Canned PowerBI Reports, Custom Reports
Field Productivity	Timecard, Crews, Timesheets, T&M Tickets
Invoice Management	Invoicing
Project Financials	Budget, Change Events, Change Orders, Commitments, Direct Costs, Prime Contract
Project Management Pro	Correspondence, Daily Log, Drawings, Emails, Meetings, Photos, Punch List, RFI, Schedule, Specifications, Submittals, Transmittals, Timecard
Quality & Safety	Daily Log, Photos, Schedule, Forms, Incidents, Inspections, Observations

QuickStart 4

Overview

QuickStart 4 is our four-month packaged program of services leveraging Procore's methodology and best practices. These services will get you off to a strong start during your first four months with Procore and will ensure the fastest time to value for your teams. Should you need additional services, we will work with you to deliver options to meet your needs.

Summary of Services

Service	Description	Term
Implementation Manager Services	Access to a named Implementation Manager for 4 months, ensuring a consistent point of contact to drive implementation success metrics throughout the implementation. Includes weekly scheduled consultations.	4 Months
Onsite Consultation	2 days of onsite training, up to 8 hours per day, to increase adoption rate and accelerate time to value. Available in the US, ANZ, CAN, and UKI markets. <i>*In the event onsite training cannot be delivered due to unforeseen circumstances, client may exchange onsite training for the equivalent level of virtual consulting hours.</i>	4 Months
Consulting Services	15 Hours of additional 1:1 virtual Consulting services to assist with strategic business planning, education, deep product training, Procore rollout, and best practices for additional users.	4 Months
Technical Services Consulting	5 hours with a Technical Services expert to advise in the design of system integration strategies between Procore and our client's various environments.	4 Months
Custom Solutions	25 hours with our Custom Solution experts to design and implement custom forms, custom workflows, and custom tools.	12 Months

Add-On Services

Services in addition to those included in this service package—such as an extension of Implementation Manager services beyond four (4) months, additional virtual or onsite training, additional consulting sessions, additional integration services and/or custom solutions hours—are available upon request to ensure you have all the support needed to be successful. These services are available for a fee and are not included in this scope.

Pricing and Payment Terms

These bundled services are offered at a discount from market rates. Work performed against this services bundle will be conducted via a fixed fee and is due as defined in the order form.





PROCORE SUBSCRIPTION TERMS

These terms, including any attached exhibits (collectively, "**Terms**") are entered into as of the effective date listed on the Order Form ("**Effective Date**") between **PROCORE TECHNOLOGIES, INC.**, a Delaware corporation, having its principal place of business at 6309 Carpinteria Avenue, Carpinteria, CA 93013 ("**Procure**" or "**Party**") and the customer identified in the Order Form, ("**Customer**" or "**Party**"), collectively the "**Parties**."

In consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. BACKGROUND. Procure has developed certain construction project management Software (defined below), to which it provides access as part of its Services (defined below). Customer wishes to enter into this Agreement for a subscription to the Services identified on an Order Form. Procure desires to make those Services available to Customer subject to the terms of this Agreement.

2. DEFINITIONS. The capitalized terms listed below have the following meanings:

2.1 "Agreement" means, collectively, the terms of the Order Form and these Terms.

2.2 "Authorized User" means any individual who is authorized by virtue of such individual's relationship to, or permissions from, Customer, to access and receive Customer Content/Customer Data and use the Services on Customer's behalf pursuant to Customer's rights under this Agreement.

2.3 "Construction Volume" means the aggregate dollar value of the construction work performed, planned, or put in place for all Customer Projects for which Customer utilizes the Services during a given time period, most often a one-year period. The Order Form shall set forth the service period and amount of Construction Volume purchased by Customer.

2.4 "Customer Content" means any content created by or on behalf of Customer or an Authorized User in connection with the Services and Customer Projects.

2.5 "Customer Data" means personally identifiable information provided by Customer to Procure regarding natural persons.

2.6 "Customer Project" means each distinct construction project for which Customer utilizes the Services constrained by a specific scope, budget, and schedule, as specified in a construction project agreement. The lifecycle phases for typical construction projects may include initiation, planning, design, demolition, construction, commissioning, and closeout.

2.7 "Data Center Region" means a location in which Procure or its affiliates maintain data processing operations, including the United States, Canada, the European Union, Australia, and the United Kingdom.

2.8 "Documentation" means online user guides provided and updated by Procure via <https://support.procure.com/products/online/user-guide> in connection with Customer's subscription to the software Services specified on the applicable Order Form.

2.9 "Enhancements" means the following: minor modifications, revisions, and corresponding Documentation with respect to the Services, including the addition of enhancements or improved performance made available by Procure to the Services; however, Enhancements do not include the addition of New Features not originally included as part of the Services described on a particular Order Form.

2.10 "Maintenance Modifications" means bug fixes, patches, modifications, or revisions to the Services that correct errors therein; however Maintenance Modifications do not include New Features not originally included as part of the Services described on a particular Order Form.



2.11 “**New Features**” means those new or materially different technological or service features and/or tools that Procure develops over time, which are, in Procure’s discretion, offered to Customers as additional features for a fee and are distinct from included Enhancements and Maintenance Modifications.

2.12 “**Order Form**” means the order form document signed by both Parties that is attached to and governed by these Terms, which specifies certain other agreed-upon terms including Customer’s specific subscription information pertaining to the Services. The Parties may enter into additional Order Forms during the Term, each of which will be subject to these Terms.

2.13 “**Project Caps**” means the maximum number of simultaneous Customer Projects, as stated on the Order Form.

2.14 “**Services**” means (1) Procure’s proprietary Software offerings, and (2) any professional services that are specified on the Order Form.

2.15 “**Site**” means app.procore.com and all associated Procure mobile applications that utilize Procure’s Software.

2.16 “**Software**” means Procure’s proprietary software programs and any associated user interfaces and related technology that Procure uses to provide the Services, and that Procure makes available pursuant to this Agreement, including any Enhancements and Maintenance Modifications thereto.

2.17 “**Subscription Fee**” means the agreed-upon subscription fee(s) for the Services as stated on the Order Form.

3. PROVISION OF SERVICE/RESPONSIBILITIES.

3.1 Subscription Rights and Access. Subject to the terms of this Agreement (including payment of fees), Procure will provide Customer with access to the Services during the Term. Customer, via its Authorized Users, may access and use the Services only for its intended purposes, in accordance with the specifications set forth in any Documentation and for Customer’s internal business use and the limits on Construction Volume, Project Caps, Customer Projects, and/or other use restrictions specified on the applicable Order Form. Subject to Customer’s payment of the fees set forth in the Order Form, Procure shall provide to Customer the necessary passwords, security protocols and policies, and network links or connections to allow Customer and its Authorized Users to access the Services.

3.2 Support; Compatibility. Procure shall provide the Customer and its Authorized Users with (a) support for the Services as outlined in Exhibit A, and (b) access to Enhancements and Maintenance Modifications as they become available. Customer and its Authorized Users are solely responsible for ensuring that they have sufficient and compatible hardware, software, telecommunications equipment, and Internet service necessary for the use of the Site and Services.

3.3 Site Updates. Procure may, in its discretion, change, modify, upgrade, or discontinue any aspect or feature of the Site in whole or in part. Such changes, upgrades, modifications, additions, or deletions will be effective immediately upon notice thereof, which may be made by posting such changes to the Site. In the event Procure modifies or discontinues any content or feature of the Site which results in a material reduction of functionality or degradation of the Site, Procure shall provide comparable functionality. Procure may, from time to time, develop New Features, which will be offered to customers for additional fees.

3.4 Limitations. Customer shall not, and shall not authorize or permit any Authorized User to (a) rent, loan, or license rights to access and/or use the Services and/or the Software (except as specifically provided herein); (b) copy, modify, disassemble, decompile, or reverse engineer software included as part of the Services; (c) share identification or password codes with persons other than Authorized Users, or permit Customer’s account to be accessed by individuals who are not Authorized Users; (d) access, use, or permit a third party to access or use the Services or Software for purposes of competitive analysis, including the development,



provision, or use of a competing software or service or for any other purpose that may be to Procure's detriment or commercial disadvantage; (e) use the Services in any way not expressly provided for in this Agreement; (f) use the Services in a manner that infringes the intellectual property, privacy, or other rights of third parties; (g) remove any title, trademark, copyright, or restricted rights notices or labels from the Services; (h) interfere with or disrupt the integrity or performance of the Services; or (i) expose Procure to any malware, including viruses, worms, or any other malicious computer programming codes that may damage Procure or third-party systems or data. Customer shall be responsible for all activities that occur under Customer's account and for all actions of Customer or its Authorized Users and both Customer and Authorized Users shall use the Site and the Services in accordance with the Terms of Service located at <https://www.procure.com/fine-print/terms>. Procure will provide a notification to Customer, via the Site, of updates to the Terms of Service. It is Customer's responsibility to review the Terms of Service from time to time on the Site to ensure that Customer continues to agree with all of its terms. Customer's continued use of the Site or the Services following the posting of changes to the Terms of Service will mean Customer accepts those changes. If there is any conflict between the Terms of Service and this Agreement, this Agreement will govern. Customer shall notify Procure of any unauthorized use of Customer's passwords or account, or any other breach of security that is known or suspected by Customer. Customer and its Authorized Users shall abide by all applicable local, state, national, and foreign laws and regulations in connection with their use of the Services. Customer shall be responsible for any breach of this Agreement by its Authorized Users and agrees to enter into agreements with its Authorized Users that contain terms that impose restrictions in all material respects no less than those imposed on Customer herein, including, but not limited to, the provisions regarding the use of the Services and protection of Procure's intellectual property, and that include additional terms as reasonably requested by Procure.

3.5 Customer Content. Procure will process Customer Content in order to provide and enhance the Services and Software. The Parties acknowledge and agree that the Customer is at all times the data controller and Procure is a data processor. Customer represents and warrants that it has all necessary rights in the Customer Content to grant Procure the right to use, and Customer hereby grants Procure a non-exclusive, worldwide, royalty-free, transferable, and fully paid license to use, modify, and distribute the Customer Content as necessary for Procure to provide and enhance the Services. All rights in and to the Customer Content not expressly granted to Procure in this Agreement are reserved by Customer. Customer represents and warrants that any Customer Content hosted by Procure as part of the Services will not (a) infringe or violate the rights of any third party; or (b) be deceptive, defamatory, obscene, or unlawful. Customer acknowledges that any use of the Services by Customer or Authorized Users contrary to or in violation of the representations and warranties of Customer in this section constitutes unauthorized and improper use of the Services. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content. The Parties acknowledge that Procure does not and cannot review all Customer Content and will not be responsible for such content, and that Customer instructs Procure to delete, move, or edit any Customer Content that Procure determines violates or might violate this Agreement, its Terms of Service, or any applicable law or regulation, or is otherwise unacceptable. Customer acknowledges and agrees that the Customer Content may be transferred or stored in a Data Center Region. Customer acknowledges and agrees that the Customer Content may be shared with third parties as necessary to provide and enhance the Services.

3.6 Customer Data. Procure will process Customer Data as needed to provide the Services. The Parties acknowledge and agree that the Customer is at all times the data controller and Procure is a data processor. Customer represents and warrants that Customer shall only provide to Procure the minimum amount of personally identifiable information, the extent of which is determined and controlled by Customer in its sole discretion, for each Authorized User, to enable the Authorized User to enjoy the benefit of this Agreement. Customer represents and warrants that Customer is entitled to transfer relevant Customer Data to Procure so that Procure may lawfully use, process, and transfer the Customer Data in accordance with this Agreement on Customer's behalf and Customer shall ensure the same. Customer shall ensure that the relevant third parties, including data subjects, have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation. Customer acknowledges that Procure is reliant on Customer for direction as to the extent to which Procure is entitled to use and process the Customer Data. Procure shall process the Customer Data only in accordance with the terms of this Agreement and any written instructions given by Customer. Customer acknowledges and agrees that the Customer Data may be transferred or stored in a Data Center Region. Customer acknowledges and agrees that the Customer Data may be shared with third parties as necessary to provide and enhance the Services. Procure will not be liable for any claim



brought by an Authorized User arising from any action or omission by Procure, to the extent that such action or omission resulted from Customer's instructions.

3.7 Aggregate Content. Customer acknowledges and agrees that Procure may obtain and aggregate Customer Content and/or anonymized Customer Data with respect to Customer or Authorized Users ("**Aggregate Content**"), and Procure may utilize the Aggregate Content to analyze, improve, support, and operate the Services, during and after the term of this Agreement. Customer acknowledges that Aggregate Content is not Customer Content or Customer Data.

3.8 Customer Acknowledgement. As of the Effective Date, Customer acknowledges and agrees that Customer's authorized representative has evaluated the features and functionality of the Services in a means satisfactory to Customer and accepts that the Services have been demonstrably shown to have all of the features and functionality to Customer's satisfaction. Customer agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features, nor dependent on any oral or written comments made by Procure regarding future functionality or features.

3.9 Non-Procure Applications. Procure and third parties may make available third-party products or services, including, but not limited to, third-party products available on the Procure App Marketplace (<https://marketplace.procure.com/>) ("**Non-Procure Applications**"). Any use by Customer and any exchange of data between Customer and the provider of Non-Procure Applications is solely between Customer and the applicable provider. Procure does not warrant or support Non-Procure Applications or other non-Procure products or services. If Customer installs or enables a Non-Procure Application for use with the Services, Customer hereby grants Procure permission to allow the provider of that Non-Procure Application to access Customer's data and content as required for the interoperation of that Non-Procure Application with the Services. Procure is not responsible for any disclosure, modification, or deletion of any Customer Data or Customer Content resulting from access by or integration with a Non-Procure Application. The Services may contain features designed to interoperate with Non-Procure Applications. To use such features, Customer may be required to obtain access to Non-Procure Applications from their providers, and may be required to grant Procure access to Customer's account(s) on the Non-Procure Applications. Customer agrees to fully comply with any terms and conditions required by providers of Non-Procure Applications and obtain all consents necessary for Procure to receive Customer Data and/or Customer Content from such providers. If the provider of a Non-Procure Application ceases to make the Non-Procure Application available for interoperation with the corresponding Service features, Procure may cease providing those Service features without providing Customer any refund, credit, or other compensation. Customer uses Non-Procure Applications at its own risk and Procure is not responsible for any acts or omissions of providers of Non-Procure Applications. PROCORE HEREBY DISCLAIMS ALL LIABILITY FOR ANY HARM OR DAMAGES CAUSED BY NON-PROCURE APPLICATIONS.

3.10 Beta Services. From time to time, Procure may invite Customer and Authorized Users to try or discuss certain beta services, including pilot, limited release, developer preview, in-development, non-production, or evaluation services ("**Beta Services**") at no charge. Customer may accept or decline any such trial. Beta Services will be clearly designated as such by Procure. Beta Services and discussions about Beta Services are Procure's Confidential Information, for evaluation purposes and not for production use, are not considered Services under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Services becomes generally available. Procure may discontinue Beta Services at any time and may never make them generally available. BETA SERVICES ARE PROVIDED "AS IS" WITHOUT EXPRESS OR IMPLIED WARRANTY AND WITHOUT INDEMNITY. PROCORE WILL HAVE NO LIABILITY FOR, AND CUSTOMER HEREBY RELEASES PROCORE FROM ANY LIABILITY OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH ANY BETA SERVICE.

4. PAYMENT.

4.1 Payment Terms. Customer shall pay Procure all Subscription Fees specified on the Order Form upon receipt of invoice unless otherwise stated on the Order Form.. Overdue payments will be subject to a late fee of 1.5% for each month or fraction thereof that the payment is overdue, or the highest interest rate permitted by applicable law, whichever is lower. In addition to any other remedies available to Procure, Procure



shall be entitled to discontinue provision of the Services until all overdue amounts due are paid in full. Except as expressly provided in this Agreement, all payments to Procure are non-refundable and non-cancelable. Customer shall reimburse Procure for Procure's collection costs incurred in attempting to collect any late payments, including reasonable attorneys' fees.

4.2 The Parties acknowledge and agree that Procure is reselling to Customer the Calance Line Items as defined and set forth on the applicable Order Form. Notwithstanding the foregoing the Parties also acknowledge and agree that (i) Customer's use and provision of the Calance Line Items is subject to Calance's separate terms and conditions as specifically attached in the Order Form (the "**Calance MSA**"), (ii) use of provision by Customer of the Calance Line Items is solely between Customer and Calance, subject to the Calance MSA; and (iii) that Procure has no liability or obligation to Customer for the Calance Line Items.

4.3 Subscription Fees stated on the Order Form are exclusive of any federal, state, or other governmental taxes, duties, fees, excises, or tariffs ("**Taxes**") now or hereafter imposed on the Services. Unless Customer furnishes Procure with a valid resale or exemption certificate, Customer shall be responsible for, and if necessary shall reimburse, Procure for all such Taxes on any amounts payable by Customer hereunder, except for taxes imposed on Procure's net income. If Procure has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, Procure will add such Taxes to the amount invoiced to Customer. The parties acknowledge that Customer is a public entity exempt from the payment of certain taxes and Customer will provide the tax exemption certificate.

4.4 Procure may audit Customer's Construction Volume (as specified on the Order Form) to ensure compliance with this Agreement. Procure will give Customer at least ten days' advance notice of any such audit and will conduct the audit during normal business hours in a manner that does not unreasonably interfere with Customer's normal operations. Customer agrees to reasonably cooperate with and assist Procure upon receipt of a notice of audit. Such audit will be at Procure's expense; however, if any such audit discloses any underpayment by Customer or usage exceeding Customer's subscription as stated on the Order Form(s), Procure may invoice Customer and Customer shall immediately pay Procure such underpaid amount, together with interest thereon at the rate specified in section 4.1, and Customer shall also pay Procure for Procure's expenses associated with such audit.

5. TERM/TERMINATION.

5.1 Term. This Agreement commences on the Effective Date and will remain in effect for the initial term specified on the Order Form ("**Initial Term**"), unless earlier terminated as provided herein. Prior to the expiration of the Initial Term, or any renewal term, this Agreement may be renewed for a term mutually agreed by the Parties as evidenced by an Order Form (each a "**Renewal Term**"). The Initial Term and any Renewal Term(s) are collectively referred to herein as the "**Term**." Any amendments to this Agreement, as mutually agreed in writing and executed by the Parties' authorized representatives, shall be incorporated into subsequent Order Forms after the execution of this Agreement. The Subscription Fees must be paid on or before the start of any Renewal Term in order to avoid a termination of Services. For the avoidance of doubt, the Term of this Agreement shall expire upon the termination or expiration of all Order Forms entered into pursuant to this Agreement. This provision supersedes the relevant termination provisions in the Master Services Agreement dated September 3, 2020, by and between Procure Technologies, Inc. and North Central Texas Council of Governments.



5.2 Termination. Either Party may terminate this Agreement upon: (1) any material breach of this Agreement by the other Party that is not cured within thirty days (or within ten days in case of failure to pay) following written notice thereof; (2) the other Party becoming insolvent or bankrupt, liquidating or being dissolved, or ceasing substantially all of its business; or (3) a breach of section 11.3. Upon expiration or termination of this Agreement or Services authorized in an Order Form, Customer shall immediately discontinue all access and use of the Services. In the event Customer terminates this Agreement for a material and uncured breach by Procure, Procure shall, as Customer's sole and exclusive remedy, refund to Customer any prepaid but unused Subscription Fees calculated on a straight-line prorated basis for the remainder of the then-current Term. In the event that Procure terminates the Agreement for a material and uncured breach by Customer, Customer shall continue to pay any fees due to Procure pursuant to section 4.1. In addition to any other remedies available to Procure, Procure may suspend Customer's or any Authorized Users' access to the Services, at Procure's sole option, in the event of any violation of this Agreement. Upon termination of this Agreement, Procure shall follow the data return procedures outlined in Exhibit A. This provision supersedes the relevant termination provisions in the Master Services Agreement dated September 3, 2020, by and between Procure Technologies, Inc. and North Central Texas Council of Governments.

6. PROPRIETARY RIGHTS.

Procure will retain all worldwide right, title, and interest (including intellectual property rights) in and to the Site and the Services, the look and feel of the Site, and all copyrights in and to its content. The Site is copyrighted, trademarked, or otherwise protected, and owned or licensed by Procure. Nothing in this Agreement grants Customer or any Authorized User an express or implied right to use any Procure intellectual property except as set forth in section 3.1 above. All proprietary rights in the Services, including the Software and any aggregate usage data, traffic patterns, and Aggregate Content collected by Procure in connection with use of the Services, will be the sole and exclusive property of Procure. Procure retains the royalty-free right to use any suggestions, ideas, feedback, or other recommendations provided by Customer or Authorized Users relating to the Services. Procure may use Customer's name and/or its logo on Procure's website and in its marketing materials to indicate that Customer is a client of Procure. Customer hereby grants Procure the right to contact Customer and Authorized Users in connection with their use of the Services unless otherwise stated on the Order Form. All other rights not expressly granted in this Agreement are reserved by Procure.

7. WARRANTIES AND LIABILITY.

7.1 Limited Warranty. Each Party warrants that it has all necessary authority to enter into and perform its obligations under this Agreement. Procure represents and warrants that (1) the Services will perform substantially in accordance with the Documentation under normal circumstances and when used in accordance with this Agreement and applicable Documentation, and (2) the Services provided hereunder will be performed in a professional manner in accordance with prevailing industry standards. **Provided that Customer notifies Procure of any breach of the foregoing warranty during the Term, Procure shall, as Customer's sole and exclusive remedy, provide the support services set forth in Exhibit A to this Agreement.** The Services may contain links to sites on the Internet that are owned and operated by third parties. Customer acknowledges and agrees that Procure is not responsible for the availability of, or the content located on or through, any such external site.

7.2 Disclaimer. The Services are provided "as is". Except as specifically provided in this Agreement, Procure disclaims all other warranties and conditions, express or implied. Procure expressly disclaims any implied warranties, including the warranties of merchantability, fitness for a particular purpose, title and non-infringement. Procure does not warrant that the operation of the Services will be uninterrupted or error-free. Specifically, third-party content and applications are provided "as-is," exclusive of any warranty. Procure disclaims all liability for any harm or damages caused by any third-party networking or hosting providers.

7.3 Liability. Except for Procure's indemnification obligations in section 8.1 (*Indemnity*), Procure will not be liable for any special, indirect, exemplary, punitive, incidental, or consequential damages of any nature (including Customer's loss of construction business or Customer's failure



to use the Services). In any event, aside from (i) Procure's indemnification obligations in section 8.1 (*Indemnity*), Procure's total maximum liability arising out of or in any way connected to this Agreement will not exceed the amount paid to Procure by Customer during the twelve-month period immediately preceding such claim. These limitations will apply whether a claim arises under contract, tort or any other theory of liability. Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. In these jurisdictions, Procure's liability will be limited to the greatest extent permitted by law. The limitations set forth in this section 7 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose. The Parties acknowledge and understand that the disclaimers, exclusions, and limitations of liability set forth herein form an essential basis of the agreement between the Parties, reflect an allocation of risk between the Parties, and that absent these disclaimers, exclusions, and limitations of liability, the terms and conditions of this Agreement would be substantially different.

8. INDEMNITY.

8.1 During the Term, Procure shall defend, indemnify, and hold harmless Customer from any loss or damages finally awarded or agreed in settlement arising from a third-party action claiming that the Services infringe any duly issued U.S. patent, copyright, or trademark or misappropriate any trade secret. In addition, if the use of the Services infringes or is enjoined, or Procure believes it is likely to infringe or be enjoined, Procure shall take one of the following actions as reasonably determined in its sole discretion : (a) procure for Customer the right to continue use of the Services as furnished; (b) modify the Services to make them non-infringing, provided that they still substantially conform to the applicable Documentation; or (c) if Procure, after using commercially reasonable efforts, is unable to accomplish the foregoing remedies, terminate this Agreement and refund to Customer any prepaid but unused Subscription Fees calculated on a straight-line prorated basis for the remainder of the then-current Term. The intellectual property indemnity provided herein does not apply to the extent the alleged infringement arises from (x) any use of the Services not in accordance with this Agreement or as specified in the Documentation, (y) any combination of the Services and third-party applications (including but not limited to Non-Procure Applications), or (z) any unauthorized modification of the Services. This section states Procure's sole and exclusive liability and Customer's sole remedies for any threatened or actual infringement of proprietary rights.

8.2 . The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by Customer (the City of Denton) of any immunities from suit or from liability that the City of Denton may have by operation of law.

9. CONFIDENTIALITY.

To the extent authorized by the laws of the State of Texas, the Parties and Authorized Users shall, during and after the existence of this Agreement, hold in strictest confidence and will not use for any purpose unrelated to its performance of this Agreement or disclose to any third party, any Confidential Information of the other Party. The term "**Confidential Information**" means all non-public information that the other Party designates as being confidential, or if unmarked and/or disclosed orally is identified as Confidential within a reasonable period of time (email sufficient). Confidential Information includes, but is not limited to, information concerning business methods, pricing, business plans, new product launches, new product development, customer and vendor information, internal policies and procedures, other financial information, technical information and design, and the terms and conditions of this Agreement. Each Party shall not disclose the other Party's Confidential Information without the prior written consent of such other Party, except to its employees, contractors, or agents who have a specific need to know such information and are under a written obligation of confidentiality at least as restrictive as that contained in this section. Information will not be deemed confidential if it (a) was known to the receiving Party and was acquired through proper methods, prior to its receipt from the disclosing Party, as evidenced by written records of the receiving Party; (b) is now or later becomes (through no act or failure on the part of the receiving Party) generally known through no breach of this Agreement by the receiving Party; (c) is supplied to the receiving Party by a third party that is free to make that disclosure without restriction; or (d) is



independently developed by the receiving Party without use of or reference to any Confidential Information provided by the disclosing Party. The restrictions on disclosure imposed by this section do not apply to information that is required by law or order of a court, administrative agency, or other governmental body to be disclosed by the receiving Party, provided that in each such case the receiving Party provides the disclosing Party with prompt written notice of such order or requirement and reasonably assists the disclosing Party, at the disclosing Party's expense, in seeking a protective order or other appropriate relief. Upon termination of this Agreement, each Party shall promptly cease all further use of Confidential Information, return to the other Party all physical materials containing Confidential Information, whether the materials were originally provided by the disclosing Party or copied or otherwise prepared by the receiving Party, and erase or otherwise destroy any Confidential Information kept by either Party in electronic or other non-physical form. The Parties acknowledge that the receiving Party will not be required to return to the disclosing Party or destroy those copies of Confidential Information residing on the receiving Party's backup or disaster-recovery systems, or which must be maintained for regulatory or policy purposes; provided that such Party continues to abide by its obligations under this section. Procure will be deemed to satisfy its obligations to return Confidential Information if it complies with its obligations with respect to the export or availability of Customer Content in Exhibit A. Termination or expiration of this Agreement will not affect each Party's continuing obligations under this section.

10. PRIVACY.

The Procure "**Privacy Policy**" is located at <http://www.procure.com/legal/privacy> and may be amended from time to time. Any updates to the Privacy Policy will be posted to the Site and will be effective immediately upon posting to the Site. Procure will provide a notification to Customer, via the Site, of updates to the Procure Privacy Policy. It is Customer's responsibility to review updates to the Privacy Policy to ensure that Customer acknowledges that Procure processes Customer Data in accordance with the Procure Privacy Policy. If there is any conflict between the Privacy Policy and this Agreement, this Agreement will govern.

11. GENERAL.

11.1 Waiver/Amendment. This Agreement may not be modified except by a written instrument signed by both Parties. Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

11.2 Assignment. Neither Party may assign, delegate, or otherwise transfer this Agreement, in whole or in part, voluntarily, involuntarily, by operation of law, or otherwise without the other Party's prior written consent; except that Procure may assign, delegate, or otherwise transfer this Agreement without such consent to an affiliate or in connection with any merger, consolidation, reorganization, amalgamation, sale of assets, or any other similar transaction. Any attempt to assign, delegate, or otherwise transfer this Agreement other than in accordance with this provision will be void.

11.3 Compliance with Laws. Both Parties shall comply with all applicable local, state, national, and foreign laws, rules, and regulations including all applicable export and import laws and regulations in connection with their performance, access, and/or use of the Services under this Agreement. Customer represents and warrants that Customer, and its directors, officers, employees, and agents, have not taken, and during the term of this Agreement, will not take any action that would constitute a violation of the Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act 2010, or any other anti-bribery or anti-corruption legislation of the United States, or any other jurisdiction in which Customer or Procure conducts business.

11.4 Data Controller; Export. Customer shall comply with all legal duties applicable to Customer, including obligations as data controller by virtue of Customer's role in determining Authorized Users. Specifically, Customer shall provide relevant persons and/or participants with all information Customer is required by law to provide, and, if necessary, shall obtain the consent of these persons. The Services and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents that it is not named on any U.S. government denied-party list. Customer shall not permit Authorized Users to access or use the Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, Syria, or Crimea) or in violation of any U.S. export law or regulation.



11.5 Governing Law; Attorneys' Fees. The rights of the Parties hereunder will be governed by the laws of the State of Delaware, without regard to its principles of conflicts of law. Any suits brought hereunder must be brought in the federal or state courts serving County of New Castle, Delaware. In the event of any claim, action, or judicial proceeding arising under this Agreement, the prevailing Party will be entitled to recover reasonable attorneys' fees and expenses incurred in resolving such claim, action, or judicial proceeding.

11.6 Severability; Notice. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force. Any notice, consent, or other communication hereunder must be in writing, and must be given personally, or sent via overnight delivery or via email with confirmation of receipt, to either Party at its respective address set forth in the Order Form (or such other address as provided by that Party), or by Procure to Customer via notification from the Services. Notices will be deemed given when delivered.

11.7 Independent Contractors. The relationship of the Parties is that of independent contractors and nothing contained in this Agreement will be construed to make either Party an agent, partner, joint venturer, or representative of the other for any purpose. This Agreement is for the sole benefit of the Parties and their respective permitted successors and assigns, and nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy under or by reason of this Agreement.

11.8 Force Majeure. Nonperformance by either Party (other than Customer's payment obligations) will be excused to the extent failure to perform is beyond the reasonable control of the non-performing Party.

11.9 Entire Agreement; Survival. This Agreement, together with any URLs contained herein, any exhibits, and the Order Form(s), constitutes the entire agreement between the Parties with respect to the subject matter hereof and replaces any prior understandings, written or oral. Further, under no circumstances will the provisions of any document issued by Customer (including, but not limited to, any request for quotes or proposals, purchase orders, non-disclosure agreements, Customer exhibits to this Agreement, and vendor forms or registrations with terms that conflict with this Agreement) be deemed to modify, alter, or expand the rights, duties, or obligations of the Parties under this Agreement, regardless of any failure of Procure to object to such terms, provisions, or conditions. If there is any conflict between the terms of this Agreement and the Order Form, the Order Form will prevail. In addition to any rights that accrued prior to termination, the provisions of sections 3.7, 4, and 6 through 11 will survive any termination of this Agreement.



EXHIBIT A SUPPORT AND MAINTENANCE

1. Service-Level Agreement.

Procore has a service-level objective for the Services of 99.9% availability, 24 hours a day, 7 days a week, 365 days a year. Downtime does not include (i) problems caused by factors outside of Procore's reasonable control, or (ii) unavailability of the Services during scheduled maintenance.

2. Support.

During the Term, Customer and Authorized Users will have access to technical support via telephone, online chat, email, or self-paced online tutorials. Support hours will be 24 hours Monday through Thursday, 12:00 a.m. to 9:00 p.m. Pacific Time ("PT") Friday, and 7:00 a.m. to 6:00 p.m. PT Saturday and Sunday, excluding holidays. Support does not include training sessions on the features and functionality of the Services (implementation) or training in computer skills considered prerequisite to an individual's ability to use personal computers, the Internet/World-Wide Web, Non-Procore Applications, Customer's hardware, and online software.

Upon Procore's receipt of a support request, Procore will use commercially reasonable efforts to answer questions and provide standard error corrections to known problems.

3. Data Backup and Return.

During the Term, Procore shall make commercially reasonable efforts to protect the security of Customer Content/Customer Data, as set forth below, and shall complete daily data backups that include Customer's data in an archive format that is kept physically separate from the Procore database and web server hardware. The Services do not replace the need for Customer to maintain regular data backups or redundant data archives.

Procore contracts with a third-party data center provider to provide technology services such as network connectivity to the Internet for the servers running the Services. Personnel access to the data center used by Procore for these Services is restricted, and all entrances and common areas are monitored 24x7 via closed-circuit cameras. Public access to the data center is forbidden. Fire-suppression systems are located in the data center, and power systems in the data center are designed to run uninterrupted even in the event of a total power outage. All servers are supplied with Uninterruptible Power Supply ("**UPS**") power sources that will continue to run if utility power fails. The UPS power subsystem is fully redundant, with instantaneous failover in case the primary UPS fails. In the event of an extended power outage, Procore relies on onsite diesel generators. Generators are regularly tested to ensure functionality in the event of an emergency.

For thirty days following the termination of this Agreement, and provided that there has been no material breach of this Agreement by Customer, Procore will make Customer Content/Customer Data available to Customer, at Customer's request, via read-only access to the Service, solely for purpose of allowing Customer to retrieve Customer Content/Customer Data. Customer allows Procore after such thirty-day period to delete all Customer Content/Customer Data.

4. Maintenance.

4.1 Unplanned Outages. If a system failure occurs that creates an outage of the Services, Procore will utilize commercially reasonable means to end the outage as soon as possible. Outages due to the Internet, hosting providers, and/or Customer or Authorized User systems are outside Procore's control and, in such event, Procore may assist the Customer or Authorized User in the diagnosis but may not be able to resolve the problem.

4.2 Preventative Maintenance. From time to time, Procore or its hosting providers will perform preventative maintenance, such as updating servers and routers with security patches, and software upgrades.



Procore will provide notice prior to any interruption in the Services for scheduled maintenance and will keep any resulting downtime reasonable. Procore will use reasonable efforts to perform such maintenance during non-peak hours.

Exhibit A - Product Summary

Product Summary

Integration: Procore + JDE

The following table lists the integration points available with this subscription.

PROCORE	Direction*	ORACLE JD EDWARDS
Global Integrations		
Vendor	<<<	Address Book
Project	<<<	Job
Project Level Integrations		
Cost Codes	>>>	Chart of Accounts
Original Budget	<<<	Budget Account Balances
Budget Modifications	<<<	Budget Account Balances
Project Costs (AP)		
Commitments (Subcontracts & Purchase Orders)	>>>	Purchase Orders
Commitment Change Orders	>>>	PO Changes
Payment Requisitions	>>>	AP Vouchers
Payments	<<<	AP Payments
Direct Cost Invoices	<<<	Non-committed AP Costs
Direct Cost Payroll	<<<	Payroll (aggregated)
Direct Cost Expenses	<<<	Miscellaneous GL Costs

*Note, default direction indicated. Most integrations can be in reverse direction if required.

Integration Access Requirements

- Procore User Account
- JD Edwards Database Account with read access
- JD Edwards User Account with ability to access Master Business Functions (MBFs)

Exhibit B - Implementation & Ongoing Support

Implementation & Ongoing Support Services

Integration: Procore + JDE

Implementation Services

Initial Platform Setup

The integration platform requires connectivity to the Customer's Procore and JDE environments.

During the initial setup phase Calance will work with the Customer to establish the required connectivity, including activating required APIs, providing Calance with user accounts, and installation of Calance Dimension Integration Data Agent.

Integration Configuration & Testing

As outlined in Exhibit A - Product Summary, the solution contains a number of pre-built integrations for moving data between Procore and JDE. Each pre-built integration has configuration options. Calance will work with the Customer to configure the pre-built Integrations to meet Customer's specific JDE and Procore business needs.

Customer will make available technical and functional resources as needed to complete configuration activities, typically completed in working sessions and configuration workbooks.

Configuration activities are typically completed in 3 months, once the initial technology setup tasks (e.g. install of Data Agent) are completed.

An implementation plan will be jointly created by Calance and Customer once the Subscription Agreement is in place.

Customer will test the Integrations and provide Calance with feedback during this phase.

The length of time required to complete testing activities is highly dependent on the approach and resources the Customer applies to the implementation effort.

Ongoing Support Services

The Integration Platform is fully managed and supported by Calance.

The annual subscription covers the ongoing operation and maintenance of the core platform product as outlined in the Product Summary (Exhibit A).

To access support, Customer will please use the following:

- Email: DimensionSupport@calance.com
- Phone: 657.312.3555

Incident Management

Response Times for Customer Reported Incidents

Our response times are based on the criticality of the incident, as described in the levels below:

P1 - Critical

- Outage of the Dimension Integration service
- Support Hours: 24x7
- Initial Response Time: within 30 minutes
- Target Resolution: within 4 hours
- Status Updates: every hour

P2 - High

- Dimension is available, but one or more significant integration points is failing.
- Support Hours: M-F 6am-5pm PST
- Initial Response Time: within 2 hours
- Target Resolution: within 1 business day
- Status Updates: every two hours

P3 - Medium

- Issue that does not prevent integrations from performing as generally specified. For example, a mapping or validation which is not performing as expected.
- Support Hours: M-F 6am-5pm PST
- Initial Response Time: within 4 hours
- Target Resolution: within 5 business days
- Status Update: every two days

P4 - Low

- Item that is an enhancement request or very minor issue.
- Support Hours: M-F 6am-5pm PST
- Initial Response Time: within 2 days
- Target Resolution: TBD
- Status Update: TBD

Exhibit C - Terms & Conditions

DIMENSION INTEGRATION PLATFORM SUBSCRIPTION TERMS AND CONDITIONS

These Terms and Conditions shall apply to Customer's use of Calance's Dimension Integration Platform ("Integration Platform" or "Platform") as defined in the Integration Platform Order(s) and signed by the parties. The Subscription Terms and Conditions and all Subscription and Orders (collectively referred to as the "Agreement") represent the parties' entire understanding regarding the Subscription and related Integration Platform. In the event of a conflict between these Terms and Conditions and an Order, the terms of the Order shall prevail.

1. Usage Rights.

1.1 During the Subscription Term set forth in an Order, Calance grants to Customer a nontransferable, nonexclusive, worldwide right to permit those individuals authorized by Customer or on Customer's behalf, and who are Customer's employees, agents or contractors ("Users"), to access and use the Integration Platform subject to the terms of the Agreement.

1.2 Users will have remote access via the internet to the Administration, Reporting and Monitoring components of the Integration Platform in accordance with the specific usage rights ("Usage Rights") set forth in the Order, and Customer shall at all times ensure that its use does not exceed its Usage Rights.

1.3 Customer shall be solely responsible for obtaining and maintaining appropriate equipment and ancillary software needed to connect to, access or otherwise utilize the Integration Platform, including, without limitation, computers, computer operating system and web browser (collectively, "Equipment"). Customer shall ensure that Equipment complies with all configurations and specifications as required by Calance.

1.4 Customer will be provided a Data Agent which will facilitate integration between Customer's ERP and the Calance Integration Platform.

1.5 The Platform may automatically download and install updates from time to time on the Data Agent. These updates are designed to improve and enhance the Platform and may take the form of bug fixes, enhanced functions, new platform modules and completely new versions. Customer agrees to receive such updates (and permit Calance to deliver these to Customer) as part of Customer's use of the Platform.

2. Usage Restrictions and Representations.

2.1 Customer shall not, directly or indirectly:

- (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Integration Platform or any software, documentation or data related to or provided with the Integration Platform;
- (ii) modify, translate, or create derivative works based on the Integration Platform; or copy (except for archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Integration Platform;
- (iii) use or access the Integration Platform to build, support, and/or assist a third party in building or supporting, products or Integration Platform competitive to Calance;
- (iv) use the Integration Platform for purposes other than its own internal business operations.

2.2 Customer shall not knowingly or willfully use the Integration Platform in any manner that could damage, disable, overburden, impair or otherwise interfere with Calance's provision of the Integration Platform. Customer shall be responsible for maintaining the security of the Equipment and Customer's account access passwords. Customer and Calance agree to make every reasonable effort to prevent unauthorized third parties from accessing the Integration Platform. Customer shall be liable for all acts and omissions of its Users.

2.3 Calance may immediately suspend Customer's password, account, and access to the Integration Platform if (i) Customer fails to make payment due within ten business days after Calance has provided Customer with notice of such failure; or (ii) Customer violates Section 1.1, 2, or 8 of these Terms and Conditions. Any suspension by Calance of the Integration Platform for such violations shall not relieve Customer of its payment obligations under the Agreement.

3. Ownership.

3.1 Calance owns or has rights to all intellectual property rights in and to the Integration Platform (including all derivatives or improvements thereof). All suggestions, enhancements requests, feedback, recommendations or other input provided by Customer or any other party relating to the Integration Platform shall be owned by Calance, and Customer hereby does and shall make all assignments and take all reasonable acts necessary to accomplish the foregoing ownership. Any rights not expressly granted herein are reserved by Calance.

3.2 Customer owns any data, information or material originated by Customer that Customer submits, collects or provides in the course of using the Integration Platform ("Customer Data"). Calance has no ownership rights in or to Customer Data. Customer shall be solely responsible for the accuracy, quality, content and legality of Customer Data, the means by which Customer Data is acquired and the transfer of Customer Data outside of the Calance Integration Platform. Customer Data shall be deemed to be Customer Confidential Information pursuant to Section 8 below.

4. Invoicing and Payment.

4.1 Calance's Subscription rate for Subscription to the Integration Platform is outlined in the Subscription Order Form. Calance retains the right to amend this rate. Calance will provide Customer with a thirty (30) day advance notice in writing or by e-mail of the rate amendment. New Subscription rates will be applicable upon renewal of Subscriptions.

4.2 Procure shall pay all fees set forth in an Order. All fees are non-cancelable and nonrefundable, except as expressly specified in Section 6.2. Procure shall pay all fees in U.S. Dollars. Calance hereby agrees that Procure will make payments to Calance and that the City of Denton is not liable for such payment.

4.3 All amounts invoiced hereunder are due and payable as specified in the Order. Unpaid invoices that are not the subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all reasonable expenses of collection.

4.4 Calance acknowledges and agrees that the awarding or continuation of this contract is dependent upon the availability of funding. Customer's payment obligations are payable only and solely from funds appropriated and available for this contract. The absence of appropriated or other lawfully available funds shall render the contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Seller. Customer will not incur a debt or obligation to pay Calance any amounts Customer does not have the current funds available to pay.

5. Term and Termination.

5.1 Agreement shall commence as of the date set forth in the Order and, unless earlier terminated as set forth below, shall remain in effect through the end of the Subscription Term.

5.2 In the event Customer terminates its Agreement with Procure, Customer may terminate its Agreement with Calance upon 10 day written notice or as of the expiration of the applicable Order, if Customer does not elect to renew.

5.3 In the event of a material breach by either party, the non-breaching party shall have the right to terminate the applicable Order for cause if such breach has not been cured within 30 days of written notice from the non-breaching party specifying the breach in detail. If Calance terminates an Order for Customer's material breach, all undisputed fees set forth on such Order are immediately due and payable.

5.4 Upon any termination or expiration of an Order, Customer's right to access and use the Integration Platform covered by that Order shall terminate. Customer acknowledges and agrees that Calance does not retain Customer Data.

5.5 All sections of the Agreement which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions, indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability. This Article supersedes the relevant termination provisions in the Master Services Agreement dated September 3, 2020, by and between Procore Technologies, Inc. and North Central Texas Council of Governments.

6. Representations, Warranties and Indemnities.

6.1 Each party represents and warrants to the other party that it has the power and authority to enter into the Agreement. Calance warrants to Customer that it will use best efforts to (a) perform the Integration Platform substantially in accordance with its documentation under normal use; and (b) provide the Integration Platform in a manner consistent with generally accepted industry standards. Customer must notify Calance of any warranty deficiencies within 30 days from performance of the relevant Integration Platform in order to receive warranty remedies.

6.2 For breach of the express warranty set forth above, Customer's exclusive remedy shall be the repair/re-performance of the deficient Integration Platform. If Calance cannot repair/re-perform such deficient Integration Platform as warranted, Customer shall be entitled to a subscription fee refund on a pro rata basis for the remainder of the Subscription Term, and such refund shall be Calance's entire liability.

6.3 The Integration Platform may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, or because of other causes beyond Calance's reasonable control, but Calance shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled unavailability of the Integration Platform.

6.4 Calance shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the Integration Platform as contemplated hereunder infringes the intellectual property rights of a third party; provided, that Customer (a) promptly gives written notice of the Claim to Calance; (b) gives Calance sole control of the defense and settlement of the Claim (provided that Calance may not settle or defend any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Calance, at Calance's cost, all reasonable assistance.

6.5 The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by Customer (the City of Denton) of any immunities from suit or from liability that the City of Denton may have by operation of law.

6.6 Customer acknowledges that the transfer of data over communications facilities, including the internet, may be subject to limitations, delays, and other problems inherent in the use of such communications facilities and that Calance is not responsible for any delays, delivery failures, or other damage resulting from such problems.

6.7 In the event Calance software is breached, Calance warrants that it will notify Customer within 72 hours of becoming aware that their service has been breached or compromised.

6.8 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE AND EACH PARTY DISCLAIMS ALL IMPLIED WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE BY CALANCE, THE INTEGRATION PLATFORM ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

7. Limitation of Liability.

7.1 Customer assumes sole responsibility for results obtained from the use of the Subscription, the Documentation by the Customer and for conclusions drawn from such use. Calance shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Calance by the Customer in connection with the Integration Platform, or any actions taken by Calance at the Customer's direction.

7.2 Neither party's liability with respect to any single incident arising out of or related to this Agreement will exceed \$14,000.00.

8. Confidential Information. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information" of the Disclosing Party). Such information includes, without limitation, Customer Data, information related to Customer's login identifiers and credentials for Accounts.

8.1 To the extent authorized by the laws of the State of Texas, the Receiving Party agrees:

- (i) to take reasonable precautions to protect such Confidential Information; and
- (ii) not to use (except as expressly permitted in Section 9 below) or divulge to any third person any such Confidential Information.

8.2 The Disclosing Party agrees:

- (i) that the foregoing shall not apply with respect to Confidential Information that the Receiving Party can document, is or becomes generally available to the public; was in its possession or known by the receiving party prior to receipt from the Disclosing Party; was rightfully disclosed to it by a third party; was independently developed without use of any Confidential Information of the Disclosing Party; or is required by law.

9. Statistical Information. Notwithstanding anything else in the Agreement or otherwise, Calance may monitor Customer's use of the Integration Platform, compile statistical and performance information related to the provision and operation of the Integration Platform, and may make such information publicly available, provided that such information does not incorporate Customer Data and/or identify Customer's Confidential Information. Calance retains all intellectual property rights in such information.

10. Notices. Calance may provide notices specific to Customer by electronic mail to Customer's e-mail address on record or by written communication sent by first class mail or pre-paid post to Customer's address on record. If Customer has a dispute with Calance, wishes to provide a notice under the Agreement, or becomes subject to insolvency or other similar legal proceedings, Customer shall promptly send written notice to Calance at 7101 Village Drive, Buena Park, CA 90621.

11. Force Majeure. Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 20 days, either party may cancel unperformed Integration Platform upon written notice. This section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for the Integration Platform provided.

12. General Provisions.

12.1 Any action, Claim, or dispute related to the Agreement will be governed by Texas law, excluding its conflicts of law provisions, and controlling U.S. federal law. The failure of either party to enforce any right or provision in the Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing..

12.2 The Agreement and all Order(s), represent the parties' entire understanding relating to the Integration Platform, and supersede any prior or contemporaneous, conflicting or additional communications. The exchange of a fully executed Order by fax, email or electronic signature shall be sufficient to bind the parties to the Terms and Conditions of the Agreement and such Order. The Agreement may be amended only by written agreement signed by both parties. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

12.3 No joint venture, partnership, employment, or agency relationship exists between Calance and Customer as a result of the Agreement or use of the Integration Platform. Neither party may assign the Agreement without the prior written approval of the other, such approval not to be unreasonably withheld or delayed, provided that such approval shall not be required in connection with a merger or acquisition of all or substantially all of the assets of the assigning company. Any purported assignment in violation of this Section shall be void.

12.4 In the event the specific services contained herein are no longer offered by Calance, Calance's Parent Company, the Parent Company's subsidiaries or an acquiring company, the Customer will be provided with a Limited Use Agreement for the purpose of continuing to operate the functionality of the services specific to this Agreement, and Calance will provide the code products, configuration settings, and instructions required to enable the Customer to fully operate the software solution on its own and/or with the support of its agents. The Limited Use Agreement will not transfer ownership of, nor will it provide the right to distribute, sell or reproduce the Integration Platform. The Limited Use Agreement will be provided at no additional cost to the Customer.

Acceptance

Sample Company

Signature: _____
DocuSigned by:
Todd Hileman
B776C711BA0D454...

Name: Todd Hileman

Title: City Manager

Date: 02/09/2021

Exhibit CIQ

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity. Procure Technologies, Inc.

2 Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

Yes No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 I have no Conflict of Interest to disclose.

5 DocuSigned by:
Dennis Lyandres

1/14/2021

Signature of Vendor doing business with the governmental entity

Date

Certificate Of Completion

Envelope Id: 24EE8AA9DCDB4A3F8BEE44A07E43E83A	Status: Completed
Subject: Please DocuSign: City Council Contract 7533 - Capital Project Software	
Source Envelope:	
Document Pages: 30	Signatures: 7
Certificate Pages: 6	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Lori Hewell
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	lori.hewell@cityofdenton.com
	IP Address: 198.49.140.104

Record Tracking

Status: Original	Holder: Lori Hewell	Location: DocuSign
1/12/2021 9:25:53 AM	lori.hewell@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Lori Hewell	Completed	Sent: 1/12/2021 9:47:38 AM
lori.hewell@cityofdenton.com		Viewed: 1/12/2021 9:54:48 AM
Purchasing Manager		Signed: 1/12/2021 9:58:39 AM
City of Denton	Using IP Address: 198.49.140.104	
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Marcella Lunn	DocuSigned by: <i>Marcella Lunn</i> 4B070831B4AA438...	Sent: 1/12/2021 9:58:43 AM
marcella.lunn@cityofdenton.com		Viewed: 1/13/2021 11:47:25 AM
Deputy City Attorney		Signed: 1/13/2021 11:56:51 AM
City of Denton	Signature Adoption: Pre-selected Style	
Security Level: Email, Account Authentication (None)	Using IP Address: 198.49.140.104	

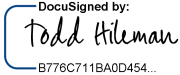

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Dennis Lyandres	DocuSigned by: <i>Dennis Lyandres</i> 352B553D0EC84FF...	Sent: 1/13/2021 11:56:54 AM
dennis@procore.com		Viewed: 1/13/2021 12:07:15 PM
Chief Revenue Officer		Signed: 1/14/2021 11:01:09 AM
Procore Technologies, Inc.	Signature Adoption: Pre-selected Style	
Security Level: Email, Account Authentication (None)	Using IP Address: 137.83.248.30	

Electronic Record and Signature Disclosure:
Accepted: 1/13/2021 12:07:15 PM
ID: 74d5e8b2-b761-43f4-a3bb-81ba79bf2964

Rebecca Diviney	DocuSigned by: <i>Rebecca Diviney</i> CE9F2B4E4B6745F...	Sent: 1/14/2021 11:01:11 AM
Rebecca.Diviney@cityofdenton.com		Resent: 1/15/2021 3:06:52 PM
Director of Capital Projects/City Engineer		Viewed: 1/18/2021 7:56:39 AM
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	Signed: 1/18/2021 7:57:05 AM
	Using IP Address: 47.222.28.222	

Electronic Record and Signature Disclosure:
Accepted: 1/18/2021 7:56:39 AM
ID: fccb2bed-b473-4658-a9b5-9f3a25e0aadf

Signer Events	Signature	Timestamp
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>Completed</p> <p>Using IP Address: 198.49.140.104</p>	<p>Sent: 1/18/2021 7:57:08 AM Viewed: 2/10/2021 8:12:32 AM Signed: 2/10/2021 8:13:04 AM</p>
<p>Todd Hileman Todd.Hileman@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 7/25/2017 11:02:14 AM ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21</p>	<p>DocuSigned by:  B778C711BA0D454...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 107.77.197.170</p>	<p>Sent: 2/10/2021 8:13:07 AM Viewed: 2/10/2021 9:04:54 AM Signed: 2/10/2021 9:05:13 AM</p>
<p>Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 2/10/2021 11:23:33 AM ID: 28e019c7-4709-4ec6-9c34-a09a795e8a62</p>	<p>DocuSigned by:  1C5C8BC5E175493...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10</p>	<p>Sent: 2/10/2021 9:05:17 AM Viewed: 2/10/2021 11:23:33 AM Signed: 2/10/2021 11:24:09 AM</p>

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">COPIED</div>	<p>Sent: 1/12/2021 9:58:41 AM</p>
<p>Nick Gianforte nick.gianforte@procore.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">COPIED</div>	<p>Sent: 1/13/2021 11:56:54 AM Viewed: 1/13/2021 12:21:32 PM</p>

Carbon Copy Events	Status	Timestamp
<p>Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	Sent: 1/18/2021 7:57:07 AM
<p>Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	<p>Sent: 1/18/2021 7:57:08 AM Viewed: 1/19/2021 7:56:58 AM</p>
<p>Zolaina Parker Zolaina.Parker@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	Sent: 2/10/2021 11:24:12 AM
<p>Rachel Wood rachel.wood@cityofdenton.com Deputy Director of Facilitation City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	<p>Sent: 2/10/2021 11:24:13 AM Viewed: 2/10/2021 11:35:22 AM</p>
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/12/2021 9:47:38 AM
Certified Delivered	Security Checked	2/10/2021 11:23:33 AM
Signing Complete	Security Checked	2/10/2021 11:24:09 AM
Completed	Security Checked	2/10/2021 11:24:13 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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