



AGENDA REPORT

Meeting Date: November 5, 2009
Item Number: F-13
To: Honorable Mayor & City Council
From: Scott Miller, Director of Administrative Services and CFO
Noel Marquis, Assistant Director of Administrative Services - Finance
Subject: **APPROVALS RELATED TO VARIOUS CITY PURCHASING AND BUDGET TRANSACTIONS AS DESCRIBED HEREIN**
Attachments: 1. Agreements (3)
2. Resolution

Item A. APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND INFOKALL, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO PROVISION OF NETWORK ADMINISTRATION SERVICES FOR THE BEVERLY HILLS UNIFIED SCHOOL DISTRICT; AND,
APPROVAL OF A PURCHASE ORDER FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$125,000

RECOMMENDATION

Staff recommends that the City Council approve an agreement and authorize the issue of a purchase order in the amount of \$125,000 to Infokall, Inc. for the information technology consulting services related to provision of network administration services for the Beverly Hills Unified School District (BHUSD).

INTRODUCTION

On February 17, 2009, Council approved Agreement no. 68-09 to provide information technology consulting services to BHUSD. Specifically, the City agrees to provide up to four thousand (4000) hours of consulting services per year through December 31, 2011 for which the District will pay the City a total not-to-exceed amount of \$250,000.

DISCUSSION

On May 21, 2009, the City released a Request for Proposal (RFP), referred to as Bid No. 09-39, soliciting bids for Information Technology Consulting Services related to Network Administration for BHUSD. The sealed bids were opened by the Deputy City Clerk on June 9, 2009 at 2:00 p.m. Ten responses were received.

The selection committee reviewed and evaluated the strength of the proposals based on the demonstrated capacity and skill to provide the requested services. Of the ten responses, three companies were short-listed and invited to provide additional information in an in-person interview to evaluate the level of expertise that would be available, the specific staffing proposed, and to see if the City could negotiate additional cost savings.

	Consulting Firm	Hourly Rate
1.	Infokall, Inc.	\$62.50 /hour
2.	Knight Communications	\$48.00 /hour
3.	Login Consulting Services, Inc.	\$62.50/hour

- Login Consulting Services was selected for the interview based on the candidates submitted in their bid proposal, but none were available for the interview. They agreed to send their alternate candidate, but that candidate did not show-up for the interview.
- Knight Communications did not identify any candidates in their bid proposal, and the candidate that attended the interview did not possess the required skill sets needed in enterprise level network administration abilities, as required by the RFP.
- The Infokall Inc.'s candidate presented the required enterprise level network administration abilities. While their original quoted hourly rate was \$100, the City negotiated a significant cost savings to match the hourly rates of the next most qualified candidate.

The agreement with Infokall Inc. provides for a not-to-exceed amount of \$125,000 at an hourly rate of \$62.50 for up to 2000 hours, annually.

FISCAL IMPACT

Funds were budgeted and are available in the Information Technology Internal Service Fund's Network and Communications, Maintenance and Repair account for this purpose. The costs of these services will be recovered through the direct billing and payment of the technology consulting services by BHUSD.

Item B. APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND XEROX CORPORATION FOR CITYWIDE COPIERS, LICENSE OF SOFTWARE, INSTALLATION AND RELATED SERVICES; AND

APPROVAL OF THE SERVICES AND SOLUTIONS TERMS AND CONDITIONS ATTACHMENT

RECOMMENDATION

Staff recommends that the City Council terminate the existing agreement and approve a new agreement between the City of Beverly Hills and Xerox Corporation for citywide copiers, license of software, installation and related services and approve the related Services and Solutions Terms and Conditions Attachment.

INTRODUCTION

On April 5, 2005, the City circulated a Request for Proposal (RFP) seeking bids for the replacement of the City's existing copiers and associated maintenance. Xerox Corporation responded with a proposal that bested four other bidders based on the criteria set forth in detail by the RFP. A five-year trial agreement (Agreement no. 130-05) was approved by Council on June 7, 2005 which expires June 30, 2010.

On July 7, 2009, Council approved a blanket purchase order to Xerox Corporation for a total not-to-exceed amount of \$347,950.00.

DISCUSSION

In light of the City's budget cutbacks, Xerox equipment and copies were targeted for considerable reductions. In order to realize a significant cost savings, the City negotiated with Xerox Corporation to receive new machines at lower rates under a new agreement.

Xerox proposed new upgraded equipment and lower pricing without reducing the City's current equipment fleet. The new agreement includes a complete equipment replacement, a considerable equipment and software upgrade to the print shop high volume production environment, and new color copy/print pricing. Staff estimates overall a 25% cost reduction while enhancing technology, equipment, and services. Favorable equipment pricing was realized to some extent by the addition of more stringent termination terms. Additionally, the City negotiated a 37% reduction for color production overage impression charges and a 30% reduction for office color impression charges.

The upgrade in equipment will significantly benefit the City's print shop high-volume production environment which will match or exceed technology and equipment standards used by other cities and agencies. The new equipment will increase the number of pages copied/printed per minute for both office and production printing environments thus improving efficiency.

Xerox will also provide enhanced service levels which include automated preemptive fault monitoring for devices and proactive supplies management and reporting.

Meeting Date: November 5, 2009

The agreement authorizes the Chief Information Officer to add equipment as needed within the terms of the agreement to meet the future copier technology needs of the City

The new agreement is good for a period of five years and will expire on October 31, 2014. Consequently, upon approval of this new agreement, the City will issue a termination letter that becomes effective upon removal of the existing equipment and receipt of the new equipment.

FISCAL IMPACT

Funds were budgeted and are available in the Information Technology Internal Service Fund's Document Production/Rentals account for this purpose.

SM
Sandra Quintero

Noel Marquis
Finance Approval

SM
Sandra Quintero

Scott G. Miller
Approved By

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND INFOKALL, INC. FOR INFORMATION TECHNOLOGY
CONSULTING SERVICES RELATED TO PROVISION OF
NETWORK ADMINISTRATION SERVICES FOR THE
BEVERLY HILLS UNIFIED SCHOOL DISTRICT

NAME OF CONSULTANT: Infokall, Inc.

RESPONSIBLE PRINCIPAL
OF CONSULTANT: Pundarika Bibireddy, Chief Operational
Officer & Executive Vice President

CONSULTANT ADDRESS: 510 Thornall Street, Suite #260
Edison, New Jersey 08837

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

COMMENCEMENT DATE: Upon receipt of written Notice to Proceed

TERMINATION DATE: December 31, 2011

CONSIDERATION: Not to exceed \$125,000 per year as set forth
in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND INFOKALL, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO PROVISION OF NETWORK ADMINISTRATION SERVICES FOR THE BEVERLY HILLS UNIFIED SCHOOL DISTRICT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "City"), and Infokall, Inc. (hereinafter called "Consultant").

RECITALS

A. City desires to have certain services provided as set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Services").

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

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall provide information technology consulting services as more particularly described in Exhibit A, 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. Compensation.

A. City agrees to compensate Consultant for the services provided under this Agreement and Consultant agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein, based on the hourly rates set forth in Exhibit B.

B. The Compensation required under this Agreement shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including but not limited to, all labor, materials, delivery, tax, assembly and installation, as applicable. There shall be no claims for additional compensation for reimbursable expenses.

Section 3. Independent Contractor. Consultant is and shall at all times remain, as to City, a wholly independent contractor. 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 4. Assignment and Subcontracting. Consultant shall not assign or attempt to assign any portion of this Agreement, or subcontract any required performance

hereunder, without the prior written approval of City. Consultant, however, shall at all times be responsible for the services performed by any subcontractors.

Section 5. Party Representatives.

(a) Consultant: Responsible Principal. 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 the prior written consent of City.

(b) City Representative. The City Manager or his designee shall represent City in the implementation of this Agreement.

Section 6. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform Consultant's services under this Agreement.

Section 7. 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 services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with Consultant.

Section 8. Insurance.

(a) Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by Consultant.

(b) Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Professional Liability Insurance covering personal injury and property damage, 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 City in writing 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.

(c) Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by Contractor in performing the services required by this Agreement.

(d) Consultant agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation insurance as required by law.

(e) Consultant shall require each of its sub-Consultants or sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(f) 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.

(g) 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.

(h) 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 on Exhibit C, attached hereto and incorporated herein, or a form satisfactory to the City Attorney and 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.

(i) The policies of general liability and vehicle liability insurance required by this Agreement shall contain an endorsement naming the City and City's elected officials, officers and employees, as well as the Beverly Hills Unified School District ("District") and its elected officials, officers and employees, as additional insureds. 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.

(j) The insurance provided by Consultant shall be primary to any coverage available to City and District. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation. The Consultant hereby waives all rights of subrogation against City and District.

(k) 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 9. Indemnification.

(a) Consultant agrees to indemnify, hold harmless and defend the City, the City Council and each member thereof, and every officer, employee and agent of the City, as well as the District and its elected officials, its officers and employees, from any claims, liability or financial loss (including without limitation, attorneys fees and costs) arising out of the acts or omissions of Consultant, its employees, agents, representatives, and/or subcontractors, whether intentional, reckless, negligent, or otherwise wrongful, in the performance of this Agreement.

(b) Consultant agrees to indemnify, hold harmless and defend the City, the City Council and each member thereof, every officer, employee and agent of the City, as well as the District and its elected officials, its officers and employees, from and against any liability or financial loss (including, without limitation, attorneys fees and costs) arising from any claim that the technology and services provided by Consultant under this Agreement infringes upon any copyright, trade secret, trademarks, patent or other proprietary or intellectual property right of any third party.

Section 10. Termination.

(a) City may cancel this Agreement, with or without cause, at any time upon five (5) 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 full compensation for all services performed by Consultant, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, Consultant shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid Consultant for the full performance of the services required by this Agreement.

Section 11. 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 services.

Section 12. 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 pursuant to this Agreement as City deems appropriate.

Section 13. Non-Disclosure.

(a) Pursuant to the terms of this Agreement, City may provide, or will provide Consultant with certain information, and/or access to certain information including public safety information (the "Information"), which was or will be obtained by the City pursuant to a license agreement with a third party, or which is the proprietary information of the City, or which is not publicly known. Consultant, its employees, agents, representatives, contractors and subcontractors shall hold the Information private and confidential, and shall not:

(i) Use the Information, nor cause the Information to be used for any purpose other than in performance of its duties to the City under this Agreement,

(ii) Participate in the wrongful use, illegal use, or unauthorized disclosure of the Information, or

(iii) Sell, release, free trade, assign, or provide access to the Information, directly or indirectly, to third parties. This provision survives termination of this Agreement.

Section 14. Notice. Any notice required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during 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 designate in writing.

Section 15. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 16. 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 17. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 18. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

EXECUTED the ____ day of _____, 2009.

CITY OF BEVERLY HILLS
A Municipal Corporation

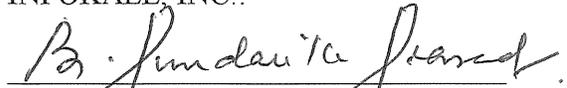
NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

[Signatures continue]

INFOKALL, INC.:

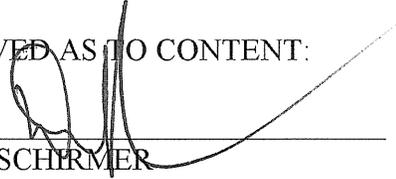

PUNDARIKA BIBIREDDY

Chief Operational Officer & Executive Vice
President



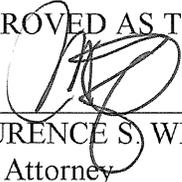
VENKATA PUTTA
Chief Financial Officer

APPROVED AS TO CONTENT:



DAVID SCHIRMER
Chief Information Officer

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney


KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF SERVICES

Consultant shall provide information technology consulting services (the “Services”) related to City’s provision of Network Administration services to the District, as directed by City. The Services shall include, but are not limited to the following:

TASK 1: Network Administration

A. Design, develop, and architect advanced data systems solutions and strategies for the following:

1. Enterprise class LAN comprised of converged technologies in voice, video and data services, systems, and delivery.
2. Advanced transport solutions and strategies for a carrier class metropolitan area network supporting advanced service delivery technology for multiple autonomous systems.
3. Advanced transport infrastructure in support of LAN/WAN/MAN environments encompassing inside and outside fiber and copper distribution.
4. Autonomous wireless systems based on Wi-Fi and GSM technologies as well as maintaining systems administration and management function and solutions for a unified LAN/WAN/MAN wired and wireless environment.

B. Plan, document, and perform complex maintenance windows that involve significant configuration changes on the network.

C. Work effectively and systematically with City’s personnel to ensure comprehensive network security across all platforms.

D. Provide daily support and monitoring of system and system events organization wide.

E. Deploy, configure and maintain Extreme Networks, Cisco and Juniper equipment.

F. Work within ExtremeWare, EXOS, Cisco IOS and Juniper OS in an ISP/LAN/MAN/WAN/Carrier internetworking environment.

G. Develop service delivery classification providing Quality of Service (QoS) leveraging 802.1Q, 802.1p, TOS, DSCP and HQoS.

H. Utilize complex testing and troubleshooting equipment including but not limited to BERT testers, light meters, OTDRs, sniffers, and protocol analyzers.

I. Work within SNMP and network management platforms and tools including open source.

J. Work with multiple network system environments such as UNIX, Linux and Windows.

K. Work with voice and video transport technologies and service delivery.

L. Develop telemetry required for capacity planning purposes.

M. Work within industry standards and technologies for network services delivery such as Ethernet, LACP, EAPS, STP, TCP/IP, VRRP, RIP, OSPF, ISIS, BGP, and Virtual Routing.

N. Work within industry established standards and best practices as they pertain to design and implementation of computer networks.

O. Provision, troubleshoot, and understand transport technologies Carrier Ethernet, MPLS, ATM, SONET, PDH, Optical, DWDM.

P. Provide administration and support for security configurations and issues including firewalls and IDS and IPS systems.

Q. Provide administration and support for enterprise/carrier-class routers and switches (experience with Extreme Networks, Cisco, and Juniper required).

R. Provide administration and support for TDM and VOIP solutions.

TASK 2: Additional Information Technology Consulting Services

A. As directed by the City, Consultant shall provide ongoing supplemental network support and supplemental network systems administration in the following areas:

1. Maintenance of software and system configurations.
2. Analysis of hardware and software problems.
3. Generation of related reports, change logs and documentation.
4. Security enhancements.
5. Monitoring of system performance.
6. Software enhancements
7. Documentation of best practices.

B. As directed by the City, Consultant shall provide additional information technology consulting services to the District to ensure the integrity, security and functionality of the District's networking systems.

EXHIBIT B
COMPENSATION and PAYMENT

City shall pay Consultant compensation at a blended rate of Sixty-Two and 50/100 Dollars (\$62.50) per hour for scheduled service during normal business hours. The total sum shall not exceed the amount of One Hundred and Twenty-Five Thousand Dollars (\$125 000. 00) per year, as set forth in the purchase order issued by City for all services to be provided pursuant to this Agreement.

Consultant shall submit a weekly itemized statement to City for its services performed for the prior week, 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.



CERTIFICATE OF INSURANCE

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

NAMED INSURED

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS

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"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>		<i>All needed</i>	<i>provided</i>		

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: Contractor 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 contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor 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

AGENCY: _____

TITLE: _____
ADDRESS: _____

RM02.DOC REVISED 10/14/96.

EXHIBIT C

RESOLUTION NO. 09-R-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND XEROX CORPORATION FOR CITYWIDE COPIERS, LICENSE OF SOFTWARE INSTALLATION AND RELATED SERVICES

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. The City has a current five-year agreement (Agreement No. 130-05) with Xerox Corporation which expires on June 30, 2010. In light of the City's budget cutbacks, Xerox equipment and copiers were targeted for considerable reductions. In order to realize a significant cost savings, the City renegotiated with Xerox Corporation to receive new machines at lower rates under a new agreement.

Section 2. City Staff considers the proposed agreement as a modification of the existing agreement with Xerox with significant cost savings to the City. Notwithstanding, pursuant to Municipal Code Section 3-3-204(E), the City Council hereby makes a finding that it is in the best interest of the City to waive the requirements of Section 3.3-204, renegotiate the current agreement with Xerox and award and enter into a new five-year agreement for the provision of copiers and related services with Xerox Corporation. As set forth in the Agenda Report and this Resolution, it is in best interest of the City to enter into this new agreement with Xerox as Xerox will provide upgraded equipment and lower pricing without reducing the City's current equipment fleet. The proposed agreement provides a complete equipment replacement, a considerable equipment and software upgrade to the print shop's high volume production environment and new color copy/print pricing. This is estimated to be a 25% cost reduction while enhancing technology, equipment and services. Moreover, Xerox's software and products will integrate well with the City's managed network environment, its product has superior production-level functionality, and Xerox will provide quality technical support and service. Accordingly, based on the reasons set forth herein and in the Agenda Report dated November 5, 2009, the City Council hereby finds that it is in the best interest

of the City to enter into an Agreement with Xerox for Citywide Copiers, License of Software, Installation and Related Services (“Agreement”).

Section 3. That Agreement, dated _____, and identified as Agreement No. _____, a copy of which will be filed in the office of the City Clerk, between the City of Beverly Hills and Xerox for the replacement of citywide copiers is hereby approved.

Section 4. That Services and Solutions Terms and Conditions Attachment, dated _____, and identified as Agreement No. _____, a copy of which will be filed in the office of the City Clerk, between the City of Beverly Hills and Xerox for the replacement of citywide copiers is hereby approved.

Section 5. The Mayor is authorized and directed to execute said Agreements on behalf of the City and the City Clerk is directed to attest thereto.

Section 6. The City Manager or his designee shall administer the terms of the said Agreements on behalf of the City.

Section 7. The City Clerk shall furnish a copy of said Agreements after they have been approved and fully executed by the City, along with a copy of this resolution, to: Xerox Corporation, Attn: Michelle Yoshino, Account Executive Manger, 1851 East 1st Street, Suite 200, Santa Ana, California 92705.

Section 8. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

Adopted:

CITY OF BEVERLY HILLS
A Municipal Corporation

NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:

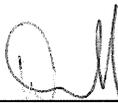
_____(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



DAVID SCHIRMER
City Information Officer

for: 

KARL KIRKMAN
Risk Manager

AGREEMENT BETWEEN THE CITY OF BEVERLY
HILLS AND XEROX CORPORATION FOR CITYWIDE
COPIERS, LICENSE OF SOFTWARE, INSTALLATION
AND RELATED SERVICES

NAME OF VENDOR:	Xerox Corporation
RESPONSIBLE PRINCIPAL VENDOR	Michelle Yoshino, Account Executive Manager
VENDOR'S ADDRESS:	1851 East 1st Street Suite 200 Santa Ana, California 92705
CITY'S ADDRESS:	City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210 Attention: David Schirmer, Chief Information Officer
COMMENCEMENT DATE:	November 1, 2009
TERMINATION:	October 31, 2014
COMPENSATION:	See Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY
HILLS AND XEROX CORPORATION FOR CITYWIDE
COPIERS, LICENSE OF SOFTWARE, INSTALLATION
AND RELATED SERVICES

THIS AGREEMENT is made as of October 27, 2009, by and between the City of Beverly Hills (hereinafter called "CITY"), and Xerox Corporation (hereinafter called "VENDOR").

RECITALS

A. VENDOR and CITY previously entered into that certain agreement, dated June 7, 2005 and identified as Contract No. 130-05, as amended by Amendment No. 1, dated July 11, 2006 and identified as Contract No. 244-06, and as amended by Amendment No. 2, dated July 10, 2007 and identified as Contract No. 278-07, and as amended by Amendment No. 3, dated July 8, 2008 and identified as Contract No. 168-08, and as amended by Amendment No. 4, dated July 7, 2009 and identified as Contract No. 279-09 (collectively "Original Agreement") for the provisions of copiers, including installation, and related services. The Original Agreement has a term of 60 months; however the parties have renegotiated its terms and desire to enter into a new agreement that reflects the renegotiated terms.

B. Pursuant to the renegotiated agreement, the CITY will obtain all new copier equipment at the renegotiated pricing as set forth herein. None of the copier equipment under the Original Agreement will be retained by the City.

C. VENDOR represents that it is qualified and able to provide and install copiers in locations designated by the city, training for city staff on the use of those copiers, maintenance services, software and related hardware for such copiers, and other related services as negotiated by the parties.

D. CITY desires to retain VENDOR and VENDOR desires to provide the copiers and services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

Section 1. VENDOR's Services. VENDOR shall provide and install the equipment as described more fully described in Exhibit B in locations designated by City ("Equipment") as well as provide training for city staff on the use of such Equipment, provide maintenance services on the Equipment, provide related software and hardware, and provide other related services, as described more fully in Exhibits A-1, A-

2 and A-3 attached hereto and incorporated by this reference, (“Services”) to the full satisfaction of CITY.

Section 2. Time of Performance. VENDOR shall commence the services upon receipt of a written notice to proceed from CITY and shall, thereafter, diligently prosecute its obligations under this Agreement until the Equipment and Services are completed to the CITY’s satisfaction.

Section 3. Compensation. CITY agrees to compensate VENDOR, and VENDOR agrees to accept in full satisfaction for the services required by this Agreement the Compensation set forth in Exhibit B attached hereto and incorporated by this reference. Said Compensation shall constitute the lease payment for the Equipment and reimbursement of VENDOR’s fee for the Services and Equipment 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 VENDOR said Compensation in accordance with the schedule of payment set forth in Exhibit B.

Section 4. Independent Contractor. VENDOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of VENDOR or any of VENDOR’s employees, except as herein set forth. VENDOR 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 5. Assignment. VENDOR shall not assign or attempt to assign any portion of this Agreement without the prior written approval of CITY. Notwithstanding, CITY agrees that VENDOR may assign the lease to a wholly owned subsidiary of VENDOR, or to another entity for the purpose of securitizing a pool of assets or as part of a third party financial transaction; provided, however, that VENDOR remains primarily responsible for the performance of its obligations under this Agreement. CITY shall not assign any portion of this Agreement without the prior written approval of VENDOR, which shall not unreasonably be withheld.

Section 6. Party Representatives.

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

(b) City Representative. The City Manager or his designee shall represent the CITY in the implementation of this Agreement.

Section 7. Personnel. VENDOR represents that it has, or shall secure at its own expense, all personnel required to perform VENDOR's services under this Agreement.

Section 8. Interests of VENDOR. VENDOR 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 services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with VENDOR.

Section 9. Insurance.

(a) VENDOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by VENDOR.

(b) VENDOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by Contractor in performing the services required by this Agreement.

(c) VENDOR agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation insurance as required by law.

(d) VENDOR shall require each of its assignees, sub-consultants or sub-contractors to maintain insurance coverage that meets all of the requirements of this Agreement.

(e) 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.

(f) VENDOR 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 VENDOR's expense, the premium thereon.

(g) At all times during the term of this Agreement, VENDOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form satisfactory to the City Attorney, showing that the aforesaid policies are in effect in the required amounts. VENDOR shall, prior to commencement of work under this

Agreement, file with the City Clerk such certificate or certificates. The insurance certificates required by this subsection shall be attached to the Agreement as Exhibit C and are incorporated herein by reference.

(h) The policies of insurance required by this Agreement shall contain an endorsement naming the CITY and CITY'S elected and appointed officials, officers and employees as additional insureds with respect to any and all loss and/or damage caused by VENDOR's fault or negligence. 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.

(i) The insurance provided by VENDOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation. The VENDOR hereby waives all rights of subrogation against CITY.

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

Section 10. Indemnification.

(a) VENDOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any 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 VENDOR or any person employed by VENDOR in the performance of this Agreement.

(b) VENDOR further agrees to indemnify, hold harmless and defend the City, its City Council and each member thereof, and every officer, employee and agent of the City from and against any liability or financial loss (including without limitation attorney fees and costs) arising from any claim that the services provided by VENDOR under this Agreement infringes upon any copyright, trade secret, trademark, patent or other proprietary or intellectual property right of any third party; provided, however, that such obligations shall not apply to infringement arising solely from the use, lease or sale of equipment or services provided hereunder in any combination with any device, equipment or services not provided by VENDOR hereunder, or to any modification of equipment provided by VENDOR by any person or entity other than VENDOR.

(c) The foregoing indemnity is contingent upon CITY giving VENDOR written notice, by registered mail, promptly after it becomes aware of any claim to be indemnified hereunder and permits VENDOR to control the defense of any such claim or action at VENDOR's own expense. Notice shall be sent to "Corporate Risk, Xerox Corporation, Long Ridge Road, Stamford, Connecticut 06904." CITY agrees that VENDOR may employ attorneys of its own choice to appear and defend the claim or action and that CITY shall do nothing to compromise the defense of such claim or action or any settlement thereof and shall provide VENDOR with all reasonable assistance which VENDOR may require.

(d) VENDOR's obligations under this or any other provision of this Agreement will not be limited by the provisions of any workers compensation act or similar act. VENDOR expressly waives its statutory immunity under such statutes or laws as to CITY, its elected officials, officers, agents, employees and volunteers.

(e) CITY does not, and shall not, waive any rights that it may possess against VENDOR because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense. VENDOR agrees that VENDOR's covenant under this Section 10 shall survive the termination of this Agreement.

Section 11. Representation. VENDOR hereby grants to City a non-exclusive license to the software provided under this Agreement and warrants that it has the full power and authority to grant the license to CITY and that the license to and use by the CITY 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. Force Majeure. VENDOR shall not be liable to CITY during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and / or transportation; or, a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such a circumstance occurs, vendor shall undertake reasonable action to notify CITY of the same within five (5) days of the onset of the force majeure event.

Section 13. Budget and Appropriation. CITY shall take such action as may be necessary to include all lease purchase payments necessitated by this Agreement in its annual budget and annually to appropriate an amount necessary to make such lease purchase payments. During the term of this Agreement, CITY will furnish to VENDOR,

if so requested, copies of each proposed budget of CITY within thirty (30) days after it is filed and of each final budget of the CITY within thirty (30) days after it is printed.

Section 14. Non-appropriation. In the event sufficient funds are not appropriated for the payment of all rental payments required to be paid in the next fiscal year necessitated by this Agreement, CITY may terminate the Agreement at the end of the first fiscal year or the then current fiscal year, as the case may be, and CITY shall not be obligated to make payments provided for in this Agreement beyond the then current fiscal year. CITY agrees to give notice to VENDOR of such termination at least sixty (60) days prior to the end of the then current term or, if non-appropriation has not occurred by that date, promptly upon the occurrence of non-appropriation. If this Agreement is terminated under this sub-part, CITY agrees, at CITY's sole cost and expense, to pay all sums due prior to termination and to peaceably deliver the Equipment to VENDOR at such location as is specified by VENDOR, in good condition, free of all liens and encumbrances, on or before the effective date of termination.

Section 15. Current Expense. VENDOR and CITY understand and intend that the obligation of CITY to pay lease purchase payments pursuant to this Agreement shall constitute a current expense of CITY and shall not in any way be construed to be a debt of CITY in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by CITY, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of CITY.

Section 16. Termination.

(a) CITY may unilaterally cancel this Agreement, with cause in accordance with this paragraph 16(a). VENDOR agrees to cease all work under this Agreement on or before the effective date of such notice. If CITY provides VENDOR with a notice to terminate for cause, CITY shall provide VENDOR with written notice of VENDOR's default and shall offer VENDOR thirty (30) days, after receipt of notice of default, to cure VENDOR's non-performance before CITY exercises its rights to terminate under this provision.

(b) In the event of termination or cancellation of this Agreement by CITY pursuant to paragraph 16(a), VENDOR shall be paid full compensation for all services satisfactorily completed by VENDOR prior to the effective date of the termination or cancellation. The actual amount to be paid to VENDOR shall be determined based on the percentage of the total Services under this Agreement that the work done represents; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid VENDOR for the full performance of the Services required by this Agreement.

(c) No penalty shall be imposed upon CITY if it chooses to cancel the Agreement pursuant to subparagraph (a) of this Section 16.

Section 17. Equipment Return. Upon termination or cancellation of this Agreement, CITY shall promptly return the Equipment to VENDOR in the condition received by CITY, reasonable wear and tear excepted, free of all liens and encumbrances, at such location as specified by VENDOR.

Section 18. Penalties. VENDOR shall not under any circumstances have the right to accelerate the rental payments that fall due in future fiscal years or otherwise declare any rental payments not then in default to be immediately due and payable.

Section 19. Notice. Any notices, bills, invoices, or reports required by this Agreement shall be given in writing by first class U.S. mail or by personal service. Notices shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during VENDOR's and CITY's regular business hours or by facsimile before or during VENDOR's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

Section 20. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 21. Precedence. In case of conflict between any of the Exhibits attached hereto and the terms of this Agreement, this Agreement shall take precedence over the Exhibits.

Section 22. Entire Agreement. This Agreement and all exhibits attached hereto and incorporated by reference represent the entire integrated agreement between CITY and VENDOR, 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 VENDOR.

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. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

Section 25. No Third Party Beneficiaries. This Agreement and the obligations hereunder are not intended to benefit any party other than CITY and VENDOR, except as expressly provided otherwise herein. No entity not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

Section 26. Original Agreement. Notwithstanding the terms of the Original Agreement, VENDOR and CITY hereby mutually agree to terminate the Original Agreement. The parties agree that VENDOR shall be compensated the current monthly unit charge for each copier through the date of termination. The termination date shall be when VENDOR picks up the copiers (as set forth Original Agreement) at VENDOR's cost. Notwithstanding the provisions of the Original Agreement and any subsequent orders for copiers executed by City, the Parties agree that upon termination, the City has no further obligation, monetary or otherwise, including but not limited to any disengagement fee, under that Original Agreement, any subsequent orders or under any other legal theory or otherwise to Xerox..

Section 27. Amendments to Agreement. During the term of this Agreement, the CITY may determine, in its sole discretion, that the Equipment described in Exhibit B requires to be replaced or that different equipment should be installed. In such case, the City's Chief Information Officer is hereby authorized to amend this Agreement to provide for such equipment as long as the cost of the equipment is within the scope of the compensation provided for herein and the inclusion of such equipment does not increase the total compensation provided herein for the term of this Agreement. The provision of such equipment and the pricing shall be agreed upon by both the City's Chief Information Officer and VENDOR. Upon written approval of both parties and as long as the provisions of this section are satisfied, the Equipment shall be subject to the terms of this Agreement and the Services and Solutions Terms and Conditions Attachment. In such event, the new equipment shall not be classified as a new Order, as that term is used by VENDOR.

EXECUTED the _____ day of _____, 2009.

CITY OF BEVERLY HILLS
A Municipal Corporation

NANCY KRASNE
Mayor of the City of Beverly Hills,
California

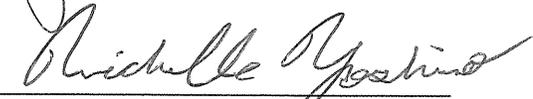
ATTEST:

(SEAL)
BYRON POPE
City Clerk

VENDOR:
XEROX CORPORATION

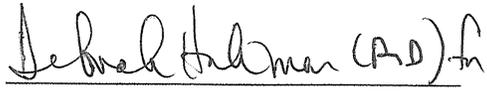


JOHN CHESLICK
PUBLIC SECTOR CONTROLLER



MICHELLE YOSHINO
ACCOUNT GENERAL
MANAGER

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



DAVID SCHIRMER
Chief Information Officer



KARL KIRKMAN
Risk Manager

EXHIBIT A-1
TERMS AND CONDITIONS OF LEASE

Vendor Corporation

Terms and Conditions Attachment

VENDOR shall provide the Services and install the Equipment in locations designated by the city, provide training for City staff on the use of the Equipment, provide maintenance services on the Equipment, provide software and related hardware for such Equipment, and provide other related services as set forth in this Agreement and its Exhibits.

GENERAL LEASE TERMS: The following terms apply to the provision of the Services, including Maintenance Services, and Equipment provided:

THIS AGREEMENT IS A LEASE AND CANNOT BE CANCELED OR TERMINATED EXCEPT AS SPECIFICALLY PROVIDED IN THE AGREEMENT. The parties intend this Agreement to be a "finance lease" under Article 2A of the Uniform Commercial Code. Except to the extent expressly provided herein and to the extent permitted by applicable law, City waives all rights and remedies conferred upon a lessee under that Article.

- 1) **INSTALLATION.** Vendor shall provide and install the Equipment specified in Exhibit B as set forth in the Pool Plan and the Services & Solutions Order. Installation services shall include delivery, setup and integration of the Equipment with City's Local Area Network (LAN), including City's hardware and software infrastructure. Installation services shall also include any and all equipment, materials, and supplies necessary to provide the services including all labor, materials, delivery, tax, assembly, and installation, as applicable. The term for all lease transactions set forth in the Services & Solutions Order shall commence upon completion of installation.
- 2) **EQUIPMENT STATUS.** Equipment will be either: (a) "Newly Manufactured", which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model", which is manufactured and newly serialized at a Vendor factory, adds functions and features to a product previously disassembled to a Vendor predetermined standard, and contains both new components and recycled components that are reconditioned; or, (c) "Remanufactured", which has been factory produced following disassembly to a Vendor predetermined standard and contains both new components and recycled components that are reconditioned. Products of all three status types are manufactured to Xerox' new product standards and subject to the same warranties, as well as Xerox' satisfaction and replacement policy, as set forth in Section 4(E) below.
- 3) **TRAINING.** Vendor shall provide training to City staff as designated by the City Representative, including 'train the trainer' coaching. Such training shall be of sufficient depth and scope to allow a complete understanding of the proper operation and use of the Equipment. Vendor shall conduct all training sessions onsite at City's premises with its own

personnel or designated service provider; however, in each case the trainer must possess sufficient skill and knowledge to achieve the desired level of training in a timely and competent manner. Vendor shall also provide periodic training to accommodate new City users as well as to provide refresher training, as needed. Vendor shall also provide all necessary training materials.

4) **CUSTOMER SUPPORT SERVICES.** As a mandatory part of the lease, Vendor (or its designated service provider) shall provide first-line customer service and support for all City users during normal business hours, and shall track all calls and work orders through “Help Desk Tickets” showing each call and the steps taken by Vendor to resolve the problem, subject to audit by City’s Information Technology staff. Vendor shall perform all scheduled and unscheduled maintenance and repairs necessary for proper functioning of the Equipment, including color calibration and other preventive maintenance. Specifically, Vendor shall provide the following services under this Agreement:

A) **TELEPHONE SUPPORT.** Vendor shall provide a single point of contact for user requests, problems and functionality issues, accessible via toll-free or local telephone number. The access number shall be posted on each machine. Telephone support shall be available during normal business hours. For the purposes of this Agreement, “normal business hours” is defined as 8:00 a.m. to 5:00 p.m. Monday through Friday (excluding Vendor-recognized holidays).

B) **REPAIRS & PARTS.** The Services required under the Agreement shall include repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship. The Services shall exclude repairs or adjustments that relate to or are affected by the use of options, accessories, or other connected products not serviced by Vendor, as well as any non-Vendor alterations, relocation, service, supplies, or consumables). Vendor shall make all repairs and adjustments necessary to keep the Equipment in good working order, including any such repairs or adjustments required during initial installation. Parts required for repair may be new, reprocessed, or recovered.

C) **USE & OPERATOR MAINTENANCE PROCEDURES.** City agrees to use the Equipment in accordance with the published specifications for the Equipment. As part of Training to be provided by Vendor under this Agreement, Vendor shall instruct City as to proper use of the Equipment, shall train City to perform all operator maintenance procedures for Equipment, and shall provide City with the applicable manuals to be for the Equipment. City further agrees to perform all operator maintenance procedures.

D) **RESPONSE TIME.** During normal business hours, Vendor shall provide at least a 1-hour callback response time to all service calls as well as at least a next-day onsite response time for all maintenance and repairs. For critical Equipment failures that completely disable production level equipment, Vendor shall provide at least a one hour callback response time and not more than a 6-hour on-site response time, unless a longer

response time is agreed upon by the parties for a specific service call. Any response time outside of normal business hours (i.e. responses after hours or on weekends and/or holidays) shall incur an additional charge.

- E) **EQUIPMENT REPLACEMENT.** If VENDOR is unable to maintain the Equipment (or Vendor Software, as described in Exhibit A-2), Vendor will, as City's exclusive remedy for VENDOR's failure to do so, replace the Equipment and/or Vendor Software, as applicable in accordance with this paragraph. If City is not totally satisfied with any Vendor Equipment (including operation of the Vendor Software) acquired from VENDOR under this Agreement, Vendor will, at City's request, replace it (and /or the Vendor Software, as applicable) without charge with an identical model or, at the option of Vendor, with a machine and software with comparable features and capabilities. This provision applies only to equipment that has been continuously maintained by Vendor or its authorized representatives. Further, this provision shall not apply to software problems caused by upgrades to City's IT systems or any other hardware or software problems caused by modifications by the City.

 - F) **WORK PROCESS, HOURS & EXCLUSIONS.** Vendor shall perform all services during normal business hours, as defined in Paragraph 4(A) above, unless otherwise mutually agreed upon by authorized representatives of City and Vendor. Before services are provided, Vendor and City shall agree on and document a mutually agreeable work schedule.

 - G) **ACCESS.** City agrees to give Vendor reasonable access to the Equipment during normal business hours to the extent such access does not interfere with the City's ability to conduct its business. Vendor and designated service providers shall conform to all City policies, rules and regulations while performing work in City.

 - H) **DELAYS.** Any extenuating circumstance that may potentially cause a work delay shall be brought to the attention of the other party.

 - I) **DELIVERY & REMOVAL CHARGES.** Vendor will be responsible for all standard costs associated with on-site delivery or removal of the Equipment during normal business hours (excluding Vendor-recognized holidays). City will be responsible for any non-typical delivery or removal charges which is defined as delivery or removal conducted after hours, on weekends and/or holidays
- 5) **INSTALLATION SITE & METER READINGS.** City and Vendor shall ensure that the Equipment installation sites conform to Vendor's published requirements throughout the term of this Agreement. Vendor shall provide software that will enable Vendor to remotely access meter readings from the Equipment. City shall provide all reasonable assistance to enable Vendor to obtain such access. In the event of a system outage preventing Vendor

from obtaining such readings remotely, City shall manually perform the readings and submit them to Vendor. Vendor shall invoice City per Exhibit B” to the Agreement.

- 6) **SUPPLIES INCLUDED IN BASE/PRINT CHARGES.** Vendor (or a designated service provider) shall provide City with all consumables and supplies needed for proper functioning of the Equipment, provided that Vendor shall not supply staples or paper. This includes and is not limited to black toner (excluding highlight color toner), black developer, copy Cartridges, and, if applicable, fuser (“Consumable Supplies”) throughout the term of this Agreement. For full-color Equipment, Consumable Supplies shall also include, as applicable, color toner and developer. City agrees that the Consumable Supplies are Vendor’s property until used by City, that City will use them only with the Equipment, that City will return all Cartridges to Vendor for remanufacturing once they have been run to their cease-function point (at Vendor’s expense when using Vendor-supplied shipping labels), and that at the end of the term of this Agreement either (a) City will return any unused Consumable Supplies to Vendor (at Vendor’s expense when using Vendor-supplied shipping labels) or (b) destroy them in a manner permitted by applicable law.
- 7) **TITLE, RISK & RELOCATION.** Title to the Equipment shall remain with Vendor until City exercise City’s option to purchase it. Unless and until City exercises its option to purchase the Equipment, City agrees that: (a) it shall remain personal property; (b) City will not attach any of it as a fixture to any real estate; (c) City will not pledge, sub-lease or part with possession of it or file or permit to be filed any lien against it; and, (d) City will not make any permanent alterations to it. The risk of loss due to City’s fault or negligence, as well as theft, fire or disappearance, shall pass to City upon installation of the Equipment by Vendor at City’s premises. The risk of loss due to all other causes shall remain with Vendor unless and until City exercises City’s option to purchase the Equipment. Until title passes to City, all Equipment relocations must be arranged (or approved in advance) by Vendor and shall be at City’s expense. While Equipment is being relocated, City is responsible for all payments required to Vendor under this Agreement. Equipment cannot be relocated outside of the United States, its territories or possessions until City have exercised the Purchase Option indicated in this Agreement. If City acquires title to the Equipment, City must comply with all applicable laws and regulations regarding the export of any commodity, technology and/or software. All parts/materials replaced, including as part of an upgrade, will become Vendor’s property.
- 8) **END OF LEASE OPTIONS.** At the end of the term of this Agreement, the following options shall be available to City with respect to the Equipment subject to this Agreement: if not in default, City may (1) have Vendor pick the Equipment up, at Vendor’s cost; provided that the Equipment is in the same condition as when delivered, reasonable wear and tear excepted, (2) purchase the Equipment for its Fair Market Value or (3) enter into a new Lease/Purchase Agreement with Vendor and trade in the Equipment against new Vendor equipment. Unless either party provided written notice to the other party at least thirty (30) days prior to the end of the lease term of its intention not to renew this Agreement, it will be renewed automatically on a month-to-month basis at the same price, terms and conditions and billing

frequency as in the original Agreement. "Fair Market Value" shall mean the price at which an informed and willing purchaser (under no compulsion to buy) would purchase the Equipment in an arms-length transaction from an informed and willing seller (under no compulsion to sell). The parties shall select an independent appraiser, acceptable to both parties, to determine such value. The cost of such appraiser shall be shared equally by the parties.

9) DEFAULT AND REMEDIES

A) City will be in default under this Agreement if (1) Vendor does not receive any payment within thirty (30) days after it is due in accordance with this Agreement or (2) if City breaches any other material obligation hereunder and, if curable, fails to cure such breach within thirty (30) days of receipt of notice from Vendor identifying such breach.

B) Vendor will be in default under this Agreement if (1) the Equipment and/or Vendor Software fail to function in accordance with the terms of this Agreement and Vendor fails to cure pursuant to paragraph 4(E) ("Equipment Replacement") herein, or (2) if Vendor breaches any other material obligation hereunder and, if curable, fails to cure such breach within thirty (30) days of receipt of notice from City identifying such breach. In the event of an uncured default, City may terminate this Agreement in accordance with paragraph 16(a) of the Agreement and require payment, as liquidated damages and not as a penalty, of (a) all reasonable costs incurred by City to replace the Equipment, and (b) all reasonable costs incurred by City to enforce its rights under this paragraph, including reasonable attorneys' fees and actual costs. Notwithstanding this provision, nothing herein shall be construed to require Vendor to purchase new or replacement equipment for City as a remedy to Vendor's default under this provision.

10) PROTECTION OF VENDOR'S RIGHTS. City hereby authorizes Vendor or its agents to file, by any permissible means, financing statements necessary to protect Vendor's rights as the Equipment Lessor. Vendor, on City's behalf and at City's expense, may take any action required to be taken by City under this Agreement that City fail to take.

11) REPRESENTATIONS & WARRANTIES, FUNDING, TAX TREATMENT & PAYMENT.

City hereby represents and warrants, as of the date of this Agreement, that: (1) City is a State or a fully constituted political subdivision or agency of the State in which City is located and are authorized to enter into, and carry out, City's obligations under this Agreement and any other documents required to be delivered in connection with the Agreement (collectively, the "Documents"); (2) the Documents have been duly authorized, executed and delivered by City in accordance with all applicable laws, rules, ordinances and regulations (including, but not limited to, all applicable laws governing open meetings, public bidding and appropriations required in connection with this Agreement and the acquisition of the Equipment) and are valid, legal, binding agreements, enforceable in accordance with their terms and the person(s) signing the Documents have the authority to do so, are acting with the full authorization of City's governing body and hold the offices indicated below their signatures, each of which

are genuine; (3) the Equipment is essential to the immediate performance of a governmental or proprietary function by City within the scope of City's authority and shall be used during the lease term only by City and only to perform such function; and, (4) City's obligations to remit payments under this Agreement constitute a current expense and not a debt under applicable state law and no provision of this Agreement constitutes a pledge of City's tax or general revenues and any provision that is so construed by a court of competent jurisdiction is void from the inception of this Agreement.

EXHIBIT A-2
SOFTWARE LICENSE

Vendor Corporation

Software Terms

SOFTWARE TERMS: The following additional terms apply only to transactions covering Vendor Software (as defined below) and/or Vendor-brand Equipment.

- 1) For purposes of this Agreement, "Vendor Software" shall include:
 - A) Xerox Base Software (operating system software) for:
 - (i) Xerox 4127
 - (ii) Xerox X700, X D260
 - (iii) Xerox W5665
 - (iv) Xerox WC 7435, W 5030, WCBK40
 - (v) Any additional Equipment under this Agreement
 - B) Xerox CentreWare Software (print management software)
 - C) Xerox DocuSP (print/color management software)
 - D) Third party software provided by Vendor pursuant to this Agreement.
- 2) **SOFTWARE LICENSE.** The following terms apply to the Vendor Software and the accompanying documentation. This license does not apply to any Diagnostic Software (as herein defined) or to any software and accompanying documentation made subject to a separate license agreement. As a mandatory part of the lease, Xerox makes the following representations:
 - A) **LICENSE GRANT.** Vendor grants CITY a non-exclusive, non-transferable license to use the Vendor Software within the United States, its territories, and possessions (the "United States") only on or with the Equipment with which (or within which) it was delivered; provided that the license for any Vendor Software other than Base Software shall be granted for use on a single unit of Equipment. CITY has no other rights to the Vendor Software and, in particular, may not: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer this software; (ii) activate any software delivered with or within the Equipment in an unactivated state; or, (iii) allow others to engage in same. Vendor warrants that either (i) it has full title and ownership of the Vendor Software or (ii) that it has obtained sufficient rights from third party licensors to grant the rights described herein, and that in either case it has the full power and authority to grant the license to City at the time of delivery, and that the license to use of the Vendor 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.
 - B) **TITLE.** Title to the Vendor Software and all copyrights and other intellectual property rights in it shall at all times reside solely with Vendor and/or its licensors (who shall be

considered third-party beneficiaries of this Agreement's software and limitation of liability provisions). Vendor Software may contain, or be modified to contain, computer code capable of automatically disabling proper operation or functioning of the Equipment. Such disabling code may be activated if: (i) Vendor is denied access to the Vendor Software to periodically reset such code; (ii) CITY otherwise breaches any term of this Agreement; or, (iii) CITY's license is terminated or expires.

- C) CITY's license for the Vendor Software shall terminate (i) immediately if CITY no longer uses or possesses the Equipment or (ii) upon the termination of the lease agreement under which CITY has leased the Equipment.
 - D) Vendor warrants that the Vendor Software will perform in material conformity with its user documentation for a ninety day period from the date it is delivered, or for Vendor Software installed by Xerox, the date of Software. Neither Vendor nor its licensors warrant that the Vendor Software will be free from errors or that its operation will be uninterrupted. However, nothing in this paragraph shall be deemed to limit Vendor's obligations to maintain the Equipment and any associated Vendor Software in good working order and to replace the Equipment and any associated Vendor Software, as may be required, pursuant to Section 4(E) of the Agreement
- 3) SOFTWARE SUPPORT. During the term of this Agreement, as long as the City is current in the payment of the fees set forth in Exhibit B, Vendor (or a designated service provider) shall provide software support for the Vendor Software under the following terms.
- A) Vendor will assure that the Vendor Software performs in material conformity with its user documentation and will maintain a toll-free hotline during standard business hours to answer related questions.
 - B) Vendor may make available new releases of the Vendor Software that primarily incorporate coding error fixes and are designated as "Maintenance Releases". Maintenance Releases are provided at no charge and must be implemented within six (6) months after being made available to CITY.
 - C) Each new Maintenance Release shall be considered Vendor Software governed by these Software Terms.
 - D) Vendor will use reasonable efforts; either directly and/or with its vendors, to resolve coding errors or provide workarounds or patches, provided CITY report problems as specified by Vendor.
 - E) Vendor shall not be obligated (1) to support any Vendor Software that is two or more releases older than Vendor's most current release or (2) to remedy coding errors if City has modified the Vendor Software.

- 4) **DIAGNOSTIC SOFTWARE.** Software used to maintain the Equipment and/or diagnose its failures or substandard performance (collectively “Diagnostic Software”) is embedded in, resides on, or may be loaded onto the Equipment. The Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Vendor. Title to the Diagnostic Software shall at all times remain solely with Vendor and/or Vendor’s licensors. CITY agrees that (a) CITY’s lease of the Equipment does not grant CITY a license or right to use the Diagnostic Software in any manner, and (b) that unless separately licensed by Vendor to do so, CITY will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). CITY agrees at all times (including subsequent to the expiration of this Agreement) to allow Vendor to access, monitor, and otherwise take steps to prevent unauthorized use or reproduction of the Diagnostic Software.

EXHIBIT A-3

STATEMENT OF WORK ADDENDUM

VENDOR shall provide "Office Services-Remote Care: Level 1" for the Equipment as well as Management Services all pursuant to the Statement of Work Addendum attached hereto and set forth in full. Management Services is defined in the Statement of Work Addendum.



Statement of Work Addendum

Agreement # 7077510

Services Defined As Of:

June 9, 2009

Service(s) Provided: Office Services – Remote Care: Level 1

Service Component Work Process Descriptions	Service Configuration Parameters	Service Market Code ¹
<p>Remote Care Office Services for Xerox Technology</p> <p>Remote Care Office Services for Xerox Technology combines Help Desk Services with Proactive Device Management to deliver improved equipment uptime, customer convenience and end-user support for the use and management of Xerox branded output devices.</p>		OSR-075
<p>Help Desk Services – Xerox Branded Devices</p> <p>The Xerox Help Desk serves as a point of contact to receive, document, process, and track customer requests for a variety of services related to Xerox branded equipment.</p>		XHD-100
<p>Hours of Service Availability</p> <p>The Xerox Help Desk is available to receive and process customer calls. The established Help Desk phone number will receive and process all types of requests documented in this Statement of Work during the hours of operation.</p> <p>Beyond these hours, customer calls requesting break-fix Service continue to be received and processed 24 hours per day. After hours break-fix service may be billable depending on the contract.</p>	<p>General Help Desk Services will be available to the client on the following days of the week: Monday through Friday from 5:00 AM to 5:00 PM Pacific time.</p> <p>Break-Fix Service requests may be called in 24 hours per day.</p> <p>This service is provided for up to 60 Xerox Branded devices.</p> <p>The customer must provide at least one designated contact located at each physical site where Xerox-branded devices are installed.</p>	XHD-101
<p>Asset Database and Equipment Tracking – Xerox Branded Devices</p> <p>Data is collected on the client’s Xerox Branded assets that are covered by the Help Desk Service and recorded in an asset database. This data is used by the Help Desk Associate when processing Service requests, to locate and identify relevant assets and to disposition and fulfill Help Desk Service requests.</p>	<p>The client will provide asset inventory data, or facilitate the collection of asset inventory data such as asset serial number, asset location, customer contact name, contact phone number, address, and special instructions.</p> <p>Xerox will make reasonable efforts to maintain the asset database accuracy. Client shall assist this effort by communicating changes to their asset inventory as they occur.</p>	XHD-110

Requests for services above these contracted service levels will be subject to equipment/resource availability. This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

¹The Service Market Code is for Xerox internal use purposes only.



Statement of Work Addendum

Agreement # 7077510

Services Defined As Of: June 9, 2009

Service Component Work Process Descriptions	Service Configuration Parameters	Service Market Code ¹
<p>Proactive Networked Device Management</p> <p>Qualified networked Xerox branded-devices are monitored by Xerox technology installed on the Client's network to enable proactive delivery of Services to the point of need. Data such as meter reads, device status, machine consumables, and device out-of-service conditions are collected and enable the onsite Associate or the Help Desk to proactively resolve these conditions and take preventative measures to increase the uptime and availability of networked Xerox devices to the client.</p>	<p>The Client is responsible to provide network access and IT support for the installation of a Xerox server on the Client's network. The devices covered by this Service must be functionally connected to a network, and must be accessible by the Xerox server installed on that network in a single location. The devices on this network may be geographically distributed as long as the Xerox server can access them to perform device monitoring. The Xerox server must also have access to the internet through the customer's firewall in order to transmit device status to the Xerox Help Desk for resolution.</p>	<p>XDM-110</p>
<p>Asset Tagging</p> <p>Asset tags are created for each asset covered by this Service. The asset tag contains information such as asset serial number and Help Desk phone number.</p>	<p>The client will facilitate the application of asset tags to the assets covered in this Service.</p>	<p>XHD-115</p>
<p>Service Call Management – Xerox Branded Devices</p> <p>The Help Desk Associate will record the customer's call and information pertaining to the request. Some problem calls may be resolved directly over the phone. The Help Desk Associate will apply remote Service diagnostics to try to resolve the request directly if possible. If not, the request will be dispatched for onsite resolution.</p>	<p>The client is responsible for providing accurate machine information.</p>	<p>XHD-120</p>
<p>Supplies Request Management - Xerox Branded Devices</p> <p>The Help Desk receives, tracks, and fulfills customer requests for standard consumable supplies for Xerox Branded devices covered in this Service. All Xerox branded supplies can be ordered through the Help Desk.</p> <p>These supplies may include toner, developer, fuser oil, paper, staples, binding tape, and/or other items.</p>	<p>Supplies not included in the contract will be monitored by the Help Desk and billed back accordingly to the client.</p>	<p>XHD-130</p>

Requests for services above these contracted service levels will be subject to equipment/resource availability.
This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

¹The Service Market Code is for Xerox internal use purposes only.



Statement of Work Addendum

Agreement # 7077510

Services Defined As Of: June 9, 2009

Service Component Work Process Descriptions	Service Configuration Parameters	Service Market Code ¹
<p>Equipment Add / Change Management - Xerox Branded devices</p> <p>The Help Desk receives and facilitates requests for new Xerox Branded Equipment or upgrades to existing equipment.</p>		XHD-140
<p>Equipment Move Management - Xerox Branded devices</p> <p>The Help Desk receives, logs, and processes requests to relocate Xerox Branded Equipment covered in this agreement. The client will be responsible for any applicable move costs incurred for client requested and approved equipment moves.</p>	Client will be responsible to provide network and IT support if required.	XHD-150
<p>End User Support</p> <p>The Help Desk answers end user questions about the features, functions, and operation of Xerox Branded devices. The Help Desk will also answer or facilitate resolution of all Xerox related questions or concerns.</p>		XHD-160
<p>Meter Read Services</p> <p>Xerox facilitates gathering of meter reads and submits meter reads to the billing process.</p> <p>Xerox delivers the meter read report to client specified contacts and client specified vendors.</p>	Xerox gathers meter reads for up to 75 devices.	CE-207
<p>Reporting</p> <p>Reporting provides client print volume and usage trends. Reporting may be customized to meet new client requirements if mutually agreed upon by both parties.</p>	<p>Xerox will provide client reporting on a monthly basis. The Sales Account Manager will develop and document a reporting communication schedule with the key customer account contact.</p> <p>If a device is not visible on the network – reporting may be impacted. Client will assist in re-connecting the device to ensure accurate reporting.</p>	AAS-601

Requests for services above these contracted service levels will be subject to equipment/resource availability. This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

¹The Service Market Code is for Xerox internal use purposes only.



Statement of Work Addendum

Agreement # 7077510

Services Defined As Of: June 9, 2009

Service Component Work Process Descriptions	Service Configuration Parameters	Service Market Code ¹
Account Review Xerox holds operations reviews with the client to: <ol style="list-style-type: none">1. Review reporting results, services performance against objectives, outstanding issues, and other agreed-upon agenda items.2. Review opportunities for improvement.	Account reviews will be scheduled and conducted with the client on an agreed-upon schedule.	CE-604
Customer Satisfaction Survey The client will receive regular customer satisfaction surveys. Surveys are used to measure equipment, personnel, and managed services satisfaction.	Xerox Services administers customer satisfaction surveys via a 3 rd Party on an annual basis. Local end user surveys are administered on an agreed-upon schedule.	AAS-700

Requests for services above these contracted service levels will be subject to equipment/resource availability.
This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

¹The Service Market Code is for Xerox internal use purposes only.



Statement of Work Addendum

Agreement # 7077510

Services Defined As Of: June 9, 2009

Management Services

The following Management Services are included as part of the Services to be provided pursuant to this Agreement.

Account Configuration

The Xerox location at the client site is configured with a mix of people, process, equipment, software and networking to achieve the contracted service levels.

Human Resources

Xerox manages these aspects of human resources – employee sourcing and selection, training, back-up coverage, and employee development / performance improvement.

Materials Management

Xerox manages the ordering, receipt, handling, and storage of supplies and replacement parts for systems, as contracted.

Account Marketing

Xerox communicates the capabilities of the managed service to client departments and maintains client awareness so that services may be rendered where and when needed.

Equipment Service

Xerox manages and performs equipment service as contracted.

Technology Support

Xerox technology specialists are available, as contracted, to support ongoing technical needs and troubleshoot operational issues.

Technology Management

Xerox manages its document services hardware and software technology as contracted, proposing additional technology acquisitions, as required, to meet customer's needs.

Operations Management

Xerox manages the services operation, including people, processes, and technology, to assure operational service as contracted.

Requests for services above these contracted service levels will be subject to equipment/resource availability.

This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

¹The Service Market Code is for Xerox internal use purposes only.



Statement of Work Addendum

Agreement # 7074487-001

Services Defined As Of: June 8, 2009

Standards of Performance

Assumptions:

1. The Service Configuration Parameters ("Parameters") set forth in this Statement of Work ("SOW") have been agreed to by the parties and have been used by the parties to configure resources that are estimated to be sufficient to adequately support the scale and scope of the Service and to meet the Standards of Performance ("SOP") set forth herein for such Service. Xerox shall use reasonable efforts to meet service requests that exceed any maximums stated in the Parameters; provided, however, the failure to meet such service requests shall not constitute a breach by Xerox hereunder. If the scale and scope of any Service consistently exceeds the resources estimated by the parties to be adequate for such Service, the parties may meet to discuss appropriate actions to address the situation.
2. This SOW (and its SOP) applies to Office Services Remote Care only. Any other Service provided under this Agreement must be reflected in a separate SOW.

Performance Criteria	Measurement	Description	Calculation
Help Desk Service reporting timeliness	95% on time	<p>The report for prior month activity will be available within the first 7 business days of each month.</p> <p>This report includes Break-Fix service response times and a listing of all equipment service requests.</p>	The measurement for Help Desk reporting timeliness is calculated by dividing the number of monthly reports provided on time by the total number of monthly reports requested during the contract.

END OF STATEMENT OF WORK FOR OFFICE SERVICES REMOTE CARE

Requests for services above these contracted service levels will be subject to equipment/resource availability.
 This document is proprietary and, as such, is to be treated as Xerox Confidential Information, not to be shared with 3rd parties.

EXHIBIT B

Compensation to VENDOR shall be paid by CITY in accordance with the "Services & Solutions Order" and the "Pool Plan" as set forth and attached hereto in this Exhibit B. CITY shall pay VENDOR the Monthly Minimum Charge ("MMC"), along with any Additional Impression Charges ("AIC"), which covers the CITY's monthly costs for the Services, Equipment, Maintenance Services and other related services set forth therein and under this Agreement. The MMC and AIC are set forth in the Services & Solutions Order and Pool Plan.

VENDOR shall submit a monthly itemized statement to CITY for its services performed for the prior month, which shall include documentation setting forth, in detail, a description of the services rendered. The monthly statement shall also include the MMC and AIC, if any. CITY shall pay VENDOR all undisputed amounts of such billing within thirty (30) days of receipt of the same.

EXHIBIT B

Compensation to VENDOR shall be paid by CITY in accordance with the "Services & Solutions Order" and the "Pool Plan" as set forth and attached hereto in this Exhibit B. CITY shall pay VENDOR the Monthly Minimum Charge ("MMC"), along with any Additional Impression Charges ("AIC"), which covers the CITY's monthly costs for the Services, Equipment, Maintenance Services and other related services set forth therein and under this Agreement. The MMC and AIC are set forth in the Services & Solutions Order and Pool Plan.

VENDOR shall submit a monthly itemized statement to CITY for its services performed for the prior month, which shall include documentation setting forth, in detail, a description of the services rendered. The monthly statement shall also include the MMC and AIC, if any. CITY shall pay VENDOR all undisputed amounts of such billing within thirty (30) days of receipt of the same.

Services & Solutions Order

under Services Contract # 7077510-001

Bill To: CITY OF BEVERLY HILLS
455 N Rexford Dr
Beverly Hills, CA 90210-4817



Services Provided

Service

Tailored Offering

Other - XOS

Description

Order Summary

Agreement

Term
10/1/2009 - 9/30/2014 (60 Months)
Issued per Services and Solutions Agreement #
7077510

- Attachments to this Order**
- Statement of Work
 - Pool Plan Document
 - Managed Print Services

Pricing

Total for this Order
Net Monthly Minimum Charge \$25,389.35
Additional Impression Charges See Meter Pricing Plan
(additional to Monthly Minimum Charge)



"An Outstanding Customer Service Experience"

J.D. Power and Associates ranked Xerox as the most reliable and best customer service provider in the copiers and printers industry for the 10th year in a row. See www.jdpower.com or www.xerox.com

Authorized Signature

Your signature indicates your agreement to the items and pricing in this Order.

Signer: X

Customer Authorized Signature: _____

Phone: 310-287-1176

Date: _____

Thank You for your business!
This agreement is proudly presented by Xerox and
Peter W. Interlian
310-546-2904
For information on your Xerox Account,
Please see your Sales Representative

Services & Solutions Order

under Services Contract # 7071510-001



Item	Description	Meter Pricing Plan			Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier			
1. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
2. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
3. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
4. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
5. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
6. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
7. W5030PH (W5030 PRNT W/HCF)	1: Total	Per Pool Plan	46785	Per Pool Plan	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
8. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
9. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
10. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
11. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
12. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
13. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
14. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
15. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
16. W5030PH (W5030 PRNT W/HCF)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
17. WCBK40P (WC BOOKMARK 40 P)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
18. WCBK40P (WC BOOKMARK 40 P)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
19. WCBK40P (WC BOOKMARK 40 P)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
20. D260 (DOCUCOLOR 260)		1: Color	Per Pool Plan	46786	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable - Supplies Included	N	XRX
		2: BW	15,000	N/A	\$0.0142			
21. D260EFI (D260EFI BUSTLED DFE)		N/A	N/A	N/A	N/A	- Fixed Price	N	XRX

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions in Plan	Pool Identifier				
22. P4127CP (4127 COPIER/PRINTER)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
23. W5665PT (W5665 PRINTER/4T)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
24. W5665PT (W5665 PRINTER/4T)		1: Total	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
25. X700X (EXTERNAL X700 PRESS)		1: Meter 1	Per Pool Plan	46786	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	5,000	N/A	\$0.0142			
26. X70FFSPRO (X700 FFPS PRO VERS.)		N/A	N/A	N/A	N/A	- Fixed Price	N	XRX
27. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
28. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
29. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
30. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
31. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
32. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
33. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
34. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
35. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				

Services & Solutions Order

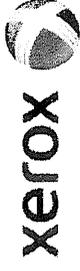
under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
36. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
37. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
38. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
39. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
40. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
41. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
42. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner																																																																		
		Meter	Monthly Impressions In Plan	Pool Identifier																																																																						
43. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					44. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	45. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	46. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	47. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690
44. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					45. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	46. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	47. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A						
45. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					46. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	47. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A																		
46. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					47. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A																														
47. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A	49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A																																										
48. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A					49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX	2: Meter 2	0	N/A																																																						
49. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	-Quarterly Meter Reconciliation -Fixed Price -Consumable Supplies Included	N	XRX																																																																		
		2: Meter 2	0	N/A																																																																						

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan				Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions in Plan	Pool Identifier	Additional Impression Charge			
50. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
51. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
52. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
53. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
54. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
55. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			
56. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A	\$0.0690			

Services & Solutions Order

under Services Contract # 7077510-001



Item	Description	Meter Pricing Plan			Additional Impression Charge	Plan Features	Modification to Prior Pricing	Owner
		Meter	Monthly Impressions In Plan	Pool Identifier				
57. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
58. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
59. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
60. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
61. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				
62. WC7435P (WC7435P PRINTER)		1: Meter 1	Per Pool Plan	46785	Per Pool Plan \$0.0690	- Quarterly Meter Reconciliation - Fixed Price - Consumable Supplies Included	N	XRX
		2: Meter 2	0	N/A				

Services & Solutions Order

under Services Contract # 7077510-001



Staffing & Management Services Added	
Description	Plan Features
Support for Services Provided	- Fixed Price

Additional Value-Added Products or Services				
Item	Description	Type	Plan Features	Modification to Prior Pricing
1.	XOS Tool Suite and Fleet Manager	Software	- Fixed Price	N

Services & Solutions Order

under Services Contract # 7077510-001



Services & Solutions Order Terms & Conditions

The following terms and conditions, under Services Contract 7077510-001 ("Contract"), are in addition to those in the Agreement identified herein. In the event of a conflict, this Contract shall control. The Services and Deliverables identified herein are subject solely to: (1) the identified Agreement, (2) this Contract, and (3) any addenda, exhibits or Statement(s) of Work attached hereto.

QUARTERLY METER RECONCILIATION: Each month Customer will be billed for the then-current Monthly Minimum Charge(s) under an Order. The number of "Monthly Impressions In Plan" will count towards a Quarterly Minimum Volume (calculated as three (3) times the Monthly Impressions In Plan) for Equipment installed under the SSO. At the end of each "Quarterly Period", (defined as the three (3) consecutive months beginning in January, April, July and October), Xerox will bill Customer for impressions produced in excess of the Quarterly Minimum Volume, at the Additional Impression Charge set forth in an Order. In the event that the total number of impressions produced in a quarter is less than the Quarterly Minimum Volume, Customer agrees to pay the Quarterly Minimum Volume. Xerox will bill Customer for partial quarters on a pro rata basis.

DIGIPATH(R) AND FREEFLOW (TM) APPLICATION SOFTWARE:

The parties agree to the following terms that shall be additive to those found elsewhere in the Agreement, pertaining to the Application software identified as Digipath (R) software, FreeFlow(TM) Makeready software, FreeFlow (TM) Process Manager software, FreeFlow (TM) Web Services software, and/or FreeFlow (TM) Document Library software, as follows:

- You may not publish the results of any benchmark tests run on the database software licensed from Oracle Corporation and incorporated in such Application Software.
- Upon not less than forty-five (45) days prior written notice, Xerox and/or its licensors may, at their expense, audit your use of such Application Software and relevant records under this Agreement not more than once annually, itself or through an independent auditor. Any such audit shall be conducted during regular business hours at your offices and/or other applicable locations and shall not unreasonably interfere with your business activities. You agree to cooperate with the audit and provide reasonable assistance and access to information including, but not limited to, relevant records, agreements, workstations, servers, and technical personnel. If an audit reveals that you have underpaid fees in excess of five percent (5%), then you shall pay Xerox's reasonable costs of conducting the audit.
- In the event such Application Software is subject to a lending or leasing arrangement entered into with a party other than Xerox, then, for the shorter of ten (10) years from the date of the loan or the specified term of the loan, the party that provides the financing terms to you shall not be prevented from enforcing a valid security interest by the nontransferable nature of the license granted to you in accordance with the Agreement, provided that the rights acquired by such party shall otherwise be restricted in accordance with the terms set forth in this Agreement governing such Application Software.

The parties agree to the following terms that shall be additive to those found elsewhere in the Agreement, pertaining to the Application Software identified as Digipath (R) software, FreeFlow (TM) Makeready software, FreeFlow (TM) Process Manager software, FreeFlow Web Services software, FreeFlow (TM) Prepress Suite and Legacy software, FreeFlow (TM) Print Shop PDF Conversion Tool software, FreeFlow (TM) Document Library software, FreeFlow (TM) and Digipath (R) Stand Alone Quick Print software, DigiPath (R) to FreeFlow (TM) Software Upgrade software, DigiPath (R) PDF Conversion Tool software, FreeFlow (TM) Print Manager software, and/or FreeFlow (TM) Output Manager software, as follows:

- You are responsible for ensuring that you have the right and are authorized by any necessary third parties to embed any font software supplied by Xerox or any third party in electronic documents created with the Application Software. If the font software you are embedding is identified as "licensed for editable embedding" on Adobe's website at <http://www.adobe.com/type/browser/legal/embeddingeula.html>, you may embed copies of that font software for the purpose of editing your electronic documents created with Application Software. No other embedding rights are implied or permitted under this Agreement.

~~**EARLY TERMINATION:** As per the Early Termination provision in the SSA, for every Order under this Services Contract number 7077510-001, you shall pay early termination charges as noted herein. If, prior to the end of the term of an Order hereunder, you terminate Equipment, require Equipment be removed or replaced or Xerox terminates an Order due to your default, you shall pay all amounts due to Xerox as of that date, together with the Xerox-calculated monthly equipment component charges, which is available upon request and includes a disengagement charge, for all affected Equipment multiplied by the number of months remaining in said Order. You shall either make the subject Equipment (in the same condition as when delivered, reasonable wear and tear excepted) and its Software available for removal by Xerox when requested to do so, or purchase the subject Equipment "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the Fair Market Value ("FMV") of the Equipment at the conclusion of its term.~~

Xerox
City



Bill To: CITY OF BEVERLY
HILLS
455 N Rexford Dr
Beverly Hills, CA 90210-4817

Pool Plan

under Services Contract # 7077510-001

Pool Information		Meter Pricing Plan			Other Pools Modified in this Order			
Pool Identifier	Pool Name	Meter Reconciliation Period	Pool Plan Effective Date	Pooled Units (Installed or Pending Delivery)	Monthly Impressions Included in Plan	Pool Additional Impression Charge	Pool Identifier	Pool Name
46785	Black & White Impressions CBH	Quarterly	8/26/2009	58	534,648	\$0.0080	46786	Color Impressions CBH

The Equipment and pricing for the pool plan 'activity' identified above, are subject solely to the terms of the identified Contract #, and this Pool Plan.

Authorized Signature

Your signature indicates your agreement to the items and pricing in this Pool Plan.

Signer: x

Phone: 310-287-1176

Customer Authorized Signature: _____

Date: _____

Thank You for your business!
This agreement is proudly presented by Xerox and
Peter W Interian
310-546-2904
For information on your Xerox Account,
Please see your Sales Representative

Pool Plan

under Services Contract # 7077510-001

Pool Identifier # 46785



Xerox Equipment In Pool			
Item	Description	Serial # (if installed)	Equipment Added or Changed in this Order
1.	WC7435P	Pending Delivery	Added
2.	WC7435P	Pending Delivery	Added
3.	WC7435P	Pending Delivery	Added
4.	WC7435P	Pending Delivery	Added
5.	WC7435P	Pending Delivery	Added
6.	WC7435P	Pending Delivery	Added
7.	WC7435P	Pending Delivery	Added
8.	WC7435P	Pending Delivery	Added
9.	WC7435P	Pending Delivery	Added
10.	WC7435P	Pending Delivery	Added
11.	WC7435P	Pending Delivery	Added
12.	WC7435P	Pending Delivery	Added
13.	WC7435P	Pending Delivery	Added
14.	WC7435P	Pending Delivery	Added
15.	WC7435P	Pending Delivery	Added
16.	WC7435P	Pending Delivery	Added

Xerox Equipment In Pool			
Item	Description	Serial # (if installed)	Equipment Added or Changed in this Order
17.	WC7435P	Pending Delivery	Added
18.	WC7435P	Pending Delivery	Added
19.	WC7435P	Pending Delivery	Added
20.	WC7435P	Pending Delivery	Added
21.	WC7435P	Pending Delivery	Added
22.	WC7435P	Pending Delivery	Added
23.	WC7435P	Pending Delivery	Added
24.	WC7435P	Pending Delivery	Added
25.	WC7435P	Pending Delivery	Added
26.	WC7435P	Pending Delivery	Added
27.	WC7435P	Pending Delivery	Added
28.	WC7435P	Pending Delivery	Added
29.	WC7435P	Pending Delivery	Added
30.	WC7435P	Pending Delivery	Added
31.	WC7435P	Pending Delivery	Added
32.	WC7435P	Pending Delivery	Added

Pool Plan

under Services Contract # 7077510-001

Pool Identifier # 46785



Xerox Equipment In Pool			
Item	Description	Serial # (if installed)	Equipment Added or Changed in this Order
33.	WC743SP	Pending Delivery	Added
34.	WC743SP	Pending Delivery	Added
35.	WC743SP	Pending Delivery	Added
36.	WC743SP	Pending Delivery	Added
37.	W5030PH	Pending Delivery	Added
38.	W5030PH	Pending Delivery	Added
39.	W5030PH	Pending Delivery	Added
40.	W5030PH	Pending Delivery	Added
41.	W5030PH	Pending Delivery	Added
42.	W5030PH	Pending Delivery	Added
43.	W5030PH	Pending Delivery	Added
44.	W5030PH	Pending Delivery	Added
45.	W5030PH	Pending Delivery	Added
46.	W5030PH	Pending Delivery	Added
47.	W5030PH	Pending Delivery	Added
48.	W5030PH	Pending Delivery	Added

Xerox Equipment In Pool			
Item	Description	Serial # (if installed)	Equipment Added or Changed in this Order
49.	W5030PH	Pending Delivery	Added
50.	W5030PH	Pending Delivery	Added
51.	W5030PH	Pending Delivery	Added
52.	W5030PH	Pending Delivery	Added
53.	W5665PT	Pending Delivery	Added
54.	W5665PT	Pending Delivery	Added
55.	P4127CP	Pending Delivery	Added
56.	WCBK40P	Pending Delivery	Added
57.	WCBK40P	Pending Delivery	Added
58.	WCBK40P	Pending Delivery	Added

Pool Plan

under Services Contract # 7077510-001

Bill To: CITY OF BEVERLY
HILLS
455 N Rexford Dr
Beverly Hills, CA 90210-4817



Pool Information				Meter Pricing Plan		
Pool Identifier	Pool Name	Meter Reconciliation Period	Pool Plan Effective Date	Pooled Units (Installed or Pending Delivery)	Monthly Impressions Included in Plan	Pool Additional Impression Charge
46786	Color Impressions CBH	Quarterly	8/26/2009	2	86,740	\$0.0539

The Equipment and pricing for the pool plan 'activity' identified above, are subject solely to the terms of the identified Contract #, and this Pool Plan.

Pool Plan

under Services Contract # 7077510-001

Pool Identifier # 46786



Xerox Equipment in Pool			
Item	Description	Serial # (if installed)	Equipment Added or Changed in this Order
1.	D260	Pending Delivery	Added
2.	X700X	Pending Delivery	Added

Pool Plan

under Services Contract # 7077510-001

Pool Plan Agreement Terms & Conditions

1. **THE POOL PLAN** modifies the Services and Solutions Agreement ("SSA"), including the applicable Services and Solutions Order ("SSO"), entered into between Customer and Xerox and identified by its ten (10) digit Services Contract number on the Pool Plan. This Pool Plan and the SSA and SSO constitute the entire agreement as to the pool(s) identified herein, and supersedes all prior and contemporaneous oral and written agreements regarding said pool(s). Except as set forth in this Pool Plan, the SSA and SSO shall remain as stated. In the event of a conflict between the terms of the SSA and SSO and this Pool Plan, this Pool Plan shall control.
2. **DEFINITIONS:** Any term not defined below for this Pool Plan shall be as set forth in the SSA. As used herein, the following terms will have these meanings:
 - a. "Additional Impression Charge" or "AIC" means the charge for each impression above the Monthly Impressions Included in Pool Plan.
 - b. "Meter Reconciliation Period" ("MRP") means the frequency with which the actual impressions made on Pooled Equipment are compared to the Monthly Impressions Included in Plan for billing purposes. Each pool may only have one MRP.
 - c. "Pool Plan" means a specific pricing arrangement for impressions for two (2) or more units of Equipment. Multiple Pool Identifiers may exist under a Services Contract.
 - d. "Xerox Equipment In Pool" means the Equipment set forth in the Xerox Equipment in Pool table. A new Xerox Equipment in Pool table will be issued with each modification to a Pool Plan.
 - e. "Monthly Impressions Included in Plan" indicates the monthly level of impressions that must be exceeded on the Pooled Equipment before the AIC becomes billable.
 - f. "SSO AIC" means the charge for each impression above the Monthly Impressions included for each unit which is outside the Pool Plan.
 - g. "Quarterly" means calendar quarters of three consecutive months beginning in January, April, July and October.

3. **QUARTERLY RECONCILIATION:** If the MRP is Quarterly, Xerox will bill the AIC at the end of each quarter for impressions in excess of three times the Monthly Impressions Included in Plan. Partial quarters will bill on a pro rata basis, based on a 30-day billing month.

4. **POOL PLAN CREATION AND MODIFICATIONS:** The Pool Plan Effective date shall be (i) the date noted on the face of the Pool Plan, or (ii) the installation date of newly placed unit(s) of Pooled Equipment at the inception of the Pool, whichever is later.

a. **NEW POOL OR ADDITIONS TO POOL:** If a Pool is created or if Equipment is added to a Pool (i) on or before the middle of a MRP, the Equipment will be invoiced using the Pool's AIC in effect at the end of that MRP, or (ii) after the middle of a MRP, the Equipment will be invoiced using its SSO AIC, exclusive of any Pool Plan, in effect at the end of that MRP.

b. **REMOVALS FROM POOL:** If Equipment is removed from a Pool (i) on or before the middle of a MRP, the Equipment will be invoiced using the Pool AIC in effect at the end of the previous MRP, or (ii) after the middle of a MRP, the Equipment will be invoiced based on Pool AIC in effect at the end of that Period. When a unit of Pooled Equipment is removed from a Pool and continues under its SSO, it shall revert to its SSO AIC exclusive of any Pool Plan, beginning on the first day of the MRP following its removal from the Pool

and the Agreement entered into by The City of
Beverly Hills and Xerox Corporation as of
October 27, 2009 ("Agreement")



Xerox
City

TERMINATION OF A POOL: Either party may terminate a Pool upon thirty (30) days prior written notice. A modification resulting in less than two (2) units in the Pool shall be a termination of the Pool. If a Pool is terminated (a) on or before the middle of a Period and the Equipment is removed, the Equipment will be invoiced using its Pool AIC in effect at the end of the previous Period and if the Equipment continues under its SSO it will be invoiced using its SSO AIC in effect at the end of the previous period or (b) on or after the middle of a Period, the Equipment will be invoiced based on Pool AIC in effect at the time of termination. Equipment that continues under its SSO shall revert to its SSO AIC beginning on the first day of the Period following termination of a Pool.

d. **TRANSFERRING POOLED EQUIPMENT FROM ONE POOL TO ANOTHER POOL:** If Pooled Equipment is transferred to a different Pool (i) on or before the middle of a Period, the Equipment will be invoiced for the entire Period using the receiving Pool AIC in effect at the end of that Period, or (ii) on or after the middle of a Period, the Equipment will be invoiced for the entire Period using the original Pool AIC in effect at the end of the previous Period. Beginning the first day of the Period following the transfer, the Pooled Equipment will be invoiced using its new Pool AIC

5. **EQUIPMENT TERMINATION:** If a Pooled Equipment is terminated, Customer will be billed for the unit as set forth in this Pool Plan and for any other applicable charges as set forth in the SSA or Services Contract.

Xerox
City

EXHIBIT C
CERTIFICATE OF INSURANCE

CERTIFICATE OF INSURANCE

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

NAMED INSURED (CONTRACTOR)

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS

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"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

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: Contractor 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 contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor 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

AGENCY: _____

TITLE: _____
 ADDRESS: _____

SERVICES AND SOLUTIONS TERMS AND CONDITIONS ATTACHMENT

THIS SERVICES AND SOLUTIONS ATTACHMENT ("SSA") shall apply to Services provided by Xerox pursuant to the Agreement between the City of Beverly Hills and Xerox Corporation, Agreement No. _____ entered into on October 27, 2009, including all attachments and exhibits thereto (the "Agreement"). However, with respect to the Services, the terms and conditions of this Attachment shall take precedence over any inconsistent terms and conditions in the Agreement.

1. SCOPE. The acquisition of (i) "Services" (collectively managed services and consultative services and the Services set forth in the Agreement), (ii) Xerox-brand equipment ("Equipment"), third party hardware ("Third Party Hardware"), Xerox-brand software ("Software") and/or third party software ("Third Party Software") (collectively "Products") and/or (iii) Maintenance Services by Customer (or "you") is subject to the prices and terms and conditions set forth in this Services and Solutions Agreement ("SSA"). Services, Products, and Maintenance Services are, collectively, "Offerings".

2. SERVICES GUARANTEE. Xerox will provide the Services and Equipment set forth in each Services and Solutions Order ("Order") and, if the Services and Equipment do not comply with the service levels set forth in a Statement of Work Addendum and the Agreement ("SOW") during its term, Customer agrees to notify Xerox in writing detailing its concerns regarding the same. No later than ten (10) days following Xerox's receipt of said notice, Xerox and Customer agree to meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan") to remedy such alleged non-compliance. As Customer's exclusive remedy for Xerox's non-compliance, Xerox, within sixty (60) days of finalizing the Plan or a time period as otherwise agreed to in writing by the parties, will either modify such Services so they are compliant with such SOW or re-do the work at no additional charge. For California locations, you will legally dispose of all hazardous wastes generated from use of Third Party Hardware or supplies.

3. TERM.

- a. In the event the Agreement expires or is terminated, each Order hereunder shall remain in full force and effect until the end of its term (including any renewals or extensions thereto) or it is terminated, and shall at all times be governed by the terms and conditions of the Agreement including this Attachment as if it were still in effect.
- b. The term of each Order will be stated therein and shall continue for the term stated. If an Order is terminated, the term of any remaining Orders shall continue unaltered.
- c. Unless either party provides notice at least thirty (30) days before the end of the term of any Order hereunder of its intention not to renew same, it will continue on a month-to-month basis at the same price and on the same terms and conditions set forth in said Order. During said continuation, either party may terminate such Order on at least thirty (30) days notice.

4. PERSONNEL. Xerox agrees to comply with your internal policies you provide to Xerox in writing for security and safety that are reasonable and customary under the circumstances, and that do not conflict with this SSA. You will provide Xerox with reasonable prior notice of such policies and any changes thereto. Neither party shall, directly or indirectly, actively solicit the employment of the other party's staff providing Services hereunder, which includes Xerox's agents, and their supervisors during the term of this SSA and for a period of one (1) year thereafter. Employment arising from inquiries received via advertisements in newspapers, job fairs, unsolicited resumes or applications for employment shall not be considered active solicitation. The sole remedy of a party for breach of this restriction is to receive payment, as liquidated damages and not as a penalty, from the defaulting party equal to the individual's then current annual salary (or the fees paid to an agent in the past twelve (12) months), within thirty (30) days of the start date of the individual. Xerox is an independent contractor hereunder.

5. PRICING. Pricing shall be as set forth in an Order. The monthly charge ("Monthly Minimum Charge" or "MMC"), along with any Additional Impression Charges, covers Customer's monthly cost for the Services, Products and Maintenance Services hereunder and such MMC will change with each Order.

6. PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY. Developments and Pre-Existing Work (collectively "Xerox Work"), Xerox Tools as defined herein, Orders and SOWs shall be considered Xerox's Proprietary Information. "Developments" are items created by Xerox employees, agents and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship, and "Pre-existing Work" are items used or incorporated into a Deliverable (a "Deliverable" includes, but is not limited to, Products, Output of Services, Assessments, Documentation) or developed or acquired by Xerox independent of performing the Services. "Output of Services" constitute electronic images created by scanning tangible documents containing Customer Content, or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable SOW, but shall not include software. "Assessments" are assessment and recommendation reports created as a result of assessment services. "Documentation" means all manuals, brochures, specifications, information and software descriptions in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for use as part of the Services. Xerox shall at all times retain all rights to Xerox Work and Xerox Tools (with "Xerox Tools" being proprietary tools used by Xerox to provide the Services, and any modifications, enhancements, improvements and derivative works thereof), and except as expressly set forth herein, no rights to Xerox Work and Xerox Tools are granted to you. You shall have no rights to use, access or operate the Xerox Tools, which will be installed and operated only by Xerox. You will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. All Xerox Tools may be removed at Xerox's sole discretion. You acknowledge that Xerox does not license the Xerox Tools separate and apart from the provision of Services associated with their use. You agree not to decompile or reverse engineer any Xerox Work or Xerox Tools. Xerox grants you a non-exclusive, perpetual fully paid-up, worldwide right to use, display and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for your customary business purposes, and not for resale, license and/or distribution outside of your organization. You may not sublicense any rights granted to you hereunder, but may authorize a third party ("Designee") to use such rights, solely for your benefit and your internal business purposes. Any Designee operating or maintaining the delivered solution shall be subject to written confidentiality obligations with respect to Confidential Information that shall be no less restrictive than those set forth in this SSA. Output of Services is your sole and exclusive property and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services hereunder. Xerox hereby assigns, grants, conveys, and transfers to you all rights in and to the Output of Services hereunder. You may duplicate and distribute Assessments only for your internal business purposes. Recommendations, assessments and processes described in Assessments may only be implemented for you by Xerox and only for your internal business purposes. Except as set forth expressly in this Section, no other rights or licenses are granted to you. Any rights or licenses that are granted to you shall immediately terminate if you (i) default hereunder with respect to any of your obligations related to such rights or licenses, (ii) fail to pay amounts due, or (iii) otherwise default under this SSA.

7. EARLY TERMINATION. Xerox is providing Equipment for the entire term of the Order under which it is installed. If, prior to the expiration of an Order, you terminate Equipment, require Equipment to be removed or replaced, or Xerox terminates said Order due to your default, you agree to pay early termination charges, as liquidated damages for loss of bargain and not as a penalty, of: (A) all amounts then due, plus interest on all amounts due from the due date until paid at the rate of one and one half percent (1.5%) per month (not to exceed the maximum amount permitted by law); (B) the remaining MMCs in the term of the Equipment, less any unearned finance, maintenance, and supply charges; (C) a reasonable disengagement fee calculated by Xerox that will not exceed fifteen percent (15%) of the amount in (B) above (said amount is available from Xerox upon request); and, (D) all applicable taxes. Notwithstanding the foregoing, Customer shall not be responsible for the payment of early termination charges if termination is due to non-appropriation of funds pursuant to Section 14 of the Agreement, or Xerox's default, pursuant to Section 16 of the Agreement.

8. EARLY TERMINATION – SERVICES AND PERSONNEL. Except as otherwise set forth in a SOW, upon ninety (90) days prior written notice, you may terminate or reduce any services or personnel without incurring early termination charge. Notwithstanding the foregoing, if any Services or personnel are terminated (i) by Xerox due to your default or (ii) by you and you acquire Services from another supplier within six (6) months of the termination of such Services or personnel, you shall pay all amounts due as of the termination date, together with early termination charge, for loss of bargain and not as a penalty, equal to the then current MMC for said terminated or reduced Services or personnel multiplied by the number of months remaining in their term, not to exceed six (6) months. Notwithstanding the foregoing, Customer shall not be responsible for the payment of early

termination charges if termination is due to non-appropriation of funds pursuant to Section 14 of the Agreement, or Xerox's default, pursuant to Section 16 of the Agreement.

9. SERVICES AND THIRD PARTY PRODUCT WARRANTY / WARRANTY LIMITATIONS, AND WARRANTY DISCLAIMER/ WAIVER.

- a. **SERVICES WARRANTY.** Xerox represents and warrants to Customer that the Services will be performed in a skillful and workmanlike manner; provided however, in no event will Xerox be responsible for any failure to perform Services if the failure is caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to provide Xerox access to Customer's personnel and systems or to transfer to Xerox sufficient rights to use, access and/or modify Customer Assets constituting hardware and software, including software owned or licensed by Customer, and/or Customer Content as necessary for the provision of Services.
- b. **WARRANTY DISCLAIMER AND WAIVER FOR SERVICES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THEREFOR AND XEROX DISCLAIMS, AND CUSTOMER WAIVES, ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.
- c. **THIRD PARTY PRODUCT WARRANTY.** FOR THIRD PARTY PRODUCTS SELECTED SOLELY BY XEROX FOR AN ORDER, XEROX WARRANTS THEY WILL OPERATE SUBSTANTIALLY IN CONFORMANCE WITH APPLICABLE SERVICE LEVELS IN THE SOW. IF, WITHIN A REASONABLE TIME AFTER PROVISION OF SUCH THIRD PARTY PRODUCTS, SUCH SERVICE LEVELS CANNOT BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH THOSE IN THE SOW AND SUCH NON-CONFORMANCE IS A RESULT OF XEROX'S USE OF SUCH THIRD PARTY PRODUCTS, CUSTOMER'S EXCLUSIVE REMEDY FOR THE FOREGOING WARRANTY IS TO RECEIVE A REFUND OF ANY FEES PAID FOR THE NON-CONFORMING THIRD PARTY PRODUCTS UPON THE RETURN THEREOF TO XEROX. XEROX DISCLAIMS, AND CUSTOMER WAIVES, ALL OTHER WARRANTIES WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AS WELL AS FOR MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AS WELL AS ANY OTHER WARRANTY PERTAINING OR RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY THEREOF WITH CUSTOMER'S SYSTEMS. XEROX WILL PASS THROUGH TO CUSTOMER ANY WARRANTIES PROVIDED TO IT BY THE MANUFACTURER OR LICENSOR OF THIRD PARTY PRODUCTS TO THE EXTENT PERMISSIBLE. XEROX DISCLAIMS, AND CUSTOMER WAIVES, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, FOR THIRD PARTY PRODUCTS NOT SELECTED SOLELY BY XEROX.
- d. THE WARRANTIES AND GUARANTEES SET FORTH IN THIS SECTION OF THE SSA ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES AND DELIVERABLES FOR THEIR INTENDED PURPOSE IN THE SYSTEMS ENVIRONMENT FOR WHICH THEY WERE ORIGINALLY DESIGNED AND SHALL NOT APPLY TO SERVICES OR DELIVERABLES WHICH HAVE BEEN SUBJECT TO MISUSE, ACCIDENT, ALTERATION OR MODIFICATION BY CUSTOMER OR ANY THIRD PARTY (EXCEPT AS SPECIFICALLY AUTHORIZED IN WRITING BY XEROX.)

10. SOFTWARE SUPPORT.

The terms that apply to copyrighted Software and the accompanying documentation, including, but not limited to, operating system Software, provided with or within the Equipment acquired hereunder ("Base Software") as well as Software specifically set out as "Application Software" are set forth in the Agreement.

EXECUTED the _____ day of _____, 2009

CITY OF BEVERLY HILLS
A Municipal Corporation

ATTEST:

NANCY KRASNE
Mayor of the City of Beverly Hills, California

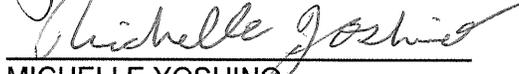
BYRON POPE
City Clerk

(SEAL)

VENDOR:
XEROX CORPORATION

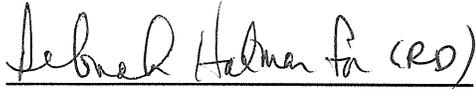


JOHN CHESLICK
Xerox Public Sector Controller



MICHELLE YOSHINO
Xerox Account General Manager

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



DAVID SCHIRMER
Chief Information Officer Information Technology



KARL KIRKMAN
Risk Manager