



Town Council Agenda Report

Date: July 14, 2020 Item No.8

To: Honorable Mayor and Town Council

Subject: PURCHASE OF SEDARU SEWER UTILITY MANAGEMENT SOFTWARE SOLUTION

From: Douglas Robertson, Town Manager

Submitted by: Brandon Cales, Innovation and Technology Officer
Department of Innovation and Technology

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

Approve the purchase of the Sedaru Utility Management Software Solution, implementation services, and managed services agreement, in the amount of \$70,330.00.

BACKGROUND

Sedaru is a software solution that will provide the Town's Public Works Department with GIS-based operations management, field and work order management, and asset management for the Town's sewer system.

The Town's Geographic Information System (GIS) is being revitalized under the Department of Innovation and Technology (IT) to provide an array of mapping and spatial data services to all departments and the general public. Web-based mapping applications and data have already been made available to the public, including 'Community Access' which provides the public with locations of applicable, open businesses, during the COVID-19 pandemic. Additionally, several internal GIS mapping applications have been developed by IT to aid multiple departments, including one for Public Works and the Town's sewer system. This initial step of GIS development and implementation of ESRI's Local Government Information Model (LGIM), provides the groundwork for integration of the Town's GIS with Sedaru.

The Sedaru solution will build on our GIS investment, to improve the abilities, effectiveness, and efficiencies with managing the daily operations of the Town's sewer system to dispatch, track, trend, monitor, and report-on our sewer system related maintenance. Sedaru provides a mobile interface for field crews to interact with the sewer system on a GIS map, perform logging of key infrastructure performance data, as well as process work orders without having to travel to/from the office, saving time and money.

The solution will provide an easy method to collect and update field level data on the sewer system infrastructure, including maintenance reports, damage reports, repairs and improvements. It also provides Public Works administrative staff with real-time results of field crew actions and data, real-time work order assignment and review, and analytical reporting. In addition to Sedaru assisting the department with the management of the Town's sewer system infrastructure, it will also enable them to provide data collected from the field back to IT for processing and updating GIS.

This purchase follows the "piggyback" purchasing process, in accordance to the Town's Municipal Code section 3.12.270.

FISCAL IMPACT

This purchase is budgeted in the FY20-21 Wastewater fund budget.

ATTACHMENTS

Proposal for Sedaru Software & Services

Exhibit A: Terms & Ongoing Support

Exhibit B: Sedaru Master Software License Agreement

Exhibit C: Piggyback Cost Proposal for Comparable RFP



June 30, 2020

Brandon Cales
Innovation & Technology Officer
Town of Apple Valley
14955 Dale Evans Parkway Apple Valley, CA 92307
Phone: 760.240.7000 x7609
Email: bcales@applevalley.org

Subject: Proposal for Sedaru Software & Services

Dear Brandon:

Sedaru is pleased to submit this proposal to the Town of Apple Valley (AV) for software and implementation services to allow electronic work orders and asset management for AV's sewer collections system department. Sedaru's OMNI and Fieldforce applications will leverage AV's existing GIS and provide functionality for managing sewer mainline cleaning, manhole inspections, fats/oils/grease, and other related assets and workflows in an easy-to-use field and office applications. Sedaru will host the GIS data to minimize IT requirements.

Sedaru delivers a clear path to realize integrated, real-time, proactive asset management and real-time operations, helping cities run their public works departments. With Sedaru, utilities can dynamically manage field work, schedule preventative maintenance, track progress, manage all their assets and respond to customer issues in one, connected, real-time platform.

Proposed Pricing: Sedaru software is licensed on an annual basis. Below presents the proposed software options and associated costs for the first year.

Software	Annual Fee
Sedaru OMNI & Sedaru Fieldforce*	
Software Total	\$21,600
Named Users:	15
Managed Services Agreement (MSP), Gold	\$6,480
Infrastructure Hosting:	Sedaru Hosted
Required Esri Named Users:	15
Required Esri License Pricing:	\$2,250
Software Pricing Total:	\$30,330

Sedaru's terms of use and ongoing support are provided in **Exhibit A**. Sedaru's Master Software License Agreement is included as **Exhibit B**. Sedaru's comparable cost proposal for the Town of Apple Valley's reference and procurement justification is included as **Exhibit C**.

Sedaru's Gold Level Managed Services Program (MSP) is summarized as below.

Gold Level MSP: \$6,480/yr as 30% Software Subscription, Includes:

- 100-hours services/yr for project management, and can be used for GIS maintenance or integration, additional system configuration, hydraulic modeling services, etc.
- Services secured at a \$160/hr rate, for any hours required beyond the 100-hour budget
- 2, 4-hour virtual trainings/yr

Each Sedaru project also includes implementation costs to set up and deploy Sedaru. These costs are detailed below.

Implementation Tasks	One Time Fee
Task 1: Project Management – Project kickoff and additional online meetings to set up to gather all required data. Periodic status meetings for the duration of the project. Preparation of all deliverables.	\$2,500
Discovery	
Task 2. Online Discovery Workshop – 1 day onsite discovery workshop will be held and staff will be interviewed to understand their roles and exact needs from the software. Sedaru project team will document all outcomes and how they apply to the project configuration. Includes all preparation time and expenses.	\$4,500
GIS Integration and Support	
Task 3. Esri Integration – work with customer staff to obtain all sewer GIS asset information. Configure Sedaru to accept asset information.	\$5,000
Workflow Development and OMNI/Fieldforce Configuration	
Task 4. Workflow Development – Configure 12 workflows for sewer collection system maintenance. Up to 5 workflows can be configured around lift station/treatment facilities. Includes up to 2 iterations of each workflow.	\$18,000
Testing, Training, and Support	
Task 5. User Acceptance Testing Session – ½ Day User Acceptance Testing session to review all workflows and get approval from customer staff. Includes preparation time.	\$1,000
Task 6. Training – Provide 2-1 day onsite training session. Includes all preparation time and travel expenses.	\$9,000
Implementation Total:	\$40,000
Year 1 Project Total:	\$70,330

Infrastructure Hosting Options:

Sedaru is hosted on Esri infrastructure, using the ArcGIS Enterprise Portal architecture. Sedaru is a member of the Esri Business Partner Program and collaborates with Esri to deploy industry leading solutions. For customers that desire more control over their Sedaru environment, they may host





data themselves. Self-hosting of the data requires the customer to purchase their own Esri licensing and may incur additional implementation fees.

We appreciate the opportunity to advance your key initiatives and look forward to working together to further our relationship. Please see below Proposal Authorization for signatures to initiate these software and services.

Sincerely,

[Aaron Wilberding](#)

Aaron Wilberding
Regional Solutions Manager
Sedaru, Inc.

Proposal Authorization:

SEDARU, INC.	Town of Apple Valley
By: _____	By: _____
Signature _____	Signature _____
Printed Name _____	Printed Name _____
Title _____	Title _____
Date _____	Date _____

EXHIBIT A: Terms & Ongoing Support:

- Use of the Sedaru software requires acceptance of Sedaru Master Software License Agreement (the “Master Agreement”), included as Exhibit B.
- Fees for Sedaru software subscriptions are invoiced and the Sedaru software subscription term commences upon contract authorization, notice to proceed, or equivalent.
- Implementation fees are invoiced 75% upfront, and subsequently billed monthly as percent complete. Implementation will be billed 100% upon substantial completion of the project or before training, whichever occurs first.
- Unused services and training budget in the MSP do not rollover into the next year.
- If additional hours are needed beyond the current MSP level, customer may upgrade MSP level in a new Order Form. Changes will take effect the beginning of the month following, with licensing & services prorated thereafter, for the balance of the term.
- Extension to the MSP term can be modified in a new Order Form.
- MSP require a 3-year commitment. The balance of this commitment becomes due if is terminated prior.
- The terms of this Order Form shall modify, supersede, and replace any different or conflicting terms, conditions, or requirements contained or referenced in the Master Agreement. Except for conflicts between this Order Form and the Master Agreement, all orders placed by the undersigned customer are subject to the Master Agreement.
- Once the implementation and rollout are complete, Sedaru Customer Success will appoint a dedicated Sedaru Success Agent (SSA) to ensure your continued growth and adoption of the software. Your SSA will provide technical support, and can be contacted via telephone, email, or a website technical support request to address questions, functionality issues, and listen to feedback, including suggestions to enhance or improve the software.

EXHIBIT B: Sedaru Master Software License Agreement

SEDARU MASTER SOFTWARE LICENSE AND SUPPORT AGREEMENT

This Master Software License and Support Agreement is effective as of _____, 20____ (“**Effective Date**”), by and between **Sedaru, Inc. (“SEDARU”)**, a corporation organized and existing under the laws of the State of Delaware and **Town of Apple Valley (“Customer”)**, a **company** organized under the laws of the State of **California**. In consideration of the mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

1.1. In this Agreement, the following words and phrases shall have the following meanings:

1.1.1. SEDARU Software means SEDARU’s proprietary computer software programs identified in the applicable Order Document, in object code, together with any copies and revisions, modifications and enhancements included in Releases as may be provided from time to time by SEDARU to Customer.

1.1.2. Agreement means this Master Software License and Support Agreement, Order Document(s), information contained in a SEDARU URL or policy referenced in the foregoing and such other documents, attachments and exhibits that the parties’ authorized representatives may mutually agree to in writing from time to time.

1.1.3. Claim means any claim, suit, action or proceeding brought by a third party against Customer alleging that the SEDARU Software or Documentation infringes any U.S. or Canada patent, copyright or trademark of any third party.

1.1.4. Confidential Information means the Software, the terms (but not the existence) of this Agreement, the Documentation, any other commercial or

technical information disclosed or made available by either party to the other, and any other items that are marked or identified as "confidential" or "proprietary" or with other similar words. Confidential Information shall also include any trade secret, manufacturing process, formula and any information relating to the business or financial affairs, marketing plans, sales plans, prospects, research, strategies, management, financing, products, inventions, designs, prototypes, processes, software, source code, object code, computer programs, objects and any databases, data surveys, requirements documents, specifications, drawings, records, reports or other documents, materials or other data or information whether in writing or otherwise, concerning the parties or any of their present, former, future or prospective customers, suppliers, consultants or business partners to which the parties gain access to or which one party has prepared for the other party, whether before, during or after the Effective Date, of which reasonable grounds exist for such information to be deemed confidential. Neither party’s obligations with respect to their treatment of Confidential Information shall apply to information that:

(a) is, as of the time of its disclosure or thereafter by lawful means becomes, part of the public domain;

(b) was known to the receiving party through lawful means, as of the time of its disclosure;

(c) the receiving party can show was developed independently by itself; or

(d) the receiving party can show was required to be disclosed pursuant to judicial process, provided the receiving party first gives the other party with sufficient opportunity to oppose such disclosure.

1.1.5. Fees mean collectively License Fees, Implementation Fees, and/or other fees detailed in an Order Document or otherwise agreed between the parties.

1.1.6. Intellectual Property Rights means all intellectual property rights of SEDARU or its suppliers, including but not limited to copyright, trademarks, service marks, patents, trade secrets, Confidential Information and other related proprietary or statutory rights that have been or subsequently exist pursuant to all applicable statutes, laws, regulations, treaties or common law in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded.

1.1.7. License Fees means those amounts payable by Customer to SEDARU for licensing of the Software as specified in the Order Document.

1.1.8. Order Document means the document executed by the parties specifically referencing this Agreement pursuant to which Customer orders and SEDARU accepts to supply Software licenses, Implementation Services, or other services under the terms and conditions of this Agreement. The initial Order Document is included as this proposal's pricing and

structure for software and services, incorporated herein.

1.1.9. Release(s) means Software updates or new versions, including Error Corrections and Software enhancements, revisions and modifications developed after the Effective Date which SEDARU generally makes available to its customers, but excluding any new issuance of the Software or complementary software applications which are distributed by SEDARU for a separate license fee.

1.1.10. Software means collectively SEDARU Software and Third Party Software, if any.

1.1.11. Support Fees means those amounts payable by Customer to SEDARU for the provision of Support Services pursuant to this Agreement as specified in the Order Document or pursuant to any Services Agreement or Statement of Work.

1.1.12. Support Services means the provision by SEDARU of Software support pursuant to section 5 for the SEDARU Software.

2. LICENSE GRANT

2.1. Grant. Subject to the terms and conditions of this Agreement, including but not limited to payment of the applicable fees, SEDARU grants to Customer a perpetual (subject to termination rights as set forth in this Agreement), personal, non-transferable, non-assignable and non-exclusive license for authorized users ("Users") as specified in the Order Document purchased by Customer to use the Software and Documentation for sole and exclusive purpose of the internal business operations of Customer.

2.2. Rights Reserved – Ownership. All rights not expressly granted in this Agreement are reserved by SEDARU and any applicable

licensors. SEDARU or its licensors, as applicable, retain sole and exclusive ownership of the Software and all Intellectual Property Rights in, to and/or embodied in or associated with the Software, Documentation and Confidential Information, and all copies and derivative works thereof (whether developed by SEDARU, Customer or a third party).

2.3. Additional Licenses. Customer may purchase additional Users as applicable or otherwise expand the license granted under this Agreement, upon SEDARU's receipt and acceptance of a new Order Document specifying the foregoing, and Customer's agreement to pay as set forth in SEDARU's then-current pricing.

3. LICENSE RESTRICTIONS

Except as expressly provided for in this Agreement (or, with respect to Third Party Software, the applicable Third Party Terms), Customer will not:

3.1. otherwise copy or use the Software or any applicable documentation;

3.2. do anything which infringes any Intellectual Property Rights held by SEDARU or its licensors;

3.3. modify, adapt, translate or otherwise make any changes to the Software or any part thereof;

3.4. write or develop any derivative software or any other software program based upon the Software, the Documentation or any Confidential Information of SEDARU or its licensors;

3.5. decipher decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architectures, structures or other elements of the Software, including the license keys (if

any), or the Confidential Information of SEDARU or its licensors, in whole or in part, for competitive purposes or otherwise;

3.6. sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Software, or Confidential Information of SEDARU or its licensors;

3.7. give, license, assign, transfer, disclose, display, demonstrate, publish or otherwise make available the Software or Documentation in any form to any third party without SEDARU's prior written consent;

3.8. rent, or use the Software or Documentation in a timesharing or service bureau application,

3.9. use the Software to provide training or other professional services to third parties; or

3.10. disclose or publish, without SEDARU's express prior written consent, performance or capacity statistics or the results of any benchmark test performed on Software.

4. CHARGES AND PAYMENTS

4.1. The License Fees and Implementation Fees and additional fees payable by Customer are, subject to Section 4.2, detailed in the applicable Order Document. The Customer will pay such Fees in accordance with the obligations set out in the relevant Order Document.

4.2. The Customer must pay additional amounts for additional Users as detailed in the Order Document. (until Enterprise licensing is reached for that same software application or integration point) as detailed in the Order Document, and/or integration points, and/or software applications as applicable based on SEDARU's then current pricing.

4.3. The Fees exclude, and Customer shall pay or reimburse SEDARU for taxes, duties, or similar charges imposed by any government or any of its agencies and instrumentalities. Including without limitation all federal, state, dominion, provincial or local sales, value added, use, personal property, withholding, excise or other taxes, fees or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes on the net income of SEDARU).

4.4. Unless otherwise provided for in the applicable Order Document, the Customer will pay all invoices issued by SEDARU in the manner specified on the invoice in U.S. dollars within thirty (30) calendar days from the date of the applicable Sedaru invoice. Payment of Fees for licensing and related Support is not contingent under any circumstances to the performance of any consulting services including implementation services.

4.5. All amounts due under this Agreement which remain unpaid past due payment dates shall bear interest at the rate of one and one-half per cent (1.5%) per month (eighteen per cent (18%) per year) from the date such amounts become due to the date of payment.

5. SUPPORT SERVICES

5.1. Subject to timely payment of the License or Support Fees, SEDARU will provide Support Services, including new Releases, to Customer under SEDARU's technical support procedures. SEDARU will not materially reduce the level of Support Services provided for supported program licenses during the period for which License or Support Fees have been paid and are current. SEDARU's obligation to provide Support for Third Party Software is limited to

using commercially reasonable efforts to obtain such Support Services from its third party suppliers.

5.2. Customer will cooperate with SEDARU and provide such information and documents as are reasonably required to assist SEDARU in the performance of its obligations under this Agreement.

5.3. SEDARU's Support Fees are based on the continuous contracting for Licensing or Support Services as applicable. Reinstatement of Licensing or Support Services will be subject to SEDARU's then-current policies and applicable fees regarding reinstatement.

6. WARRANTIES AND DISCLAIMERS

6.1. SEDARU warrants that:

6.1.1. It has the right to grant to Customer the licenses to use the Software; and

6.2. The warranties set forth in Section 6.1 shall terminate in the event that (i) Customer uses the Software in a manner or in an operating environment not contemplated in the written instructions from SEDARU, or (ii) any changes are made to the Software which are not contemplated by the Documentation or have not been approved in writing by SEDARU, or (iii) Customer fails to implement all Error Corrections and Releases made available by SEDARU, (iv) or upon expiration of the License term.

6.3. Customer acknowledges and agrees that any warranties applying to the Third Party Software, if any, are made solely by the third party owner of such Third Party Software and are limited to those offered by the applicable Third Party Terms.

6.4. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE, SEDARU DOES NOT MAKE ANY OTHER WARRANTIES AND

EXPRESSLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS WITH RESPECT TO THE SEDARU SOFTWARE OR THIRD PARTY SOFTWARE (AND ANY COPIES OF THE SAME) PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, ACCURACY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS PROVIDED IN THIS SECTION 6, CUSTOMER ACKNOWLEDGES AND AGREES THAT SEDARU SHALL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY, OR NONCONFORMITY IN THE SOFTWARE, DOCUMENTATION OR SUPPORT SERVICES. WITHOUT LIMITING THE FOREGOING, SEDARU DOES NOT WARRANT THAT THE SOFTWARE, DOCUMENTATION OR SUPPORT SERVICES (OR CUSTOMER'S USE THEREOF) WILL BE FREE OF ALL ERRORS OR THAT THE USE THEREOF WILL BE UNINTERRUPTED, OR THAT SEDARU WILL CORRECT ALL ERRORS. SEDARU MAKES NO WARRANTIES OF ANY KIND WITH RESPECT TO THIRD PARTY SOFTWARE.

7. INTELLECTUAL PROPERTY INDEMNIFICATION

7.1. Subject to the terms of this Agreement, SEDARU shall indemnify and hold Customer harmless against any direct Claim against the SEDARU Software and shall pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such Claim, or those costs and damages agreed to in a monetary settlement of such action. provided that:

7.1.1. Customer promptly notifies SEDARU in writing of any such Claim;

7.1.2. Customer makes no admission of liability and gives SEDARU sole authority, at SEDARU's expense, to direct and control all defense, settlement or compromise negotiations;

7.1.3. Customer provides SEDARU with full information and assistance that may be reasonably required to defend any such Claim; and

7.1.4. the Claim proceedings take place in the U.S. or Canada.

7.2. SEDARU shall have no obligation or liability with respect to any Claim with respect to:

7.2.1. any SEDARU Software or Documentation which has been altered, modified or revised by any person other than SEDARU,

7.2.2. SEDARU Software that does not incorporate all of the updates and Releases provided by SEDARU to Customer or is not being used in compliance with this Agreement;

7.2.3. the combination, operation or use of any SEDARU Software or Documentation with products not furnished by SEDARU when such combination is part of any allegedly infringing process; or

7.2.4. where Customer continues the allegedly infringing activity after being notified thereof and is provided modifications, replacements or other remedies that would have avoided the alleged infringement.

7.2.5. Where Customer is using the Software after the expiration of the License Term.

7.3. If the SEDARU Software become, or in SEDARU's opinion, are likely to become, the subject of a Claim, SEDARU may either (i) procure for Customer the right to continue

using the same or (ii) provide Customer replacements or modifications thereof that are non-infringing. The foregoing states the entire liability of SEDARU and Customer's exclusive remedy with respect to indemnification for Intellectual Property infringement.

8. CONFIDENTIAL INFORMATION

8.1. The parties acknowledge that in the performance of their obligations under this Agreement, each may be required from time to time to disclose to the other Confidential Information. The parties therefore agree as follows:

8.1.1. neither party shall disclose to others nor authorize any of its employees, agents, consultants or representatives to disclose to others any Confidential Information which has been provided to it by the other party;

8.1.2. each party shall use the Confidential Information disclosed to it solely for the purpose of carrying out its respective responsibilities and obligations under the terms of this Agreement; and

8.1.3. each party shall take the same measures to protect the confidential nature of the Confidential Information disclosed to it by the other party as it takes to protect its own trade secrets and other Confidential Information, including, but not limited to, restricting disclosure of the Confidential Information to the minimum number of its employees, agents, consultants or representatives who have a need to know such Confidential Information in order to carry out the responsibilities and obligations required under this Agreement, and requiring that all such employees, agents, consultants or representatives understand their obligation and willingness

to preserve and hold such Confidential Information in the strictest confidence.

8.2. Neither party shall copy, in whole or in part, any Confidential Information disclosed to it by the other party without first receiving written consent from the party from whom such Confidential Information was received, except as specifically provided by this Agreement. Any copyright, patent, confidentiality or other proprietary notices shall be reproduced and included on all copies of Software or Documentation, or portions thereof, made by Customer in accordance with this Agreement.

8.3. The parties acknowledge and agree that the Confidential Information of SEDARU and its licensors shall remain the sole and exclusive property of SEDARU, or its licensors, as applicable, and the Confidential Information of Customer shall remain the sole and exclusive property of Customer. The disclosure of Confidential Information by one party to the other party does not confer any license, interest, or rights of any kind in or to the Confidential Information, except as provided under this Agreement.

9. LIMITATION OF LIABILITY

9.1. NEITHER SEDARU NOR ITS LICENSORS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS, RESELLERS OR REPRESENTATIVES SHALL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF SAVINGS, LOSS OF DATA, LOSS OF REVENUES AND/OR PROFITS, OR LOSS OF GOODWILL, WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS

RESULTING FROM THE USE OF OR INABILITY TO USE THE SOFTWARE OR DOCUMENTATION, EVEN IF ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, REGARDLESS IF SUCH DAMAGES ARE BASED IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

9.2. IN NO EVENT WILL THE TOTAL LIABILITY OF SEDARU FOR ANY DAMAGES INCURRED BY CUSTOMER, INCLUDING ATTORNEYS FEES AND THIRD PARTY CLAIMS, EVER EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO SEDARU FOR THE SOFTWARE OR SERVICE GIVING RISE TO THE CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. IN NO EVENT WILL SEDARU BE LIABLE TO CUSTOMER WITH RESPECT TO CLAIMS BY CUSTOMER OR OTHERWISE OF ANY NATURE RELATED TO THIRD PARTY SOFTWARE.

10. TERM, INVOICING AND TERMINATION

10.1. The License Term begins and is effective upon acceptance. The duration of the Term is as set forth in the Order Document ("Initial Term"). The License will automatically renew for successive one (1) year terms unless either party gives ninety (90) day's written notice of termination prior to the end of the Initial Term or any successive renewal term.

10.2. All charges incurred under this Agreement are due and payable by Client in US Dollars within fifteen (15) days of the date of invoice from SEDARU.

10.3. Any amount payable pursuant to this Agreement and not paid within thirty (30) calendar days from the date of the applicable Sedaru invoice, shall be

delinquent and shall be liable for interest at a rate equal to the lesser of one and one-half percent (1½%) per month (eighteen percent (18%) per annum) or the highest rate permitted by law.

10.4. SEDARU's Termination right. SEDARU shall be entitled to terminate this Agreement immediately upon delivery of written notice upon the happening of any of the following events:

10.4.1. Customer fails to pay License or Support Fees within fourteen (14) days of the date of a notice to Customer demanding such payment, such notice to be served no earlier than the due date of such Fees;

10.4.2. Customer uses the Software or Documentation in any unauthorized manner;

10.4.3. Customer shall be in breach of any other obligations under this Agreement and shall fail to remedy such breach within thirty (30) days after notice to Customer specifying the breach and requiring it to be remedied; or

10.4.4. any petition is filed by Customer, or any proceedings are successfully made against Customer or Customer's undertaking, property or assets, under any bankruptcy, debtor's relief, winding-up or similar statute, or any effective board resolution is passed for the winding-up of Customer.

10.5. Customer's Right. Customer shall be entitled to terminate this Agreement immediately upon delivery of written notice upon the happening of any of the following events:

10.5.1. SEDARU shall be in breach of any of its material obligations under this Agreement and shall fail to remedy such breach within thirty (90) days after written

notice to SEDARU (or such longer cure period as the parties may agree to); or

10.5.2. any petition is filed by SEDARU, or any proceedings are successfully made against SEDARU or SEDARU's undertaking, property or assets, under any bankruptcy, debtor's relief, winding-up of similar statute, or any effective resolution is passed for the winding up of SEDARU.

10.6. Except as otherwise set forth in this Agreement, the termination of this Agreement shall be in addition to all other rights and remedies (whether civil, criminal, equitable, provisional, extraordinary, or injunctive) the parties may have as a result of such breach, filing or proceedings.

10.7. Upon the termination of this Agreement all Fees and other amounts due and payable to either party shall remain due and payable in accordance with the terms of this Agreement.

10.8. All licenses to the Software and rights to Support Services shall immediately terminate on the termination of this Agreement and within thirty (30) days after any termination of this Agreement each party shall destroy the other party's Confidential Information and certify to the other party that it has complied with the foregoing.

10.9. Sections 1, 4, 6.4, 8, 9, 10 and 11 and all obligations attached to such sections shall survive any termination of this Agreement.

11. GENERAL

11.1. Assignment. Customer may not assign, sublease, extend or transfer, in whole or in part, this Agreement or any of its rights and duties under this Agreement without the express, prior written consent of SEDARU. Any assignment in violation of this paragraph shall be void and of no effect. This Agreement shall be binding upon and inure

to the benefit of the parties and their successors and permitted assigns.

11.2. Notices. All notices under this Agreement shall be in writing and shall be duly given only if (a) personally delivered or (b) mailed by prepaid registered or certified mail return receipt requested or (c), delivered by a nationally recognized courier service to the party for which it is intended as follows:

If to SEDARU:

Paul Hauffen
President & CEO
SEDARU, Inc.
55 East Huntington Drive, Suite 130
Arcadia, CA 91006
Phone: (626) 244-0700

If to Customer:

Brandon Cales
Innovation & Technology officer
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Phone: (760) 240-7000 x7609
Email: bcales@applevalley.org

Any notice so given shall be deemed to have been received on the date on which it was personally delivered or on the date received as set forth on the receipt if sent by registered or certified mail or overnight courier service. Any party may change its address for notice purposes by giving written notice of such change to the other party.

11.3. Governing Law/Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without giving effect to its principles of conflict of laws. Any dispute shall be litigated in the state or federal

courts located in the State of Delaware to whose exclusive jurisdiction the parties hereby consent. The parties agree that this contract is not a contract for the sale of goods; therefore, this Agreement shall not be governed by any codification of Article 2 or 2A of the Uniform Commercial Code, or any codification of the Uniform Computer Information Technology Act ("UCITA"), or any references to the United National Convention on Contracts for the International Sale of Goods.

11.4. Non-Waiver. No delay on the part of either party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy under this Agreement preclude any other or further exercise of such right or remedy. Failure of either party to enforce compliance with any term, provision or condition of this Agreement shall not constitute a waiver of such term or condition and shall not constitute a precedent.

11.5. Force Majeure. Each party hereto shall be excused from default or delay in the performance of its obligations hereunder if and to the extent that such default or delay is caused by an act of God, or other cause beyond such party's reasonable control, including, but not limited to, acts of the government, war, revolution, acts of terrorism, work stoppage, strike, fire, riot, accident, explosion, flood, storm, or failure or fluctuation in electrical power, heat, light, air conditioning or telecommunications equipment. In such event, the non-performing party shall be excused from performance for as long as such circumstances prevail provided the non-performing party uses its reasonable commercial efforts to recover or work around such force majeure event.

11.6. Severability. If any provision of this Agreement, or portion thereof, shall be declared invalid or unenforceable such provision shall be enforced to the maximum extent permitted by law and the remaining provisions shall nevertheless remain in full force and effect.

11.7. Counterparts. This Agreement may be executed (by original or facsimile) by the parties in one or more counterparts, each of which shall be considered an original and one and the same agreement, and shall become effective when one or more counterparts have been signed by each party and delivered to the other party.

11.8. Export. Customer shall not to knowingly, directly or indirectly, without prior written consent, if required, of the office of Export Administration of the US Department of Commerce, export or transmit any of the Software to any country to which such transmission is restricted by applicable regulations or statutes.

11.9. Order of Precedence. In the event of a conflict between an Order Document and this Agreement, this Agreement shall prevail, provided, however, that such standard variable terms such as price, quantity, tax exempt status, shipping instructions and the like shall be specified on each Order Document.

11.10. Entire Agreement and Amendments. This Agreement contains the entire agreement between SEDARU and Customer with respect to the subject matter hereof as of the Effective Date, and supersedes all prior agreements, negotiations, advertisements, representations of any kind and proposals, written and oral, relating to its subject matter. Each party confirms that it has not relied on any representation, warranty or



undertaking which is not contained in this Agreement. Notwithstanding the content of any Customer purchase order or any other document or record, whether in writing or electronic, relating to the subject matter of this Agreement, the terms of this Agreement shall govern and any conflicting, inconsistent, or additional terms contained in such documents shall be null and void. Except as otherwise expressly provided for in this Agreement, any variation or waiver of this Agreement shall be in writing and signed by an authorized representative of both parties and other purported variations or waivers shall be null, void and of no effect whatsoever.

<p>SEDARU, INC.</p> <p>By: _____</p> <p style="text-align: center;">Signature</p> <p>_____</p> <p>Printed Name</p> <p>_____</p> <p>Title</p> <p>_____</p> <p>Date</p>	<p>Town of Apple Valley</p> <p>By: _____</p> <p style="text-align: center;">Signature</p> <p>_____</p> <p>Printed Name</p> <p>_____</p> <p>Title</p> <p>_____</p> <p>Date</p>
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Exhibit C: Cost Proposal for Comparable RFP from City of Compton

Sedaru cost proposal response to Compton RFP:

[Letter of Transmittal](#)

August 8, 2019

Ms. Alita Godwin and Mr. Brian Dickinson
City of Compton Municipal Water District
205 S. Willowbrook Avenue
Compton, CA 90220

Subject: Cost Proposal to Provide GIS BASED OPERATIONAL AND ASSET MANAGEMENT SOFTWARE AND SUPPORT

Dear Ms. Godwin and Mr. Dickinson:

Sedaru is pleased to submit this cost proposal to the City of Compton Municipal Water District (City), to accompany our proposal for this RFP.

Sedaru develops, sells, implements and supports its software as a nationally recognized asset & operational management software for field data collection, maintenance & work order management, leak & break response for water loss, automated reporting, and hydraulic modeling.

I am proud to serve as the City's Client Service Manager and contractual representative. I am based in Southern California and will bring specific experience relevant to this Project, and a uniquely qualified team of experts that has successfully deployed similar services to local agencies, including Los Angeles Department of Water and Power (LADWP), City of Santa Ana, City of Pomona, and many more.

Sedaru is looking forward to working with the City of Compton Municipal Water District. Please contact me at 626-354-7003 or paulhauffen@sedaru.com with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Hauffen'.

Paul Hauffen,
President & CEO
Sedaru, Inc.

sedaru.com | info@sedaru.com | 626-244-0700 | 168 E Arrow Hwy | Suite 101 | San Dimas, CA | 91773

Cost Proposal

Software	Annual Fee
Sedaru OMNI & Sedaru Fieldforce - 15 Users	\$27,000
Software Subtotal*	\$27,000

Implementation Estimates	One Time Fee
Meetings, Data Collection, Review	\$7,000
GIS Layer Management	\$5,000
Workflow Development Field Data Collection: 8 different work orders/field data collection forms (\$1500 per form):	\$12,000
Workflow Development Water Production: 5 different work orders/field data collection forms for water production (pumps, tanks, wells, etc.):	\$15,000
Onsite Training – 2, 1-day Training Sessions: Initial, then incorporating comments to deliver Final, Includes all preparation and travel time	\$10,000
Implementation Subtotal	\$49,000

Year 1 Total	\$76,000
Annual Cost, Subsequent Years*	\$27,000

*Software licensing can get discounted up to 10% with a minimum 3-year agreement and up-front payment.

Payment Terms

Year 1 Sedaru software is invoiced upon authorization and are an annual subscription. Implementation fees are billed 75% up front at the beginning upon authorization of the project phase and 25% at the completion of the project.