



## AGENDA REPORT

**Meeting Date:** December 20, 2016

**Item Number:** D-16

**To:** Honorable Mayor & City Council

**From:** Nicole McClinton, Senior Management Analyst – Information Technology  
Stephanie Harris, Management Analyst – Community Services

**Subject:** A. APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CIRILIAN, INC. DBA REC1 FOR IMPLEMENTATION AND LICENSING OF A RECREATION MANAGEMENT SOFTWARE SYSTEM FOR THE COMMUNITY SERVICES DEPARTMENT, AND RELATED SERVICES;

B. APPROVAL OF THE ONLINE REGISTRATION AND SERVICING AGREEMENT FOR THE CITY OF BEVERLY HILLS AND CIRILIAN, INC. DBA REC1;

AND

APPROVAL OF A PURCHASE ORDER TO CIRILIAN, INC. DBA REC1 IN AN AMOUNT NOT TO EXCEED \$100,000 FOR THE SYSTEM AND SERVICES

**Attachments:** 1. Agreements

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### **RECOMMENDATION**

Staff recommends that the City Council award a contract related to Bid No. 15-46 to the lowest responsible bidder Cirilian, Inc. dba Rec1 (Rec1), approve an Agreement between the City and Rec1 for a new Recreation Management System, and authorize a purchase order in an amount not to exceed \$100,000 for the system and related services.

## **INTRODUCTION**

The City's current Recreation Management System is at the end of its useful life, and will not be supported by the manufacturer after November 2017. The City requires an online Recreation Management System to continue to provide quality customer service to the residents and the public. Staff prepared a formal bid to determine the best solution for the City's needs. On August 17, 2015 the City released a formal bid, Bid No. 15-46 for a new Recreation Management System. The City received six sealed bids which were opened on September 17, 2015 and evaluated by a multi-departmental committee based on responsiveness to the technical specifications in the RFP and cost. Based on funding, the award was delayed to the new fiscal year. Staff recommends awarding the contract to the lowest responsible bidder Rec1.

## **DISCUSSION**

Community Services conducted an extensive needs assessment and requirements analysis to determine the desired functional specifications of the new Recreation Management System. This included input from Recreation and Parks, the Library, Art & Cultural Events, as well as input from Accounting and Information Technology.

Staff analyzed the strengths, weaknesses, opportunities and threats (SWOT) related to the existing system across the various divisions. Additionally, staff contacted colleagues from other cities to review their systems and researched new and emerging technologies available in the industry. Based on the findings, staff predetermined a list of 214 technical specifications detailing the desired requirements and preferences for the new System.

On September 30, 2015, a panel of six employees comprised of representatives from Community Services, Finance, and IT evaluated the proposals submitted. Each proposal was evaluated to rate compliance with the 214 criteria listed in the technical specifications. The committee determined a short list of the three most responsive vendors, Active Network, Rec 1, and PerfectMind. These three vendors were invited to present demonstrations of their proposed systems as well as presentation of cost / revenue proposals and potential returns on investment. The comparative cost proposals for the final three proposed systems are:

Vendor	One-Time Fees	Recurring Fees	Total Year-1 Cost	5-Year Total Costs
<b>Active Network</b>	\$0	\$82,429.32	\$82,429.32	\$412,146.60
<b>Cirilian dba Rec 1</b>	\$39,200.00	\$50,000.00	\$89,200.00	\$289,200.00
<b>PerfectMind</b>	\$89,750.00	\$65,716.00	\$155,466.00	\$418,330.00

Active Network provided a no cost upgrade based on the City being an existing customer with over 85% compliance with the requested technical specifications, and provided a quote for annual renewal which starts at the current minimum of \$82,429.32 based on 1.5% of revenue and a 2.75% credit card processing fee, increasing each year thereafter based on actual revenues. Rec 1 provided a one-time fee of \$39,200.00 and annual fee of \$50,000.00 for the first five years based on 1% of the estimated revenue, over 85% compliance and additional preferential functionality requested by the City, as well as onsite training, data migration, custom modules, and custom interfaces. PerfectMind presented a fixed fee engagement that includes meeting over 90% of the technical criteria requested by the City, and an annual renewal rate of 1.3% fixed at the current revenue for a 5-year period.

Based on Rec1 meeting the requested functionality as well as having the best financials over a five year period, Staff recommends award of the contract related to Bid No. 15-46 for a new Recreation Management System to Rec1. Rec1 provided overwhelming responsiveness to the City's technical specifications in the RFP, predictability of both the one-time and recurring fees, the cost savings related to financial integration and reporting, ease of use, scalability, and potential to increase revenues based on internal marketing and recurring enrollment functionalities.

**FISCAL IMPACT**

The anticipated costs for the new Recreation Management System include one-time costs: \$39,200 for total implementation, \$50,000.00 annual licensing, and \$10,800.00 in contingency for a total not to exceed amount of \$100,000.00. After the implementation is complete, year-2 annual licensing will come from operations.

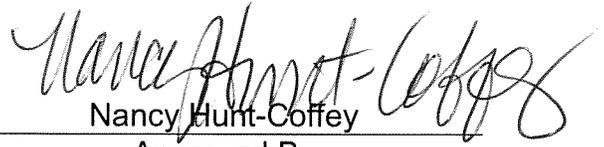
Funds for this project are provided as follows:

Project	Program	Account #	Description of Fund Source/Account #	Amount
00329	41001501	850500	Fund 410 – IT Fund	\$100,000.00



David Schirmer  
Approved By

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Nancy Hunt-Coffey  
Approved By

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Noel Marquis  
Finance Approval

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# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CIRILIAN,  
INC. DBA REC1 FOR IMPLEMENTATION AND LICENSING OF A  
RECREATION MANAGEMENT SOFTWARE SYSTEM FOR THE  
COMMUNITY SERVICES DEPARTMENT, AND RELATED SERVICES

NAME OF CONSULTANT: Cirilian, Inc. dba Rec1

RESPONSIBLE PRINCIPAL OF CONSULTANT: Landon Schenk, President

CONSULTANT'S ADDRESS: 12460 Crabapple Road, Suite 202  
Alpharetta, Georgia 30004

CITY'S ADDRESS: City of Beverly Hills  
455 N. Rexford Drive  
Beverly Hills, CA 90210  
Attention: David Schirmer, Chief Information Officer

COMMENCEMENT DATE: December 1, 2016

TERMINATION DATE: July 31, 2017 unless sooner terminated

CONSIDERATION: An amount not to exceed \$100,000, including \$39,200 for implementation services, \$50,000 for first year of software licensing, and \$10,800 in contingency funds, as detailed in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CIRILIAN,  
INC. DBA REC1 FOR IMPLEMENTATION AND LICENSING OF A  
RECREATION MANAGEMENT SOFTWARE SYSTEM FOR THE  
COMMUNITY SERVICES DEPARTMENT, AND RELATED SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Cirilian, Inc. dba Rec1 (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A-1 (the "Scope of Work"), Exhibit A-2 (CONSULTANT's "Terms of Service"), and in Bid No. 15-43, Request for Proposals for the City of Beverly Hills, Community Services Department Recreation and Parks Registration System, each attached hereto and incorporated herein by this reference. Notwithstanding, once implementation services (the "Services") are complete, the Terms of Service (Exhibit B-2) shall control the remaining services, and the implementation Agreement will terminate upon final invoicing and payment.

B. CONSULTANT represents that it is qualified and able to perform the Services in accordance with the terms set forth herein.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall provide CITY with a comprehensive registration and facilities management solution, including all related software and services as more particularly described in Exhibits A-1, A-2, and Bid No. 15-43, in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

Section 2. Time of Performance. CONSULTANT shall commence its services under this Agreement upon the Commencement Date or upon a written receipt of a notice to proceed from CITY. CONSULTANT shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation. CITY agrees to compensate CONSULTANT and CONSULTANT agrees to accept in full satisfaction for such services required by this Agreement, the Consideration set forth above and more particularly described in Exhibit B, ("Schedule and Rates of Payment"), attached hereto and incorporated herein by this reference. Said Consideration shall constitute reimbursement of CONSULTANT's fee for the services as well as the actual cost of any equipment, materials, and supplies necessary to provide the services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 4. Method of Payment. Unless otherwise provided for herein, CONSULTANT shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONSULTANT said Consideration in accordance with Exhibit B.

Section 5. Independent CONSULTANT. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent CONSULTANT. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

(a) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as principal liaison between CITY and CONSULTANT. Designation of another Responsible Principal by CONSULTANT shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONSULTANT shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 11. License Grant. CONSULTANT warrants that it has or will acquire full title and ownership of the software licensed under this Agreement, as identified in Exhibit A, and/or that it has or will have the full power and authority to grant the license to CITY at the time of delivery, and that the license to use of the software will in no way constitute an infringement or other violation of any copyright, trade secret, trademark, patent or other proprietary right of any third party.

Section 12. Ownership of City's Data.

(a) All data and databases owned by CITY prior to the term of this Agreement and all data, including but not limited to all forms and reports generated by, on behalf of, or at the request of CITY in connection with CITY's user accounts (collectively, "City's Data"), shall be and shall remain the sole property of CITY.

(b) At all times while this Agreement is in effect, CONSULTANT shall ensure that the last two (2) consecutive years of City's Data shall be maintained, backed up, retrievable and accessible as per CITY's retention policy for California Fair Political Practices Commission (FPPC) filings at the time of execution of this Agreement.

(c) Upon termination of this Agreement, CONSULTANT will, at the written request of CITY, return or destroy all of City's Data in CONSULTANT's possession promptly following such written request. Where CITY requires that CONSULTANT must return City's Data, CONSULTANT shall deliver the data, accumulated over a period of two (2) years, or as long as the Agreement was in effect, whichever is longer, in MySQL database export format.

(d) CONSULTANT shall not use City's Data without the express written consent of CITY's authorized representative.

Section 13. Insurance.

(a) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of One Million Dollars (\$1,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) Workers' compensation insurance as required by the State of California.

(3) A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(b) CONSULTANT shall require each of its subcontractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is

available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONSULTANT's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, or a form satisfactory to the Risk Manager, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONSULTANT shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONSULTANT shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

#### Section 14. Indemnification.

(a) General Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

(b) Intellectual Property Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY of Beverly Hills, City Council, and each member thereof, every officer, employee and Agent of CITY, from any liability or financial loss (including, without limitation, attorneys fees and costs) arising from or related to any claim that the software provided by CONSULTANT infringes upon any copyright, trade secret, trademark, patent or other proprietary or intellectual property right of any third party. This indemnity provision shall survive termination of this Agreement.

#### Section 15. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon thirty (30) days written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to

CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 16. CITY's Responsibility. CITY shall provide CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT's Scope of Work.

Section 17. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 18. Records and Inspections. CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of (2) two years. CITY shall have access, without charge, during normal business hours for such records, and the right to examine and audit the same and make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 19. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 20. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 21. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

Section 22. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement by this reference. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 23. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 24. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 25. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any

of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, at Beverly Hills, California.

CITY OF BEVERLY HILLS  
A Municipal Corporation

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills, California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

CONSULTANT: CIRILIAN, INC. DBA REC1

\_\_\_\_\_  
LONDON SCHENK  
CEO/CFO

APPROVED AS TO FORM:

\_\_\_\_\_  
LAURENCE WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

\_\_\_\_\_  
DAVID SCHIRMER  
Chief Information Officer

\_\_\_\_\_  
NANCY HUNT COFFEY  
Director of Community Services

\_\_\_\_\_  
SHARON L'HEUREUX DRESSEL  
Interim Risk Manager

**EXHIBIT A-1**  
**CONSULTANT'S STATEMENT OF WORK**



# REC1 and Beverly Hills, CA

Statement of Work  
for  
Recreation Management Software Implementation

October 12, 2016

# Project Objectives and Scope

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For purposes of this Exhibit, REC1 shall mean CONSULTANT.

## Objectives

This Statement of Work (SOW) establishes the framework for how the joint REC1/CITY project team will collaborate. The document outlines the scope, key activities, roles/responsibilities, deliverables, and fees for the project.

REC1 understands that CITY is seeking to replace its current implementation of the CLASS recreation management solution. REC1 will deliver an integrated web-based, hosted application recreation management system that is comprehensive, efficient, and modern. The solution should enhance internal operations and provide an outstanding online experience for the community.

## Project Scope

### In Scope

The following items are defined as In Scope and covered under this SOW.

Description	
REC1 Technology	<p>The following REC1 modules will be available, configured, and deployed during the implementation defined in this SOW.</p> <ul style="list-style-type: none"><li>● Account Management</li><li>● Facility Reservations (Rentals and Internal Bookings)</li><li>● Activity Registration</li><li>● Membership Management</li><li>● Point of Sale / Inventory Management</li><li>● League Management</li><li>● Mobile Public and Staff Experience</li><li>● General Admission Ticketing</li><li>● Financial Accounting / Reporting</li><li>● Mail / SMS Blasts</li><li>● Surveys</li></ul>

Description	
Number of Users	Unlimited
Training	8 days of onsite, instructor-led training spread across three trips.
Product Releases	REC1 has a scheduled product release every month. Product releases include a variety of updates including general defect fixes, client-suggested enhancements, and new modules. Upgrades are available as part of the 1% of revenue recurring software fee; there is no extra charge for access to the newly released software.
Integration to 3rd Party Systems	<ul style="list-style-type: none"> <li>• Payment Gateway Interface</li> <li>• Financial Accounting Extract</li> <li>• OAuth/Single Sign-On</li> </ul>
Data Migration	<ul style="list-style-type: none"> <li>• Future Facility Bookings from Class</li> <li>• GIS Import of Resident Addresses</li> <li>• Tennis Memberships</li> </ul>

### Out of Scope

The following items have been identified as Out of Scope and not covered under this SOW. If additional work is requested, then REC1 can provide a Change Order estimating any additional fees and timelines. Out of scope items include but are not limited to:

Description	
Customizations	Changes to the REC1 codebase.
Report Development	New reports outside of REC1's standard report list.
Additional Integrations	Integrations with other systems unless identified as In Scope within this SOW.

Description	
<b>Data Migration</b>	Data to be imported other than that already identified as In Scope within this SOW.
<b>Hardware</b>	REC1 is not a hardware provider; however, we can identify and procure hardware that is known to be compatible with the REC1 System (at an additional cost).
<b>Additional Training</b>	Training beyond that specifically identified in this SOW.
<b>Training Assets</b>	Creation of any adoption, rollout, or training materials beyond those specifically identified in this SOW.
<b>Printed Training Material</b>	Printed training materials including but not limited to User Guides, Frequently Asked Questions, and Screen Captures.

## Project Management

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### Resources

The following identifies the resources who will be involved from REC1 and CITY.

#### REC1 Team

Below is a list of REC1 participants available to CITY throughout the relationship lifecycle.

Role	Abbr	Responsibilities
<b>Project Executive</b>	R1-PE	Provides executive oversight and ensures best practices for the engagement. Provides ongoing strategic focus and depth of experience implementing REC1 solutions.
<b>Project Manager</b>	R1-PM	Streamlines communication during implementation, tracks project status and issues, and oversees quality.
<b>Solution Consultant</b>	R1-SC	Acts as a product subject matter expert, working to ensure client requirements are

<b>Role</b>	<b>Abbr</b>	<b>Responsibilities</b>
		fulfilled. Conducts configuration meetings and provides end user training (either onsite or via web meeting).
<b>Development</b>	R1-IT	Configures code, fixes defects, implements software enhancements, develops and maintains 3rd party integrations, and ensures a quality user experience.
<b>Support Analyst</b>	R1-SA	Coordinates and communicates support requests post launch.
<b>Account Manager</b>	R1-AM	Provides customer care and outreach post launch.

## CITY Team

REC1 will work with a single Point of Contact at CITY. CITY should consider the following roles for a successful implementation team.

<b>Role</b>	<b>Abbr</b>	<b>Responsibilities</b>
<b>Project Executive</b>	CL-PE	Provides focus and guidance for the overall project. Helps to prioritize key objectives, assists with issue escalation, and acts as project champion.
<b>Project Manager</b>	CL-PM	Works closely with the REC1 Project Manager to facilitate the execution of project activities and logistics. Organizes training for recreation staff, front desk, supervisors, and managers.
<b>Lead Staff</b>	CL-LS	Activity managers and facility managers within parks and recreation who will be doing the primary configuration and setup within the REC1 system.
<b>Frontline Staff</b>	CL-FS	Acts as end users of the system and will participate in end user training sessions.
<b>IT</b>	CL-IT	Coordinates with REC1 on the GIS data export and other data migration requirements.
<b>Finance</b>	CL-FN	Coordinates the payment gateway

Role	Abbr	Responsibilities
		integration, financial accounting extract, and works with REC1 to properly configure the General Ledger setup.
Marketing	CL-MK	Identifies and communicates rollout and adoption process both internally and to the public.

## Implementation

The following outlines the phases, key tasks, and project documents that will form the implementation process. The REC1 Project Manager shall coordinate with CITY to establish firm dates that will meet CITY's scheduling needs.

Implementation, Training, and Rollout Plan		Documents/Deliverables
<b>Week 1</b>	<b>Project Kickoff</b>	- Kickoff Checklist - Project Plan
<b>Weeks 2-3</b>	<b>Requirements Gathering</b> - Payment Gateway Integration - Financial Accounting Integration - Adjacent Feed Extraction - SSO - oAuth	- Import/Integration Checklist - Recommended Hardware List - Import & Integration Specifications
<b>Week 4</b>	<b>Account Setup and Configuration</b>	- Review of Completed Configuration
<b>Week 5</b>	<b>Onsite Lead Training</b> - Management - Data, Reporting, IT, and Finance - Activities/Facilities/POS Setup	- Configuration Checklist - Training Plan
<b>Week 6</b>	<b>Data Import Development</b> - GIS Import of Residents - Tennis Memberships - Future Bookings from Class	- Data Import Scripts
<b>Weeks 7-9</b>	<b>Integration Development</b> - Payment Gateway Integration - Financial Accounting Integration	- Successful Tests Showing Completion of Integration Items

Implementation, Training, and Rollout Plan		Documents/Deliverables
	- SSO (oAuth)	
<b>Week 9</b>	<b>Onsite Frontline Training</b> - Management Refresher - Frontline - All Modules	- Completion of Frontline Training
<b>Weeks 10-11</b>	<b>Post Training Issue Resolution</b>	- Correction of any Issues Identified During Training
<b>Week 12</b>	<b>Final Data Import</b>	- Fully configured site ready for launch
<b>LAUNCH / GO LIVE</b>		
<b>Weeks 13-14</b>	<b>Transition to REC1 Support Team</b>	
<b>Post Launch</b>	<b>Adjacent Feed Extraction</b>	- Successful Tests Showing Completion of Adjacent Feed Extraction

## Training

REC1 will conduct three (3) onsite training sessions at CITY.

### Session 1: Lead Training (3 days)

This session is scheduled to occur on or about Week 5 for three (3) days. Topics shall include:

- System Configuration
- Facility Setup
- Program Configuration
- POS Setup
- Data / Reporting
- IT
- Finance

### Session 2: Frontline/Pre-Launch Training (3 days)

This session is scheduled to occur on or about Week 9 for three (3) days. Topics shall include:

- Management Refresher
- Account Management
- Program Registrations
- Facility Rentals
- POS
- Data / Reporting
- IT
- Finance

### **Session 3: Follow-Up Training (2 days)**

This session is scheduled to occur approximately 6 months after launch. Topics shall include:

- Management Refresher
- Frontline Refresher
- Issue Review/Resolution
- Integration Review
- Future Planning

### **Change Management**

The purpose of the Change Request process is to allow CITY to request changes to scope, product, or schedule during Implementation. Requests for changes to the Statement of Work will proceed with the following steps:

1. **CITY Requests Change** - CITY will complete a REC1 Change Request Form and submit to the REC1 Project Manager to review.
2. **REC1 Reviews Request** - REC1 makes a determination as to whether the requested change will impact the established schedule or estimated implementation fees.
3. **REC1 Updates Project Plan** - Once REC1 and CITY agree to move forward with the change, the REC1 Project Manager will work with CITY to establish a reasonable project plan that fits CITY's needs.
4. **CITY Approves Project Plan** – CITY's prior written agreement is required to move forward with the requested change.
5. **REC1 Implements Change** - REC1 will implement the requested change according to an amended written Project Plan.

**EXHIBIT A-2**

**CONSULTANT'S ONLINE REGISTRATION AND SERVICING AGREEMENT**

**ONLINE REGISTRATION AND SERVICING AGREEMENT FOR  
THE CITY OF BEVERLY HILLS  
AND  
CIRILIAN, INC. dba RECI**

This ONLINE REGISTRATION AND SERVICING AGREEMENT (the “Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between Cirilian, Inc., a Georgia corporation d/b/a “Rec1” (“Rec1”), whose address is 12460 Crabapple Road, Suite 202, #111, Alpharetta, GA 30004, and the City of Beverly Hills (“City”), a municipal corporation, whose address is 455 North Rexford Drive, Beverly Hills, CA 90210.

WITNESSETH:

WHEREAS, Rec1 is a corporation formed pursuant to the laws of the State of Georgia and is presently in existence and in good standing; and

WHEREAS, City is seeking a software registration system for its Parks, Recreation, and Cultural Services Department;

WHEREAS, City desires to engage Rec1 for a specific term to provide a software registration system, as well as maintenance therefor, and Rec1 desires to be engaged by City in accordance with and subject to the terms and conditions hereafter set forth; and

WHEREAS, the parties hereto believe it to be in their best interests to create a definite and certain Online Registration and Servicing Agreement under the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The statements above are true and correct and herein incorporated into this Agreement by this reference.
2. Engagement. City hereby engages Rec1 to perform the services as more particularly described in the attached Exhibit “A” – Services Provided (the “Services Provided”).
3. Duties of Rec1. Rec1 shall serve as the exclusive provider to City of the Services Provided.
4. Term. City and Rec1 hereby agree that this Agreement is terminable at will upon written notice by either party by regular first class mail to the address listed in Paragraph 12 below. The Agreement shall be terminated 30 days after receipt of such notice. The parties agree to continue performance thereunder until the effective date of termination

unless the parties mutually agree to an earlier effective date of termination. Upon termination of this Agreement and expiration of any applicable notice period, the parties hereto shall have no further liability or obligation except as explicitly provided hereunder as surviving termination of the Agreement.

5. Payment Agreement.

- a. Fee for Basic Portal Services. City agrees to pay Recl an annual fee ("Basic Portal Services Fee") based upon usage, billed in advance annually in an amount equal to 1% per registration transaction fee collected by the City ("City Transactional Fee"). Notwithstanding, the first three years shall be fixed at \$50,000, based on City's revenue to date with Recl's right to adjust if there is an increase in revenue greater than 10%.
- b. Payment. All amounts due and payable (and not collected through a merchant account, if applicable) must be remitted within 30 days of distribution of the applicable invoice. All invoices are distributed electronically and can be viewed online on the Recl website.
- c. Optional Training. Recl will provide optional on-site training at a rate of \$1,000 per day plus travel costs and expenses. Such on-site training includes 8 hours of training for as many City users as is reasonably necessary.
- d. Custom Development. Recl will provide customized development at a rate of \$100 per hour. All work will be estimated and agreed upon with City prior to work start.
- e. Fully-Earned. All amounts owed to Recl hereunder are fully-earned upon provision of the Services Provided or other charged amounts hereunder, are not subject to withholding or off-set in any manner whatsoever, and are non-refundable upon payment subject only to a clear demonstration of an accounting error. City expressly acknowledges and agrees that City is familiar with the proposed Services Provided and Recl's billing process. Unless otherwise expressly herein provided, if City is not satisfied with the Services Provided or the performance of Recl hereunder for any reason or no reason whatsoever, City's sole and exclusive remedy shall be to terminate this Agreement as herein provided, and City expressly waives any claim to a refund or other compensation.

6. Indemnification. Recl agrees to indemnify, hold harmless and defend City, City Council and each member thereof, and every officer, employee and agent of City, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Recl or any person employed by Recl in the performance of this Agreement.

7. Relationship of Parties. The City and Recl agree that Recl is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee

between the parties hereto. The City shall not be obligated to pay to Recl, and Recl shall not be entitled to, any benefits accorded to City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or any other tax, for contributing to the state industrial insurance program or otherwise assuming the duties of an employer with respect to Recl.

8. Waiver of Breach. The waiver by either party of a breach of any of the provisions of this Agreement shall not be construed as a waiver by such waiving party of any subsequent breach by the offending party.
9. Binding Effect; Assignment. The rights and obligations as provided under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of each party hereto.
10. Entire Agreement. This Agreement contains the entire agreement and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Agreement may be changed only by an agreement in writing signed by the party against whom any waiver, change, amendment, modification or discharge is sought.
11. Governing Law and Venue. **THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS. THE VENUE FOR ANY LITIGATION UNDER THIS AGREEMENT SHALL BE IN LOS ANGELES COUNTY, CALIFORNIA.**
12. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by certified or registered mail, first class, return receipt requested to the parties at the following addresses:

To City:

City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, CA 90210  
Attn: Director of Community Services  
e-mail: [nhuntcoffey@beverlyhills.org](mailto:nhuntcoffey@beverlyhills.org)

To Recl:

12460 Crabapple Rd  
Suite 202, #111  
Alpharetta, GA 30004  
Attn: Landon Schenck  
e-mail: [lschenck@recl.com](mailto:lschenck@recl.com)  
<mailto:lschenck@recl.com>

13. Strict Construction. The language used in this Agreement shall be deemed to be in the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied for or against any party by reason of such party being deemed the draftsman hereof.
14. Headings. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
15. Severability. If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
16. Waiver of Contractual Right. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
17. Litigation and Attorneys' Fees. If it shall be necessary for either party to this Agreement to bring suit to enforce any provisions hereof or for damages on account of any breach of this Agreement, the substantially prevailing party on any issue in any such litigation and any appeals therefrom shall be entitled to recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs and expenses of such litigation and a reasonable attorneys' fee as fixed by the court.
18. Insurance. During the term of this Agreement, Rec1 shall procure and maintain, at Rec1's sole cost and expense, the following insurance coverages:

Technology Liability - \$1,000,000 Per Claim/\$1,000,000 Aggregate  
General Liability/Auto - \$1,000,000 Per Claim/\$2,000,000 Aggregate
19. Ownership of Software, Website, and Portal and Remedies Related Thereto. City agrees that it has no right, title, interest or ownership in, or to, the software, website, or portal utilized by Rec1 to provide the Services Provided, or any of its components, programming code or data structures, images or functions or any copies or modifications of the software, User Manuals, or any components, code or data structures thereof or in the software (collectively, the "Software") except to the extent that Rec1 grants the right to use the Software. The Software shall remain at all times Rec1's sole and exclusive property. The definition of "Software" shall also include any changes, customizations, added functions, or options and any other related items requested by the City and implemented by Rec1, it being hereby expressly acknowledged and agreed that such changes, customizations, functions, options, and items are and shall be the sole and exclusive property of Rec1 and the City shall have no right or claim to such changes, customizations, functions, options, or items or any compensation whatsoever related thereto. City shall not reproduce or copy any Software or portion thereof without Rec1's

prior written consent. The obligations set forth in this Paragraph shall survive the termination, cancellation, or expiration of this Agreement for any reason whatsoever. City agrees that, in the event of a breach or threatened breach by City of the provisions of this Agreement, Recl shall be entitled to both a temporary and permanent restraining order and a preliminary injunction, or other similar remedy, restraining City or any affiliate, officer, agent or assignee from violating the terms of this Agreement. City specifically acknowledges that money damages alone would be an inadequate remedy for the injuries and damage that would be suffered and incurred by Recl as a result of a breach of any of the provisions of this Paragraph. Such remedy with respect to the provisions of this Paragraph is non-exclusive and shall be in addition to any other remedy available to Recl at law or in equity.

20. Ownership of City's Data.

(a) All data and databases owned by City prior to the term of this Agreement and all data, including but not limited to all forms and reports generated by, on behalf of, or at the request of City in connection with City's user accounts (collectively, "City's Data"), shall be and shall remain the sole property of City.

(b) At all times while this Agreement is in effect, Recl shall ensure that the last two (2) consecutive years of City's Data shall be maintained, backed up, retrievable and accessible as per City's retention policy for California Fair Political Practices Commission (FPPC) filings at the time of execution of this Agreement.

(c) Upon termination of this Agreement, Recl will, at the written request of City, return or destroy all of City's Data in Recl's possession promptly following such written request. Where City requires that Recl must return City's Data, Recl shall deliver the data, accumulated over a period of two (2) years, or as long as the Agreement was in effect, whichever is longer, in MySQL database export format.

(d) Recl shall not use City's Data without the express written consent of City's authorized representative.

21. Warranty. If the City determines that some functions/capabilities within Recl are not performing up to required specifications, Recl will take commercially reasonable measures to remedy such situation during the term of this Agreement at no additional charge to the City. Recl does not guarantee that Recl will implement any and all new enhancement and module requests but will take commercially reasonable efforts to provide features that perform as designed.



## Schedule 1

### Services Provided

Services provided by Rec1 to the City under this agreement include the following:

- Access – Rec1 hereby grants a non-exclusive license during the term of the Agreement for the City and patrons of the City recreational programming to access, use and display Rec1’s online registration service (the “Portal”). Excluding occasional maintenance, the Software shall be available 24 hours per day, seven days per week with a guaranteed uptime of 99%. The Portal is accessible via the public Internet from any PC with an Internet connection. There is no limit to the number of organization users and participants that can enroll using the Portal.
- Online Registration – The Rec1 registration engine through which the Portal is accessed can be integrated with City’s website. Rec1 will format a registration page to match the colors and theme of the rest of City’s website. City would then display a link on its own page that would seamlessly redirect the user to a secure page on the Rec1 server.
- Documentation - All Rec1 startup and user’s guides are maintained electronically in the system and can be accessed through the “Help Center” from within Rec1. Rec1 does not provide paper copies of its guides and help files.
- Data Backups – Rec1 currently performs backups daily of all of its data (6:00 AM). In case of emergency, Rec1 may restore data to the point of the previous backup.
- Enhancements – New features will be added to Rec1 throughout the term of this Agreement. City will have full access to all of these new features without additional charge. City is also encouraged to submit change requests as they see opportunities for improvement. Rec1 will attempt to implement any and all changes that improve the value of Rec1 to all of our Cities at no charge. Thereafter, City will be charged a development fee at a \$100 hourly rate for custom requests. All work will be estimated and agreed upon in writing by the parties hereto prior to work start.
- City Support – Rec1 shall provide an online utility for problem reports and change requests. City may also reach Rec1 by phone at 1-800-335-1863 between the hours of 9:00 AM and 6:00 PM Eastern Standard Time, Monday through Friday and excluding national holidays. E-mail support is also available at support@rec1.com. After-hours support is often available but is not guaranteed. Emergencies will be handled as soon as possible. Enhancement requests will be queued based on priority and implemented on a schedule. Rec1 shall have sole and absolute discretion as to whether support requests exceed reasonable use or exceed the scope of services outlined in this Agreement. If the parties hereto cannot agree on levels or limits of acceptable support use, then each party hereto has the option to terminate this Agreement as outlined in Paragraph 4.
- Data – In the event City no longer wishes to use Rec1, Rec1 will export City data based on a requested format (in most cases). If the data exporting request is initiated by City, development will be charged at a \$100 hourly rate. All work will be estimated and agreed upon in writing by the parties hereto prior to work start.

**EXHIBIT B**

**SCHEDULE AND RATES OF PAYMENT**

CITY shall pay CONSULTANT an amount not to exceed One Hundred Thousand Dollars (\$100,000.00), including \$39,200 for implementation services, \$50,000 for the first year of software licensing, and \$10,800 in contingency funds for unanticipated services outside the Scope set forth in Exhibit A.

<b>Ongoing</b>	<b>Cost</b>
Annual Software Fee	\$50,000/Year
<b>One-Time Implementation</b>	<b>Cost</b>
Training	\$8,000
Travel - 3 Trips	\$5,000
<b>Professional Services</b> <ul style="list-style-type: none"> <li>• Project Management</li> <li>• Integrations                             <ul style="list-style-type: none"> <li>○ Payment Gateway</li> <li>○ Tyler Munis Extract</li> <li>○ OAuth/Single Sign-On</li> </ul> </li> <li>• Data Import                             <ul style="list-style-type: none"> <li>○ Tennis Center Memberships</li> <li>○ Future bookings from Class</li> </ul> </li> <li>• API Feeds                             <ul style="list-style-type: none"> <li>○ User Balance Due</li> <li>○ User Credit Balance</li> <li>○ User Schedule/Agenda</li> <li>○ Survey Requests for Past Classes</li> <li>○ Notifications from REC1</li> <li>○ Upcoming/Past Rentals</li> <li>○ Ticket Purchase Links</li> </ul> </li> </ul>	\$26,200
<b>Total Ongoing Cost</b>	<b>\$50,000/Year</b>
<b>Total Implementation Cost</b>	<b>\$89,200</b>

Upon CITY's request, CONSULTANT shall provide a written quote on a Change Request Form and obtain CITY's written authorization prior to purchase of any additional materials or completion of additional services using contingency funds. The Custom Development Rate is \$100 per hour.

CONSULTANT shall submit an itemized statement to CITY for its services performed for the prior month or weeks, which shall include documentation setting forth, in detail, a description of the services rendered and the hours of service. CITY shall pay CONSULTANT all undisputed amounts of such billing within thirty (30) days of receipt of the same.

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below :

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONSULTANT'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKER'S COMPENSATION					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the CITY shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: CONSULTANT agrees to indemnify, hold harmless and defend CITY, its City Council and each member thereof and every officer and employee of CITY from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against CITY, its City Council and each member thereof and any officer or employee of CITY which results directly or indirectly from the wrongful or negligent actions of CONSULTANT's officers, employees, agents or others employed by CONSULTANT while engaged by CONSULTANT in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE : \_\_\_\_\_ BY : \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized Insurance Representative  
 TITLE : \_\_\_\_\_  
 AGENCY : \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_

**ONLINE REGISTRATION AND SERVICING AGREEMENT FOR  
THE CITY OF BEVERLY HILLS  
AND  
CIRILIAN, INC. dba REC1**

This ONLINE REGISTRATION AND SERVICING AGREEMENT (the "Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between Cirilian, Inc., a Georgia corporation d/b/a "Rec1" ("Rec1"), whose address is 12460 Crabapple Road, Suite 202, #111, Alpharetta, GA 30004, and the City of Beverly Hills ("City"), a municipal corporation, whose address is 455 North Rexford Drive, Beverly Hills, CA 90210.

WITNESSETH:

WHEREAS, Rec1 is a corporation formed pursuant to the laws of the State of Georgia and is presently in existence and in good standing; and

WHEREAS, City is seeking a software registration system for its Parks, Recreation, and Cultural Services Department;

WHEREAS, City desires to engage Rec1 for a specific term to provide a software registration system, as well as maintenance therefor, and Rec1 desires to be engaged by City in accordance with and subject to the terms and conditions hereafter set forth; and

WHEREAS, the parties hereto believe it to be in their best interests to create a definite and certain Online Registration and Servicing Agreement under the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The statements above are true and correct and herein incorporated into this Agreement by this reference.
2. Engagement. City hereby engages Rec1 to perform the services as more particularly described in the attached Exhibit "A" – Services Provided (the "Services Provided").
3. Duties of Rec1. Rec1 shall serve as the exclusive provider to City of the Services Provided.
4. Term. City and Rec1 hereby agree that this Agreement is terminable at will upon written notice by either party by regular first class mail to the address listed in Paragraph 12 below. The Agreement shall be terminated 30 days after receipt of such notice. The parties agree to continue performance thereunder until the effective date of termination

unless the parties mutually agree to an earlier effective date of termination. Upon termination of this Agreement and expiration of any applicable notice period, the parties hereto shall have no further liability or obligation except as explicitly provided hereunder as surviving termination of the Agreement.

5. Payment Agreement.

- a. Fee for Basic Portal Services. City agrees to pay Recl an annual fee ("Basic Portal Services Fee") based upon usage, billed in advance annually in an amount equal to 1% per registration transaction fee collected by the City ("City Transactional Fee"). Notwithstanding, the first three years shall be fixed at \$50,000, based on City's revenue to date with Recl's right to adjust if there is an increase in revenue greater than 10%.
- b. Payment. All amounts due and payable (and not collected through a merchant account, if applicable) must be remitted within 30 days of distribution of the applicable invoice. All invoices are distributed electronically and can be viewed online on the Recl website.
- c. Optional Training. Recl will provide optional on-site training at a rate of \$1,000 per day plus travel costs and expenses. Such on-site training includes 8 hours of training for as many City users as is reasonably necessary.
- d. Custom Development. Recl will provide customized development at a rate of \$100 per hour. All work will be estimated and agreed upon with City prior to work start.
- e. Fully-Earned. All amounts owed to Recl hereunder are fully-earned upon provision of the Services Provided or other charged amounts hereunder, are not subject to withholding or off-set in any manner whatsoever, and are non-refundable upon payment subject only to a clear demonstration of an accounting error. City expressly acknowledges and agrees that City is familiar with the proposed Services Provided and Recl's billing process. Unless otherwise expressly herein provided, if City is not satisfied with the Services Provided or the performance of Recl hereunder for any reason or no reason whatsoever, City's sole and exclusive remedy shall be to terminate this Agreement as herein provided, and City expressly waives any claim to a refund or other compensation.

6. Indemnification. Recl agrees to indemnify, hold harmless and defend City, City Council and each member thereof, and every officer, employee and agent of City, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Recl or any person employed by Recl in the performance of this Agreement.

7. Relationship of Parties. The City and Recl agree that Recl is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee

between the parties hereto. The City shall not be obligated to pay to Recl, and Recl shall not be entitled to, any benefits accorded to City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or any other tax, for contributing to the state industrial insurance program or otherwise assuming the duties of an employer with respect to Recl.

8. Waiver of Breach. The waiver by either party of a breach of any of the provisions of this Agreement shall not be construed as a waiver by such waiving party of any subsequent breach by the offending party.
9. Binding Effect; Assignment. The rights and obligations as provided under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of each party hereto.
10. Entire Agreement. This Agreement contains the entire agreement and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Agreement may be changed only by an agreement in writing signed by the party against whom any waiver, change, amendment, modification or discharge is sought.
11. Governing Law and Venue. **THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS. THE VENUE FOR ANY LITIGATION UNDER THIS AGREEMENT SHALL BE IN LOS ANGELES COUNTY, CALIFORNIA.**
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Attn: Director of Community Services  
e-mail: [nhuntcoffey@beverlyhills.org](mailto:nhuntcoffey@beverlyhills.org)

To Recl:

12460 Crabapple Rd  
Suite 202, #111  
Alpharetta, GA 30004  
Attn: Landon Schenck  
e-mail: [lschenck@recl.com](mailto:lschenck@recl.com)  
<mailto:lschenck@recl.com>

13. Strict Construction. The language used in this Agreement shall be deemed to be in the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied for or against any party by reason of such party being deemed the draftsman hereof.
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19. Ownership of Software, Website, and Portal and Remedies Related Thereto. City agrees that it has no right, title, interest or ownership in, or to, the software, website, or portal utilized by Rec1 to provide the Services Provided, or any of its components, programming code or data structures, images or functions or any copies or modifications of the software, User Manuals, or any components, code or data structures thereof or in the software (collectively, the "Software") except to the extent that Rec1 grants the right to use the Software. The Software shall remain at all times Rec1's sole and exclusive property. The definition of "Software" shall also include any changes, customizations, added functions, or options and any other related items requested by the City and implemented by Rec1, it being hereby expressly acknowledged and agreed that such changes, customizations, functions, options, and items are and shall be the sole and exclusive property of Rec1 and the City shall have no right or claim to such changes, customizations, functions, options, or items or any compensation whatsoever related thereto. City shall not reproduce or copy any Software or portion thereof without Rec1's

prior written consent. The obligations set forth in this Paragraph shall survive the termination, cancellation, or expiration of this Agreement for any reason whatsoever. City agrees that, in the event of a breach or threatened breach by City of the provisions of this Agreement, Rec1 shall be entitled to both a temporary and permanent restraining order and a preliminary injunction, or other similar remedy, restraining City or any affiliate, officer, agent or assignee from violating the terms of this Agreement. City specifically acknowledges that money damages alone would be an inadequate remedy for the injuries and damage that would be suffered and incurred by Rec1 as a result of a breach of any of the provisions of this Paragraph. Such remedy with respect to the provisions of this Paragraph is non-exclusive and shall be in addition to any other remedy available to Rec1 at law or in equity.

20. Ownership of City's Data.

(a) All data and databases owned by City prior to the term of this Agreement and all data, including but not limited to all forms and reports generated by, on behalf of, or at the request of City in connection with City's user accounts (collectively, "City's Data"), shall be and shall remain the sole property of City.

(b) At all times while this Agreement is in effect, Rec1 shall ensure that the last two (2) consecutive years of City's Data shall be maintained, backed up, retrievable and accessible as per City's retention policy for California Fair Political Practices Commission (FPPC) filings at the time of execution of this Agreement.

(c) Upon termination of this Agreement, Rec1 will, at the written request of City, return or destroy all of City's Data in Rec1's possession promptly following such written request. Where City requires that Rec1 must return City's Data, Rec1 shall deliver the data, accumulated over a period of two (2) years, or as long as the Agreement was in effect, whichever is longer, in MySQL database export format.

(d) Rec1 shall not use City's Data without the express written consent of City's authorized representative.

21. Warranty. If the City determines that some functions/capabilities within Rec1 are not performing up to required specifications, Rec1 will take commercially reasonable measures to remedy such situation during the term of this Agreement at no additional charge to the City. Rec1 does not guarantee that Rec1 will implement any and all new enhancement and module requests but will take commercially reasonable efforts to provide features that perform as designed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

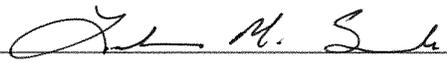
**CITY**

City Signatory

Name: John A. Mirisch Signature: \_\_\_\_\_

Title: Mayor of the City of Beverly Hills Date: \_\_\_\_\_

**CIRILIAN, INC. (d/b/a Rec1)**

Name: Landon Schenck Signature: 

Title: President Date: 12-13-14

ONLINE REGISTRATION AND SERVICING AGREEMENT FOR THE CITY OF  
BEVERLY HILLS AND CIRILIAN, INC. DBA REC1

Attest:

---

BYRON POPE  
City Clerk

APPROVED AS TO FORM:



---

LAURENCE S. WEINER  
City Attorney

APPROVED AS TO CONTENT:

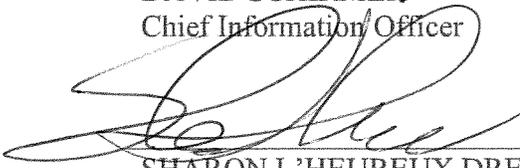
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MAHDI ALUZRI  
City Manager



---

DAVID SCHIRMER  
Chief Information Officer



---

SHARON L'HEUREUX DRESSEL  
Interim Risk Manager

## Schedule 1

### Services Provided

Services provided by Rec1 to the City under this agreement include the following:

- Access – Rec1 hereby grants a non-exclusive license during the term of the Agreement for the City and patrons of the City recreational programming to access, use and display Rec1’s online registration service (the “Portal”). Excluding occasional maintenance, the Software shall be available 24 hours per day, seven days per week with a guaranteed uptime of 99%. The Portal is accessible via the public Internet from any PC with an Internet connection. There is no limit to the number of organization users and participants that can enroll using the Portal.
- Online Registration – The Rec1 registration engine through which the Portal is accessed can be integrated with City’s website. Rec1 will format a registration page to match the colors and theme of the rest of City’s website. City would then display a link on its own page that would seamlessly redirect the user to a secure page on the Rec1 server.
- Documentation - All Rec1 startup and user’s guides are maintained electronically in the system and can be accessed through the “Help Center” from within Rec1. Rec1 does not provide paper copies of its guides and help files.
- Data Backups – Rec1 currently performs backups daily of all of its data (6:00 AM). In case of emergency, Rec1 may restore data to the point of the previous backup.
- Enhancements – New features will be added to Rec1 throughout the term of this Agreement. City will have full access to all of these new features without additional charge. City is also encouraged to submit change requests as they see opportunities for improvement. Rec1 will attempt to implement any and all changes that improve the value of Rec1 to all of our Cities at no charge. Thereafter, City will be charged a development fee at a \$100 hourly rate for custom requests. All work will be estimated and agreed upon in writing by the parties hereto prior to work start.
- City Support – Rec1 shall provide an online utility for problem reports and change requests. City may also reach Rec1 by phone at 1-800-335-1863 between the hours of 9:00 AM and 6:00 PM Eastern Standard Time, Monday through Friday and excluding national holidays. E-mail support is also available at support@rec1.com. After-hours support is often available but is not guaranteed. Emergencies will be handled as soon as possible. Enhancement requests will be queued based on priority and implemented on a schedule. Rec1 shall have sole and absolute discretion as to whether support requests exceed reasonable use or exceed the scope of services outlined in this Agreement. If the parties hereto cannot agree on levels or limits of acceptable support use, then each party hereto has the option to terminate this Agreement as outlined in Paragraph 4.
- Data – In the event City no longer wishes to use Rec1, Rec1 will export City data based on a requested format (in most cases). If the data exporting request is initiated by City, development will be charged at a \$100 hourly rate. All work will be estimated and agreed upon in writing by the parties hereto prior to work start.