

**CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE MEETING
Wednesday – March 14, 2018 – 12:00 PM
City Council Chamber - City Hall**

AGENDA

CALL TO ORDER

ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

- 1-1 Review and Approval of the February 20, 2018 Meeting Minutes.

- 2-1 An Order Transferring \$260,000.00 from Water Surplus to Water, Acadia Road Water Main Improvement Account.

- 2-2 An Order Transferring \$50,000.00 from Water Surplus to Water, Clark Street Water Main Improvement Account.

- 4-1 An Ordinance to Amend the Code of the City of Gardner, Chapter 45 Thereof, Entitled “City Council,” to Add a New Article and Section Providing for Legal Counsel.

- 5-1 A Measure Authorizing the City to Enter into a Contract for a Period not to exceed five (5) Years with PM AM Corporation for Human Capital Management Services for the Police Department.

ADJOURNMENT

Items listed on the Agenda are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF FEBRUARY 20, 2018

Finance Committee Members present were Council President Scott Graves and Councillors Ronald Cormier and James Walsh. City Clerk Alan Agnelli was also in attendance.

The meeting was called to order by Council President Scott Graves at 7:15 p.m. in the City Council Chamber, City Hall.

President Graves asked if anyone present planned to record the meeting, in accordance with the requirements of the Open Meeting Law, as follows:

Any person may make a video or audio recording of the open session of this meeting so long as it does not interfere with the conduct of the meeting. All documents and exhibits used or referenced at this meeting shall be submitted in duplicate to the City Clerk, as they become part of the minutes of the meeting. Is there anyone present who will be recording this meeting?

No one responded.

1-1 Reading and Approval of Minutes of Prior Meeting(s).

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to approve the Minutes of the Meeting of January 31, 2018, as printed.

ADJOURNMENT

On a motion by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted to adjourn at 7:15:13 p.m.

AN ORDER APPROPRIATING FROM WATER SURPLUS TO WATER –
ACADIA ROAD WATER MAIN IMPROVEMENT.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Sixty
Thousand Dollars and No Cents (\$260,000.00) from Water Surplus to Water – Acadia
Road Water Main Improvement.



**Department of Public Works
CITY OF GARDNER**

Dane E. Arnold, Director
416 West Broadway
Gardner, MA 01440-2687
Telephone (978) 632-7661
Fax (978) 630-4029

Mark P. Hawke, Mayor
City Hall
95 Pleasant Street
Gardner, MA 01440

March 7, 2018

Dear Mayor Mark Hawke:

The **Water Department** is requesting \$260,000 from available Water Surplus for water main replacement on Acadia Street. These funds will be used to replace approximately 2,300 feet of existing 8" water main from Ryan Street to West Street that has been prone to breaks and is in need replacement.

If you have any questions regarding this matter please do not hesitate to call.

Sincerely,

Robert E. Oliva, Assistant Director
Department of Public Works

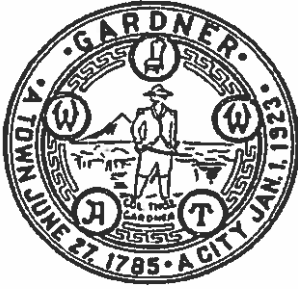
PC: Finance Committee
Public Service Committee
John Richard, City Auditor
Dane Arnold, DPW Director

RECEIVED
2018 MAR 12 AM 10:53
CITY CLERK'S OFFICE
GARDNER, MA

AN ORDER APPROPRIATING FROM WATER SURPLUS TO WATER –
CLARK STREET WATER MAIN IMPROVEMENT ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) from Water Surplus to Water – Clark Street Water Main Improvement Account.



Department of Public Works
CITY OF GARDNER

Dane E. Arnold, Director
416 West Broadway
Gardner, MA 01440-2687
Telephone (978) 632-7661
Fax (978) 630-4029

Mark P. Hawke, Mayor
City Hall
95 Pleasant Street
Gardner, MA 01440

March 7, 2018

Dear Mayor Mark Hawke:

The **Water Department** is requesting \$50,000 from available Water Surplus for water main improvements on Clark Street. The total anticipated cost of this project is \$150,000. The additional \$100,000 to complete the project will be funded from the existing Water budget.

Currently the water system on the north end of Clark Street is not served by a looped system and any break between Ryan Street and Century Way will result in a disruption of service to a large area (the neighborhoods of Century Way, Brookside Drive, Fernwood Drive, Leo Drive, Holly Drive). The funds will be used to install an additional 1,450 feet of water main in Clark Street to provide redundancy in case of a break on the existing main.

If you have any questions regarding this matter please do not hesitate to call.

Sincerely,

Robert E. Oliva, Assistant Director
Department of Public Works

PC: Finance Committee
Public Service Committee
John Richard, City Auditor
Dane Arnold, DPW Director

RECEIVED
2018 MAR 12 AM 10:53
CITY CLERK'S OFFICE
GARDNER, MA

ORDINANCE

4-1

1 AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 45
2 THEREOF, ENTITLED "CITY COUNCIL," TO ADD A NEW ARTICLE AND SECTION
3 PROVIDING FOR LEGAL COUNSEL.

4
5 Be it ordained by the City Council of the City of Gardner as follows:

6
7 Section 1. Chapter 45 of the Code of the City of Gardner is hereby amended by adding thereto a
8 new Article, to be Article II, and a new section 45-3, to read as follows:

9
10 § 45-3. Legal counsel.

11
12 A. The City Council shall have the authority to retain independent legal counsel of
13 its own selection from time to time by majority vote and legal counsel shall be a
14 member of the Bar of the Commonwealth of Massachusetts in good standing.

15 B. Legal counsel shall assist the City Council in the preparation and formulation of
16 legislation and in the rendering of opinions concerning legal matters, either of a
17 substantive or procedural nature, the provisions of § 140-2 of the Code of the City
18 of Gardner notwithstanding.

19 C. Legal counsel shall be paid from the City Council budget.
20

21 Section 2. Severability

22
23 The provisions of this ordinance are declared to be severable, and if any section,
24 subsection, sentence, clause or part thereof is, for any reason, held to be invalid or
25 unconstitutional by a court of competent jurisdiction, such decision shall not affect the
26 validity of any remaining sections, subsections, sentences, clauses, or part of this
27 ordinance.
28

29 Section 3. Effective date.

30
31 This ordinance shall become effective on passage and publication as required by law.

AUTHORIZING A FIVE-YEAR CONTRACT WITH
PM AM CORPORATION
FOR
HUMAN CAPITAL MANAGEMENT SERVICES
FOR THE POLICE DEPARTMENT

VOTE: To authorize the City to enter into a contract for a period not to exceed five (5) years with PM AM Corporation for Human Capital Management Services for the Police Department, pursuant to the provisions of Massachusetts General Law, Chapter 30B, section 12 and in accordance with the PM AM Corporation Human Capital Management – SaaS License Agreement dated February 20, 2018, and the Mayor’s Correspondence dated March 6, 2018, attached and made a part hereto.

City of Gardner, *Executive Department*

Mark Hawke, Mayor



March 6, 2018

Attorney Scott J. Graves, President
And City Councilors
95 Pleasant Street
Gardner, MA 01440

RECEIVED
2018 MAR -6 AM 9:42
CITY CLERK'S OFFICE
GARDNER, MA

RE: PM AM Corporation Five (5) Year Contract

Dear President Graves and Councilors,

The Police Chief has requested approval for a five (5) year contract with PM AM Corporation. This company will provide a Human Capital Management (HCM) platform that will allow us to document, test and track all required HCM policies pertaining to Police, Fire and Dispatch operations. Documentation and tracking of these policies is beneficial to the City as it reduces the City's liability particularly when related to litigation.

By way of example, just the Police Department has hundreds of pages of policies, procedures and regulations that it must document and track.

A five (5) year contract will realize a savings of 15% or almost \$2,000.

Respectfully,

Mark Hawke
Mayor, City of Gardner



1. **GENERAL:** This Human Capital Management - SaaS License Agreement ("**Agreement**") is a legally binding agreement between **Gardner, MA. Police Department ("Licensee")** with its principal offices at 200 Main Street Gardner, MA 01440 and **PM AM Corporation ("PM AM")** with its principal offices at 5430 LBJ Freeway, Suite 370, Dallas, TX 75240 and governs the terms and conditions that apply to delivery of Software as a Service ("**SaaS**") services as described in this Agreement.

2. **SERVICE AND USE OF SERVICE:** The SaaS is a software application service which PM AM owns, provides via the internet referred to herein as Human Capital Management, ("**HCM**" or "**HCM Program**"). HCM is used to manage Licensee's workforce. HCM allows for managing knowledge integration, distributing and tracking policy changes, and includes a broad assortment of tools used in the Performance Appraisal process. The software is installed at a server at PM AM or at PM AM's election, at a third party. The service is used via internet or other data connection. Subject to the terms and conditions of this Agreement, PM AM grants to Licensee, the non-exclusive, non-transferrable, and non-sublicensable rights to use the HCM software during the term of this Agreement for the sole purpose of assisting Licensee in managing Licensee's workforce, including use to manage, train, test, assess, and track Licensee's internal talent using the HCM software and access controlled website ("**HCM Website**") for the management of Licensee's documents, records and other data ("**Licensee Data**"), which such purpose is hereinafter referred to as the "**Permitted Purpose**." Licensee may not use the HCM Program for any purpose other than the Permitted Purpose. This license covers and includes all related interfacing modules that may be used in order to interface HCM with existing onsite applications and processes.

Notwithstanding the preceding, Licensee may not resell, license or distribute the HCM software to any third party or use the HCM software for any purpose other than the Permitted Purpose or share login information and passwords relating to the HCM Program with any third party; provided, however, Licensee may permit its employees to access the HCM Website to use the HCM software for the Permitted Purpose by assigning such employees a user identification number and password ("**Permitted Users**").

From time to time during the term of this Agreement, PM AM may adopt and update rules pertaining to the use of the HCM Program and HCM Website. Licensee shall be bound by and observe, and Licensee shall cause its Permitted Human Capital Management, HCM - SaaS License Agreement

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Users to observe, such updated rules in using the HCM program after receipt of a copy of such rules or after such updated rules are posted on the HCM Website.

3. LICENSE VALIDITY: This license is valid during the term of this Agreement so long as Licensee are current on service fees and have not breached any of Licensee's obligations contained in this Agreement.

4. TERM: The initial term of this Agreement shall be for a period of **five** years commencing on **7/1/2018** and ending on the day immediately preceding the fifth-year anniversary of said commencement date ("**Initial Term**"), subject to earlier termination as set forth herein. Upon expiration of the Initial Term, this Agreement shall be subject to automatic extension from year to year thereafter (each an "**Extended Term**") on the same terms and conditions as set forth herein, unless either party notifies the other in writing at least 60 days prior to the expiration of the Initial Term or the Extended Term that such party will not further extend the term of this Agreement.

5. USER LEVEL: PM AM will provide to Licensee with **99** user IDs necessary to permit Licensee's Permitted Users to access the HCM Program for the Permitted Purpose.

6. SERVICE FEE: A onetime service fee of **\$11,137.50** for five years of service on a Net 30 days of invoice date. All fees payable under this Agreement are calculated based on the then current fee schedule as provided by PM AM from time to time. Access to data and services is conditioned upon the timely payment of service fees. Licensee agree to pay any sales, value-added or other similar taxes (collectively, "**Sales Taxes**") imposed by applicable law that PM AM must pay based on the services Licensee orders, except for taxes based on PM AM's income. All amounts invoiced hereunder are due and payable within 30 days of the date of the invoice.

Licensee, on behalf of itself and its Permitted Users, acknowledges and agrees that access to data and the services provided by PM AM hereunder are conditioned upon the timely payment of all Fees and Sales Taxes payable to PM AM in accordance with the terms of this Agreement.

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7. SERVICE AND SUPPORT: During the term of this Agreement, the following service and support is included within the annual fee: (a) training will be available to Licensee over the internet, and (b) customer service will be available from 8:30 am to 4:30 pm Central Standard Time, Monday through Friday, unless such day is a U.S. Federal or State holiday, via means of telephone or over the internet through the use of remote access software.

If PM AM carries out an update or upgrade of the HCM software, it will be provided to Licensee free of charge. No guarantee is made that updates or upgrades will be available. If Licensee requests a modification to the HCM software, PM AM will provide to Licensee a fee estimate and time estimate for providing the modification if applicable. At PM AM's election, the HCM software modification shall be available to all of PM AM's customers.

8. RESTRICTIONS ON USE AND ACCESS TO HCM WEBSITE: Licensee shall have sole responsibility and liability for Licensee Data. Licensee shall not submit, or permit any of its Permitted Users to submit, to the HCM Website any Licensee Data or other documents or information that are: illegal, false, defamatory, or otherwise in violation of applicable federal or state law.

9. SOFTWARE OWNERSHIP: All software and modules and modifications are the sole property of PM AM and all rights not expressly granted to Licensee in this Agreement are reserved by PM AM. PM AM is the owner of title, copyright, and other intellectual property. The software is licensed, not sold. The rights of use in this Agreement refer only to the object code and not to the source code. Neither Licensee nor its Permitted Users may reverse engineer, decompile, or otherwise disassemble the software or otherwise attempt to derive any source code related to the HCM software or any other technology used by PM AM to provide the services hereunder to Licensee. The HCM or the SaaS services may not be copied or modified in any manner by Licensee, and Licensee shall cause its Permitted Users to not copy or modify the HCM or the SaaS services in any manner. This Agreement does not grant to Licensee or its Permitted Users any rights to trademarks or service marks of PM AM.

10. OWNERSHIP OF DATA: Unless otherwise contested by a third party, Licensee shall retain sole ownership of all data of Licensee entered into HCM by Licensee or its Permitted Users during the term of this Agreement. Licensee is responsible for maintaining the security and confidentiality of all usernames and passwords used by Licensee's Permitted Users. Subject to the terms and conditions

PM AM Corporation

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of this Agreement, Licensee grants PM AM a non-exclusive license to use and exploit the Licensee Data to the extent reasonably necessary to enable PM AM to perform its obligations to Licensee under this Agreement. PM AM will use commercially reasonable efforts to keep Licensee Data protected. Upon request PM AM will provide backups to Licensee for Licensee's storage.

11. DATA PRIVACY: Licensee and PM AM both agree to maintain and obligate their employees to maintain the confidentiality of all information not generally known relating to this Agreement and HCM or the data of the other party which becomes accessible through the preparation and performance of this Agreement, and not to disclose such information to a third party. Notwithstanding the preceding, the confidentiality and non-disclosure obligations set forth in this Section do not apply to Licensee Data which (A) is generally available to the public other than as a result of disclosure by PM AM, (B) PM AM can establish was known to PM AM before disclosure by Licensee, (C) is obtained by PM AM after the date hereof from a third party that is lawfully in possession of such information and who is not under any obligation to keep such information confidential, and (D) is required or requested to be disclosed by court order, subpoena, data request or other legal process.

12. DATA ACCESS: During the term of this Agreement and subject to the terms hereof, PM AM will provide Licensee with 24/7 access to Licensee Data on the HCM platform at a minimum with 98% uptime, measured monthly, excluding the periods of maintenance, updates, upgrades, modification implementation, and Force Majeure Events (as defined herein). PM AM has the right to suspend or disconnect the service wholly or partly if necessary for repair, upgrade, or maintenance. PM AM will perform maintenance on a regular basis, communicate such maintenance on a reasonable basis, and if possible, communicate in advance and perform the maintenance on off-peak periods. If Licensee's Data becomes inaccessible due to problems at PM AM's facilities other than during periods of maintenance, updates, upgrades, modification implementation, or a Force Majeure Event, PM AM will refund 1 day of service fees for every hour Licensee or its Permitted Users are not able to access Licensee data for a maximum of sixty (60) days; provided, if multiple Permitted Users are not able to access their respective data for the same hourly time period, such non-access shall be deemed to be for one hour, regardless of the number of Permitted Users denied access during such one hour period. Such payment is the sole remedy for failure of any service obligations or other breach of this Agreement by PM AM. Upon termination of this Agreement or Licensee

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migrates to any other platform PM AM will, upon written request from Licensee within 30 days after termination of this Agreement or the date Licensee migrates to another platform, whichever is applicable, provide a copy of any Licensee Data in PM AM's possession or under its control. Thereafter, PM AM shall have no further obligation to retain any Licensee Data.

13. TERMINATION:

(a) **Termination by Licensee.** There are no cancellation fees. Licensee may terminate this Agreement at any time without cause by providing PM AM with written notice of termination a minimum of 30 days prior to Licensee's desired termination date.

(b) **Termination by PM AM.** If Licensee fails to make timely payments or breaches any other of its obligations hereunder, PM AM may immediately block access to HCM and upon written notice to Licensee, terminate this Agreement effective immediately. In addition, to the rights and remedies set forth above, PM AM may terminate this Agreement at any time without cause upon written notice of termination to Licensee a minimum of 30 days prior to PM AM's desired termination date.

(c) **Effect of Termination.** Upon the expiration or other termination of this Agreement, the access of Licensee and its Permitted Users to the HCM Program and platform shall immediately terminate, subject to the obligation of PM AM to provide a copy of Licensee's Data in PM AM's possession to Licensee in accordance with the provisions of Section 12 hereof. The provisions of Sections 6, 9, 10, 11, 13, 15, 16, 17, and 18 shall survive the expiration or termination of this Agreement.

14. WARRANTY: PM AM represents and warrants that it has title and ownership of HCM and has the authority to grant the license hereunder.

15. DISCLAIMER OF WARRANTY: THE SOFTWARE AND ITS RELATED MATERIAL ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND PM AM EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE OR THAT THE SOFTWARE WILL MEET ANY CUSTOMER REQUIREMENTS. PM AM

DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED UNINTERRUPTED, TIMELY, ERROR FREE OR MALWARE FREE. LICENSEE ACKNOWLEDGE THAT PM AM DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATION FACILITIES. PM AM IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

16. INDEMNIFICATION:

(a) Indemnification by PM AM. SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS SECTION 16, PM AM WILL DEFEND, INDEMNIFY, AND HOLD LICENSEE AND ITS OFFICERS AND DIRECTORS (OR MANAGERS, IF LICENSEE IS A LIMITED LIABILITY COMPANY OR GENERAL PARTNERS IF LICENSEE IS A PARTNERSHIP)(THE "LICENSEE INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION LIABILITIES, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES (COLLECTIVELY, "LOSSES") BROUGHT AGAINST LICENSEE ALLEGING THAT LICENSEE'S USE OF THE HCM SOFTWARE INFRINGES ON A PATENT, COPYRIGHT, TRADEMARK, OR A TRADE SECRET OWNED BY SUCH THIRD PARTY. WITHIN SIXTY (60) DAYS AFTER BEING NOTIFIED OF THE CLAIM, PM AM SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR LICENSEE THE RIGHT TO CONTINUE USING THE HCM SOFTWARE, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS THAT DO NOT INFRINGE UPON THE RIGHTS OF THIRD PARTIES.

(b) Indemnification by Licensee. SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS SECTION 16, LICENSEE WILL DEFEND, INDEMNIFY, AND HOLD PM AM AND ITS OFFICERS, DIRECTORS, SUCCESSORS AND ASSIGNS HARMLESS FROM AND AGAINST ALL LOSSES INCURRED BY PM AM ARISING FROM OR RELATED TO THE BREACH OF LICENSEE'S DUTIES OR OBLIGATIONS HEREUNDER.

(c) Limitation on Indemnification Obligations. PM AM SHALL HAVE NO OBLIGATION TO INDEMNIFY THE LICENSEE INDEMNIFIED PARTIES TO THE EXTENT THAT THE ALLEGED INFRINGEMENT AROSE FROM THE

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MODIFICATION OF THE HCM SOFTWARE BY LICENSEE OR A PERMITTED USER OR RESULTED FROM THE USE OF THE HCM SOFTWARE FOR OTHER THAN A PERMITTED PURPOSE. IN ADDITION, IN NO EVENT WILL ANY INDEMNIFYING PARTY BE RESPONSIBLE TO ANY INDEMNIFIED PARTY FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGE, LOSS OF PROFIT, LOSS OF USE, UNREALIZED SAVINGS, LOSS OF EARNINGS, OR BUSINESS OR PRODUCTION INTERRUPTION, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES.

(d) **Notice and Defense of Indemnification Claim.** Within 15 days after receipt by an indemnified party under Section 16(a) or (16(b) of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under such Section, give written notice to the indemnifying party of the commencement thereof, but the failure so to notify the indemnifying party shall not relieve it of any liability that it may have to any indemnified party except to the extent the indemnifying party demonstrates that the defense of such action is prejudiced thereby. In case any such action shall be brought against an indemnified party and it shall give written notice to the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it may wish, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. If the indemnifying party elects to assume the defense of such action, the indemnified party shall have the right to employ separate counsel at its own expense and to participate in the defense thereof. If the indemnifying party elects not to assume (or fails to assume) the defense of such action, the indemnified party shall be entitled to assume the defense of such action with counsel of its own choice, at the expense of the indemnifying party. If the action is asserted against both the indemnifying party and the indemnified party and there is a conflict of interests which renders it inappropriate for the same counsel to represent both the indemnifying party and the indemnified party, the indemnifying party shall be responsible for paying for separate counsel for the indemnified party; provided, however, that if there is more than one indemnified party, the indemnifying party shall not be responsible for paying for more than one separate firm of attorneys to represent the indemnified parties, regardless of the number of indemnified parties. If the indemnifying party elects to assume the defense of such action, (a) no compromise or settlement thereof may be effected by the indemnifying party without the indemnified party's written consent (which shall not be unreasonably withheld) unless the sole relief provided is monetary

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damages that are paid in full by the indemnifying party and (b) the indemnifying party shall have no liability with respect to any compromise or settlement thereof effected without its written consent (which shall not be unreasonably withheld).

17. LIABILITY: PM AM is released from its obligations to perform services under this Agreement if and to the extent that such failure is due to the occurrence of an act, event or condition which was not reasonably foreseeable and/or the consequences of which cannot reasonably be removed or avoided by PM AM, including, without limitation, national emergency, acts of God, strikes or other labor issues, disruption of electrical service, cable or network damage caused by a third party, or natural disasters (a "**Force Majeure Event**"). PM AM's liability arising out of or in connection with a defect or failure in service is limited to the correction of the defect or failure or alternatively, the re-performance of the service. **EXCEPT FOR PM AM'S OBLIGATION TO INDEMNIFY LICENSEE AGAINST A THIRD PARTY CLAIM FOR INFRINGEMENT PURSUANT TO THE PROVISIONS OF SECTION 16 HEREOF, IN NO EVENT WHATSOEVER SHALL PM AM BE LIABLE TO LICENSEE OR ITS SUCCESSORS OR ASSIGNS OR PERMITTED USERS FOR MONETARY DAMAGES ATTRIBUTABLE TO ITS ACTIONS OR INACTIONS, WITH RESPECT TO THE HCM PROGRAM OR ITS SERVICES PROVIDED HEREUNDER, WHETHER FOR INDEMNIFICATION OR OTHERWISE.**

18. GENERAL: THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO THE CONFLICT LAWS RULES OR CHOICE OF LAWS RULES THEREOF. VENUE FOR ANY ACTION BROUGHT RELATING TO THIS AGREEMENT OR LICENSEE'S USE OF THE HCM SOFTWARE SHALL BE PROPER ONLY IN THE STATE AND FEDERAL COURTS FOR DALLAS COUNTY, TEXAS, WHICH COURTS ARE THE EXCLUSIVE COURTS OF VENUE AND JURISDICTION. The headings are convenience only and do not effect the terms or provisions hereof. This Agreement may not be assigned by Licensee. This Agreement contains the entire agreement of the parties and supersedes any prior or contemporaneous agreement or discussion. This Agreement may be amended only by written agreement signed by all parties.

The parties hereto caused this Agreement to be executed by their duly authorized representatives.

PM AM Corporation

Human Capital Management – SaaS License Agreement

Gardner, MA Police Department

Name: Neil Erickson

Title: Chief of Police

Signature: _____

Date: / /

PM AM Corporation

Name: Archit Kumar

Title: Director - HCM

Signature:  _____

Date: / / 2018