



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

PUBLIC AGENDA

Subject: VMware Enterprise Licensing Agreement (ELA)
Report To: Chair and Members, Niagara Police Services Board
Report Date: 2022-09-06

Recommendation(s)

1. That the Niagara Police Services Board approve the renewal of the attached VMware ELA - quote # Q-E00385342 - for a total 3-year fixed amount of USD \$548,125.44 plus applicable taxes.
2. That the Niagara Police Services Board authorizes the Chief of Police to execute the attached VMware ELA contract on behalf of the Police Services Board.

Key Facts

- The purpose of this report is to provide the Board with information on the renewal of the VMware ELA and to obtain Board approval to execute the VMWare 3-year ELA contract.
- The Service currently owns perpetual licenses supported through an annual maintenance agreement which is no longer being offered.
- VMware has started transitioning their customers from perpetual to Software-as-a-Service (SaaS) subscription licensing model in the form of a 3-year ELA offering the flexibility of on-premises, public cloud, and hybrid deployment.
- The current support agreement expires on September 29, 2022.

Financial Considerations

The attached VMware quote #Q-E00385342 represents a 3-year ELA cost for the VMware products, including direct technical support in the amount of USD \$548,125.44 plus applicable taxes.

To maximize the value for money associated with the ELA renewal, the Service has directly negotiated with VMware to include additional credits as follows:

- Professional Services Organization (PSO) credits valued at USD \$150,000. The credits will be redeemed as needed for general and custom consulting and education services when implementing additional VMware products and solutions.

- Subscription Purchasing Program (SPP) credits valued at USD \$50,000. The credits offer a flexible way to pay for new subscription services, add-ons for existing services, service renewals, or recurring usage and subscription costs.

Compared to 2015, when the Service first purchased an ELA, the 3-year cost was USD \$395,000 plus applicable taxes and included professional services credits valued at USD \$31,000.

VMware was requested to provide an option for a basic support renewal for the base licenses. The cost is USD \$554,412 or annually at USD \$184,804 with no available credits that can be used towards a SaaS/subscription deployment. A renewal of this licensing model will be at a forecasted 10% annual increase, according to VMware.

ELA licenses and a support agreement are directly negotiated and procured from VMware, as it is the most cost-effective compared to procuring via a VMware-approved channel partner. As advised by VMware, a channel partner would add up to a 6% markup to process an ELA and support agreement on behalf of VMware.

As VMware will not accept annualized payments, the VMware payment option is a fixed 3-year term payable at execution of the ELA. This will be recognized as a pre-paid expense.

The current \$105,000 VMware annual maintenance and support cost will be increased by \$140,000 in the 2023 Technology Services operating budget to cover the cost increase.

The impact on the 2022 operating budget is approximately \$34,000.

Analysis

VMware is the virtualization technology platform responsible for the enterprise-class virtualization solution. It enables the Service, like most other organizations, to streamline its Technology operations via the consolidation of physical servers onto significantly less hardware, virtualizing application and database environments thus reducing costs relating to equipment, software licencing, physical server support, and environmental factors such as heating/cooling and power provisioning within the data center.

The virtualization technology also enables the Service to quickly relocate server resources for scalability, redundancy, data-centre migration, business continuity and disaster recovery. To date, Technology Services has provisioned and deployed 311 VMware virtual machines on 22 physical server hosts.

The Service is in the process of designing the implementing the Disaster Recovery (DR) site and as well, evaluating extending virtualization services above and beyond the current server, application and database virtualization to desktop, in-car Mobile Data Terminals, and non-windows mobile devices. The PSO and SPP credits will be utilized for the noted DR implementation and future expansion of services.

Benefits of ELA:

- Continuous support in the form of discounted licenses, training and consulting credits throughout the ELA term
- Fixed pricing and renewal fee with pre-defined cost on future maintenance
- Simplified deployment through single volume license keys and flexibility in virtual machine deployment
- Unlimited usage of virtual Infrastructure for 3-year period
- Latest version available and direct VMware support access Platinum 24/7
- Access to VMware Technical Account Manager during ELA lifecycle.

The VMware ELA model will enable the Service to modernize its enterprise virtualization platform licences and unlock hybrid deployment (on-premises/in the cloud/combination of both). It further provides the most cost-effective option with added incentives via a subscription upgrade program leveraging existing license investment to enter back into ELA status without having to purchase net-new licences. This will also ensure we continue receiving timely, 24/7 technical support services.

Alternatives Reviewed

An alternate option to purchase the ELA from a VMware-certified channel partner is available. However, there are markup costs to process the ELA compared to a direct negotiated agreement. VMware recommended Dell Financial Services (DFS) to finance and spread payments annually over the 3-year term.

The discount value offered by VMware is more cost-effective than financing through DFS using a fixed annual payment. The risk on the exchange rate would require a significant drop in the current CAD rate to the USD rate. As a result, the option to spread payments annually over the 3-year term through DFS is not recommended.

Relationship to Police Service/Board Strategic Priorities

The Service is committed to delivering quality police service, improving the services it provides the citizens of Niagara, enhancing business continuity, and improving the effectiveness and efficiency of its workforce.

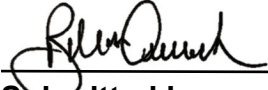
Relevant Policy Considerations

Regional Municipality of Niagara Police Services Board By-Law 384-2019, Financial Reporting, Control and Procurement in the NRPS.

Other Pertinent Reports

None

This report was prepared by Akram Askoul, Director Technology Services in consultation with Laura Rullo, Finance Manager and recommended by Bill Fordy, Deputy Chief of Police, Support Services.



Submitted by:
Bryan MacCulloch
Chief of Police

Appendices

Appendix 1 - VMware Quote Number: Q-E00385342

Appendix 2 - VMware Agreement #00671531

APPENDIX 1



VMware Legal Entity Name: VMware International Unlimited Company

Quote Number : Q-E00385342

Quote Date: 02/Sep/2022

Quote Type : ELA

Quote Expires On: 29/Sep/2022

Customer Information

Customer Name

Niagara Regional Police Service

Customer EA Number

112236436

Customer Address

68 Church Street,
St. Catharines, ON,
CANADA, L2R 3C6

RTM Details

Route to Market

Direct

Deal Summary

Sales Owner

Christian Stoyanov

ELA Term

3.00 Year(s)

IB Included

Yes

**Perpetual License Support
Type**

Production

**Subscription Billing
Frequency**

Prepaid

Staggered Shipments

No

**Perpetual Stated Out Year
Renewal**

\$18,658.49

APPENDIX 1



VMware Legal Entity Name: VMware International Unlimited Company

Quote Number : Q-E00385342

Quote Date : 02/Sep/2022

Quote Type : ELA

Quote Expires On: 29/Sep/2022

Deal Total (USD)

PS Voucher Total	\$150,000.00
Total Deal Size (Net to VMW) Total	\$548,125.44
Unused Amount	\$2,116.80



VMware Legal Entity Name: VMware International Unlimited Company

Quote Number : Q-E00385342

Quote Date : 02/Sep/2022

Quote Type : ELA

Quote Expires On: 29/Sep/2022

Bill Of Materials

Description	Quantity	Duration Year(s)/ Months	Service Start Date	Service End Date	SID Number	SID End Date
Subscription Upgrade Bring any vSphere (all editions) to vCloud Suite Subscription Standard - Per CPU - 36 months Prepaid commitment.	38					
VMware Subscription Purchasing Program Credits	500					
Subscription Upgrade: VMware Workspace ONE Advanced (Perpetual) to VMware Workspace ONE Advanced - Shared Cloud - 1 Device - SaaS Production Support - Subscription - 36 Month Prepaid	490	3				
Subscription Upgrade: VMware Horizon Standard, Advanced or Enterprise (Perpetual) Named User Qty 50 to VMware Horizon Universal Subscription - (Core) Named User Qty 50 - 36 Month Prepaid	1	3				
Subscription Upgrade: VMware Horizon Standard, Advanced or Enterprise (Perpetual) Named User Qty 10 to VMware Horizon Universal Subscription - (Add-on to Core) Named User Qty 10 - 36 Month Prepaid	5	3				
VMware Consulting & Learning Vouchers-Services PSO Voucher 1201+	1875					
Subscription Upgrade Bring any VMware vSphere (all editions) and 1 vRealize Management license to vCloud Suite Subscription Standard Per CPU-36 months Prepaid commitment	50					

Total Price: \$548,125.44



VMware Legal Entity Name: VMware International Unlimited Company

Quote Number : Q-E00385342

Quote Date : 02/Sep/2022

Quote Type : ELA

Quote Expires On: 29/Sep/2022

Terms & Conditions

“This Quote is governed by the terms and conditions of either: the ELA or other signed contract entered or to be entered by and between VMware and Customer in relation to this Quote, or (ii) if not incorporated into an ELA or other signed contract, VMware’s standard terms and conditions, available at: <https://www.vmware.com/agreements>

The terms and conditions agreed between VMware and Customer specified above prevail over any additional or conflicting terms included on any purchase order issued to VMware by Customer.

This Quote includes confidential information pertaining to VMware offering pricing and is intended for the stated recipient only. The recipient must not disclose this Quote or its contents, in part or in full, to any third party without VMware’s prior written consent.”

ELA ORDER FORM

This Enterprise License Agreement (“**ELA**”) is between the customer identified below (“**Customer**” or “**You**”) and VMware International Unlimited Company, located at Parnell House, Barrack Square, Ballincollig, County Cork, Ireland (“**VMware**”).

Customer Name: Niagara Regional Police Service

Customer Address: 68 Church Street, St. Catharines, ON L2R 3C6, Canada.

Entitlement Account (EA)#: 112236436

Customer is issuing PO related to this ELA directly to VMware

Effective Date: (if blank, then the Effective Date is the last indicated date of execution)

Customer Signature Return Due Date September 29, 2022

ELA Period Commencement Date: Effective Date

ELA Period Expiration Date: 3 years following the Effective Date

Territory: Canada

SPP Period Expiration Date: 3 years following the Effective Date

Currency: USD

IN WITNESS WHEREOF, Customer and VMware have caused this ELA Order Form and any other documentation or agreements incorporated herein by reference, to be signed by their duly authorized representatives.

NIAGARA REGIONAL POLICE SERVICE	VMware International Unlimited Company
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

ORDER INFORMATION

Customer is ordering the VMware offerings listed on the ELA Schedule on Exhibit A (the “Offerings”). The Offerings may include VMware software, various services, and purchasing tokens or credits. Customer’s use of the Offerings is limited to the Territory listed on this ELA, and is subject to the fees listed on Exhibit A.

1. Software and Support Services Terms. Customer’s use of the Software is subject to the End User License Agreement accompanying or embedded in the Software, a copy of which can be found at <http://www.vmware.com/download/eula>. Customer’s use of the Support Services is subject to the support services terms posted at <http://www.vmware.com/support/policies>.

a) Deployment Rights. Customer may deploy the Software listed in the ELA Schedule. A license to the Software shall be deemed “deployed” if the Software has been installed and Customer has entered a license key, if necessary, to run the Software. For subscription Software, Customer may only use the subscription Software for ELA Period, unless Customer continues to pay the applicable renewal fees.

b) Software Delivery. VMware shall deliver the Software to Customer by, at VMware’s discretion, either: (a) making the Software available for download and emailing the corresponding license key(s); (b) making the Software available for download in a fashion that does not require a license key; or (c) shipping the Software on physical media and emailing the corresponding license key(s). All Software shall be deemed delivered and accepted upon VMware (i) making the Software available for download without the requirement of a license key or (ii) emailing the corresponding license key(s) to Customer. If the Software will be delivered on physical media, shipping and delivery terms are Ex Works VMware’s regional fulfillment facility (INCOTERMS 2020).

c) Reporting. Within thirty (30) days following expiration of the ELA Period, Customer shall report to VMware the total number of Software licenses Customer deployed as of the ELA Period Expiration Date. Customer shall also provide VMware with any other information reasonably requested by VMware to confirm Customer’s compliance with the terms of this ELA. Such report shall be provided via e-mail to <mailto:LicenseAdvisory@vmware.com>, or as otherwise specified by VMware in writing. If Customer fails to meet the reporting requirements in this Section, VMware may audit Customer’s compliance with the terms of this ELA, at Customer’s expense.

2. Hosted Services. Customer’s use of the Hosted Service is subject to the Terms of Service accompanying the Hosted Service, a copy of which can be found at <http://www.vmware.com/download/eula>.

3. Training and Consulting Credits. Customer’s use of the training and consulting credits is subject to the terms posted at <http://www.vmware.com/files/pdf/services/conserv-pso-credits-datasheet.pdf>.

4. SPP Credits. Customer may redeem the number of SPP Credits listed on Exhibit A during the SPP Period. The “SPP Period” begins on the Effective Date and expires on the SPP Period Expiration Date. Customer can redeem SPP Credits by accessing the VMware SPP portal via My VMware located at <https://my.vmware.com/web/vmware/login>. All SPP Credits will be deemed delivered and accepted when VMware makes the SPP Credits available to Customer in the SPP Portal. Any SPP Credits that are not redeemed prior to the termination of the SPP Period will expire, and Customer will not be entitled to a refund for any unredeemed SPP Credits. If Customer does not have sufficient SPP Credits in its SPP Credit fund to pay fees for its use of a Redeemed Offering, VMware will true up Customer’s SPP Fund with sufficient SPP Credits to cover those additional fees, and Customer agrees to pay for those additional SPP Credits. Customer’s use of the SPP Credits is subject to the terms of the VMware SPP Guide posted at <http://www.vmware.com/go/purchasenow>. If there is a conflict between this ELA and the SPP Guide the terms of this ELA shall govern. Any VMware offering that Customer accesses through redemption of the SPP Credits will be referred to as “Redeemed Offering” for the purposes of this ELA. Customer’s use of the Redeemed Offering is subject to the applicable terms accompanying or presented in the Service, a copy of which can be found at <http://www.vmware.com/download/eula>.

5. Extraordinary Corporate Transaction. Customer shall not, and shall not allow or permit any third party to, deploy, use or provide access to the Offerings for the benefit of the business of any entity which (a) becomes a part of Customer’s business as a result of any merger, acquisition, consolidation, reorganization, change of control, sale of substantially all assets or other similar transaction, whether in one transaction or in a series of related transactions, or (b) purchases a part or all of Customer’s business by way of divestiture, acquisition, or similar transaction.

6. Invoicing and Payment Terms. When Customer purchases any of the Offerings directly from VMware, Customer agrees to pay any invoices issued by VMware under this ELA within 30 days of the date of the invoice. All charges and fees provided for in this ELA shall be remitted in the currency specified in the applicable invoice and are exclusive of any taxes, duties, or similar charges imposed by any government or other authority. Customer shall pay or reimburse VMware for all federal, state,

dominion, provincial, or local sales, use, personal property, withholding, excise or other taxes, fees, or duties arising out of this ELA or the transactions contemplated by this ELA (other than taxes on the net income of VMware). If Customer is required to pay any withholding tax, charge or levy in respect of any payments due to VMware hereunder, Customer shall gross up payments actually made such that VMware shall receive sums due hereunder in full and free of any deduction for any such withholding tax, charge or levy.

7. Customer Reference. Customer agrees that VMware may reference Customer as a customer of VMware, subject to trademark and logo usage guidelines provided by Customer.

8. Order of Precedence. The terms and conditions of this ELA shall prevail over any additional or conflicting terms in any purchase order Customer issues or any other terms for the Offerings. Unless otherwise modified in this ELA, any terms accompanying the Offerings shall remain in full force. Customer hereby agrees that any purchase orders Customer issues to VMware do not have to be signed to be valid and enforceable.

9. Assignment. Customer may not assign, subcontract or transfer this ELA and any of Customer's rights or obligations hereunder, in whole or in part, whether voluntarily, by operation of contract, law or otherwise, including by way of change of control, sale of assets, merger or consolidation without VMware's prior written consent, and any attempt by Customer to assign this ELA without such consent shall be null and void and of no force and effect.

10. Customer Signature Return Date. Customer must sign, date and return this ELA to VMware on or before VMware's close of business on the Customer Signature Return Date. If Customer does not sign, date and return this ELA on or before close of business on such date, VMware shall have the option to cancel this ELA and the terms of this ELA shall be null and void. In addition, if applicable, Customer must issue a corresponding purchase order for this ELA to VMware or its reseller, as applicable, by the Customer Signature Return Date, or VMware shall have the option to cancel this ELA and the terms of this ELA shall be null and void.

11. Counterparts. This ELA may be executed in any number of counterparts by either handwritten or electronic signature, each of which counterparts may be delivered by emailing the other party to the ELA a signed scanned document or electronically signed portable document format (pdf) version of the contract (as applicable). Each party agrees to the execution of this ELA in this manner, and the parties acknowledge that execution in this manner creates a binding contract between the parties at the time of delivery of the last party's counterpart.

12. Customer Purchasing Program. Customer shall be designated as a Tier T1 in VMware's Customer Purchasing Program. This designation shall commence on the Effective Date of this ELA and will continue until the ELA Period Expiration Date. This designation will be subject to the terms and conditions of the Customer Purchasing Program as stated test in the Customer Purchasing Program Guide located at <https://www.vmware.com/content/dam/digitalmarketing/vmware/en/files/pdf/cpp/vmw-cpp-program-guide.pdf>. The Customer Purchasing Program provides discounts to VMware's participating distributors only, and no representations whatsoever are made as to any discounts Customer may receive. Customer's participation in the Customer Purchasing Program is subject to all the requirements and qualifications of the Customer Purchasing Program. Notwithstanding anything to the contrary in the Customer Purchasing Program: (i) discounts shall not apply to term-based licenses of VMware products (e.g. subscription licenses); and (ii) the foregoing discounts are in lieu of, and may not be combined with, any other discounts received from VMware, either contractually or through any other promotions.

EXHIBIT A**ELA Schedule****I. OFFERINGS****A. ON-PREMISE SOFTWARE (Subscription Licenses)**

Customer is purchasing the following VMware software ("Software") as it exists as of the Effective Date, on a subscription basis. The subscription period is the duration of the ELA Period, unless otherwise specified in the Subscription Duration column.

DESCRIPTION OF SOFTWARE	NUMBER OF SUBSCRIPTIONS	SUBSCRIPTION DURATION
Subscription Upgrade Bring any vSphere (all editions) to vCloud Suite Subscription Standard - Per CPU - 36 months Prepaid commitment.	38 Subscription(s)	36 months following the Effective Date

B. HOSTED SERVICE ("Hosted Service")

Customer is purchasing the following VMware Hosted Service. The subscription period is the duration of the ELA Period, unless specified otherwise below.

Additional charges may apply, including but not limited to add-on charges and charges based on actual usage, as described in the Terms of Service. Customer will pay VMware directly for these additional charges, unless VMware agrees to accept such payments from the party that sells this ELA to the Customer.

DESCRIPTION OF HOSTED SERVICE	NUMBER OF SUBSCRIPTIONS	SERVICE DURATION
Subscription Upgrade Bring any VMware vSphere (all editions) and 1 vRealize Management license to vCloud Suite Subscription Standard Per CPU-36 months Prepaid commitment	50 Subscription(s)	36 months following the Effective Date
Subscription Upgrade: VMware Workspace ONE Advanced (Perpetual) to VMware Workspace ONE Advanced - Shared Cloud - 1 Device - SaaS Production Support - Subscription - 36 Month Prepaid	490 Device(s)	36 months following the Effective Date
Subscription Upgrade: VMware Horizon Standard, Advanced or Enterprise (Perpetual) Named User Qty 50 to VMware Horizon Universal Subscription - (Core) Named User Qty 50 - 36 Month Prepaid	1 Subscription(s)	36 months following the Effective Date
Subscription Upgrade: VMware Horizon Standard, Advanced or Enterprise (Perpetual) Named User Qty 10 to VMware Horizon Universal Subscription - (Add-on to Core) Named User Qty 10 - 36 Month Prepaid	5 Subscription(s)	36 months following the Effective Date

C. PURCHASING PROGRAMS.

C.1 SPP Credits. Customer is purchasing the following SPP Credits ("Maximum SPP Credits Allowance") to obtain Redeemed Offerings during the SPP Period, solely for use of the Eligible Offerings.

MAXIMUM SPP CREDITS ALLOWANCE
500

D. SUPPORT AND SUBSCRIPTION SERVICES ("Support Services")

Customer is purchasing the following Support Services to be provided during the ELA Period:

D.1 Pre-ELA Installed Software: During the ELA Period, VMware shall provide Customer with Production Level Support Services for the following list of software previously licensed by Customer (Pre-ELA Installed Software), which are coterminous with the ELA Period. The Pre-ELA Installed Software is not subject to any license fees in this ELA. If the Pre-ELA Installed Software includes any licenses granted to Customer's affiliated entities, the purchase of Support Services for such Pre-ELA Installed Software under this ELA does not automatically transfer such software licenses to Customer.

SKU	Description of Pre-ELA Installed Software	Total	Notes
FUS-PRO	VMware Fusion Pro, ESD	100	-
ST7-ADV-DT	VMware vSAN Advanced per Concurrent User	100	-
VC-SRM8-25E	VMware Site Recovery Manager 8 Enterprise (25 VM Pack)	6	-
VCS7-STD	VMware vCenter Server Standard for vSphere (Per Instance)	2	-
VS5-ESSL	VMware vSphere Essentials Kit	1	-
VS7-ESSL	VMware vSphere Essentials Kit	1	-

D.2 On-Premise Software (subscription licenses): During the ELA Period, VMware shall provide Customer with Production Level Support Services for the subscription Software.

D.3 Hosted Service: For Hosted Service, Customer shall receive support set forth at <http://www.vmware.com/support/policies>.

E. TECHNICAL AND CONSULTING SERVICES. Customer is purchasing the following technical and consulting services:

E.1 Training & Consulting Credits. Customer is purchasing the following training and consulting credits. Training and consulting credits must be used for 36 months.

DESCRIPTION	QUANTITY
VMware Consulting & Learning Vouchers-Services PSO Voucher 1201+	1,875