



AGENDA REPORT

Meeting Date: April 22, 2014

Item Number: E-14

To: Honorable Mayor & City Council

From: Trish Rhay, Utilities Manager
David Schirmer, Chief Information Officer

Subject: APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TRITON WATER TECHNOLOGIES OF CALIFORNIA, INC. FOR PROFESSIONAL SERVICES, SOFTWARE LICENSING AND SUPPORT RELATED TO THE CITY'S WATER METERS AND USAGE REPORTS; AND

AUTHORIZATION OF PURCHASE ORDER IN THE AMOUNT OF \$113,500 FOR PROFESSIONAL CONSULTING SERVICES

Attachments: 1. Triton Water Technologies Contract Agreement

RECOMMENDATION

Staff recommends the City Council award the contract to Triton Water Technologies and approve a purchase order in the amount of \$113,500, which includes \$103,030 for the development and testing of the website and training of City staff on its use as well as \$10,470 in contingency funds.

INTRODUCTION

Public Works Services has been working with Information Technology to replace our aging Customer web-based software, Water Tracker. The current water tracking site for the City was developed in-house in November of 2010, as an interim solution to give the City time to evaluate, select and implement a full-featured, customizable solution. It has reached the end of its useful life and requires replacement.

DISCUSSION

This type of software is highly specialized and specific to any given City's needs and system. The City of Beverly Hills interviewed/tested five different vendors and their products in the selection process. It was found that Triton Water Technologies offered the most fully developed, out of the box solution, suitable for the City of Beverly Hills' specific needs.

The Triton web based service is highly customizable and allows Beverly Hills customers to view, monitor and set performance levels for their specific water usage/consumption.

Meeting Date: April 22, 2014

This system works with our automated meter system to allow for near real-time data and customer notifications of water usage and potential issues within their system. Additionally, this software will continue to support our customer notification program for leaks and ongoing usage.

The Public Works Commission has reviewed and moved to recommend this new software system.

FISCAL IMPACT

This is a \$113,550 capital project to be funded through the Water Enterprise Fund.



Don Rhoads
Approved By



George Chavez
Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TRITON
WATER TECHNOLOGIES OF CALIFORNIA, INC. FOR PROFESSIONAL
SERVICES, SOFTWARE LICENSING, AND SUPPORT RELATED TO THE
CITY'S WATER METERS AND USAGE REPORTS

NAME OF CONSULTANT: Triton Water Technologies of California, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Susie McMullan, President

CONSULTANT'S ADDRESS: 50 California Street, Suite 1500
San Francisco, CA 94111

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

COMMENCEMENT DATE: Upon Written Notice

TERMINATION DATE: December 31, 2014, unless sooner terminated
pursuant to Section 14

CONSIDERATION: An amount not to exceed \$113,500, as detailed in
Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TRITON
WATER TECHNOLOGIES OF CALIFORNIA, INC. FOR PROFESSIONAL
SERVICES, SOFTWARE LICENSING, AND SUPPORT RELATED TO
THE CITY'S WATER METERS AND USAGE REPORTS

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Triton Water Technologies of California, Inc. (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A-1 (the "Scope of Work"), and Exhibit A-2 (the "License Agreement"), 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.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall perform the Services as described in Exhibit A-1 and in accordance with the License Agreement (Exhibit A-2) in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

Section 2. Time of Performance. CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONSULTANT shall complete the performance of services by the Termination Date set forth above.

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

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

Section 5. Independent Contractor. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent CONSULTANT. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as

herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

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

Section 7. Responsible Principal(s)

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

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

Section 8. CITY Responsibilities

(a) CITY will provide or facilitate access to all data required by CONSULTANT including account holders' account number, address, meter size, meter type, transmitter ID (MTU), meter number and other meter or account information necessary to make the scope of work possible.

(b) If CITY elects to provide automated calls, CITY shall sign an agreement with an automated call center to notify end users concerning continuous flows. CONSULTANT shall set up this service and shall vet companies for CITY; however, the agreement shall be between the CITY and the automated call center. CITY shall provide the automated call service company an email or letter in writing asking them to coordinate with CONSULTANT to set up the integrated service.

(c) If CITY elects to have text message notification, CITY shall sign an agreement with a text-message server to notify end users concerning continuous flows. CONSULTANT shall set up this service and shall vet companies for CITY; however, the agreement shall be between the CITY and the text-message service. CITY shall provide the text-message service company an email or letter in writing asking them to coordinate with CONSULTANT to set up the integrated service.

(d) CITY shall develop the various messages the automated call center and text messaging center that will use to notify customers of continuous flows or continuous flow.

Section 9. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 10. Permits and Licenses. CONSULTANT shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 11. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 12. Insurance.

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

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of 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.

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

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

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

(d) CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONSULTANT's expense, the premium thereon.

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

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

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

Section 13. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of

CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 14. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason 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 based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 15. CITY's Responsibility. CITY shall provide CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT's Scope of Work.

Section 16. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 17. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 18. 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 19. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement by this reference. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 20. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 21. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 22. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 20 ____, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

LILI BOSSE
Mayor of the City of
Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

CONSULTANT: TRITON WATER
TECHNOLOGIES OF CALIFORNIA, INC.

SUSIE MCMULLAN

President

MELANIE LACOMBE

Chief Financial Officer

APPROVED AS TO FORM:

LAURENCE S. WIENER

City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN

City Manager

DAVID SCHIRMER

Chief Information Officer



GEORGE CHAVEZ
Director of Public Works Services



KARL KIRKMAN
Risk Manager

EXHIBIT A-1 SCOPE OF WORK

1.0 OVERVIEW

CONSULTANT shall provide a Service (SaaS), which shall include both a customer-facing website, called the "User Site", and a website called the "Admin Site" for CITY staff. The web service shall include a database of all meter readings collected by CITY.

The Admin Site shall enable CITY to retrieve all of the data over the internet and provide reporting tools and individual water usage graphs and tables.

The User Site shall enable water users to access their water usage information with an intuitive and interactive user interface. If CITY elects to have a call service, the SaaS may also provide monthly, weekly and daily feeds to third party call center.

CONSULTANT shall provide CITY with quotes from a minimum of three automated call centers. CONSULTANT and CITY staff shall review the capabilities and terms from these call centers and select one. CITY shall provide the calling message and enter into a contract with the call center directly. However, CONSULTANT shall establish an interface with the call center for this service. This service shall be set up and operable within one month of receipt of the notice to proceed.

2.0 USER SITE

The User Site shall allow individual account holders to view their water usage and manage user settings in a user profile. Settings shall include continuous flow notifications, allow users to define limits for monthly, weekly and/or daily limit notifications and provide consumption history via on-screen or download. The User Site shall display the CITY official logo and be user friendly, intuitive and accessible by the average water customer.

2.1 Login and Authentication

The account holder shall be able to log in using CITY's authentication process. From there, CITY will provide its SaaS a token identifying the user in an appropriate way to determine what data set applies. The login page may ask for/store an email address and phone number that will be used for retrieving forgotten passwords and populating the user's settings.

2.2 Authentication

CONSULTANT shall support industry standard authentication and permissions, such as OAuth, from the CITY's site to CONSULTANT's site. The City shall be required to host the unique user identifier to water account mapping.

2.3 Default Landing Page

The landing page shall be a screen that displays a graph of the account holder's daily water usage. Included in the landing page shall be an easy to use navigation tool. The default navigation tool shall be available for the customer on all pages on the User Site. This page shall give multiple graphical view options such as an Annual Consumption, Monthly Consumption, Weekly Consumption, Daily Consumption and Every-Six Hour Consumption. The x-axis will show time and the y-axis will show volume in cubic feet, gallons, billing units and dollars. All graphs will include the ability for drill-down navigation. For example, the account holder should be able to click on a particular month's consumption to display the daily consumption values for that month. CITY shall have the ability to include links to water

conservation sites on the landing page. These links are provided to CONSULTANT support by CITY and posted/updated within 24 hours.

If a continuous flow has been identified, the account holder's default landing page will display an alert and any notifications will be sent out. An estimated calculation for the rate of flow and cost caused by the continuous flow must be included for the customer to view in gallons/cost per month, gallons/cost per week and gallons/cost per day, using stacked bar charts or a representation similar on a chart. This will help the customer assess the urgency of the situation and assist in determining if a plumber should be called. Continuous flow detection and notification is described in later sections.

An additional link to a page that explains continuous flow severity shall be included next to the alert. The content of this page shall be provided by CITY to CONSULTANT support and posted/updated within 24 hours.

2.4 Continuous Flow Calculation & Severity

For a user, continuous flow shall be defined using the following calculations:

First: Identify accounts with a "2" continuous flow alarm sent by Star's daily meter data file.

Second: Define the continuous flow time period. Continuous flow time period should be the shorter of the two: last seven days or the number of days since alarm '2' start day.

Third: Identify the largest common volumetric flow rate (continuous flow amount) among the readings for the duration of the continuous flow time period.

Fourth: Extrapolate continuous flow usage over daily, weekly, and monthly timeframes. For example, to find daily, multiply the continuous flow amount (6-hour usage) by 4 to get volume of continuous flow for the day.

Fifth: Identify account type (single family, multi-family, commercial, etc.)

Sixth: Determine severity of continuous flow based on CITY defined parameters for low, medium, high and extreme continuous flows based on account type.

2.5 Annual Consumption

This screen shall present a yearly history of water usage for the past 10 years. This graph shall have water usage in billing units, cubic feet, gallons or dollars options on the vertical y-axis and 10 years on the x-axis. This data shall also be available in a tabular format with the option to download a Microsoft Excel file or generic comma separated value spreadsheet to the account holder's desktop.

2.6 Monthly Consumption Screen

A monthly consumption screen shall present the previous 12 months of data and allow customers to search any past monthly period (up to 10 years). The monthly charts and tables shall have water usage in billing units, cubic feet, gallons or dollar options for the y-axis and the previous 12 months on the x-axis. If the account holder has a predefined usage limit, which is defined by the user in the settings page, a bar at that level will appear on the monthly chart. For months in the current billing cycle, either a tabulated monthly total (completed months) or an estimated total (current months) will be shown.

2.7 Weekly Consumption Screen

The account holder shall have the option to view weekly charts. After selecting the weekly chart option, the account holder shall be presented with the last 4 weeks of consumption in a chart and tabular format. If the account holder has a predefined usage limit, a bar at that level will appear on the weekly chart. The weekly data shown will be a weekly total of all consumption recorded by the AMI system.

2.8 Daily Consumption Screen

The account holder shall have the option to view daily charts. After selecting the daily chart option, the account holder shall be presented with the previous 30 days. If the account holder has a predefined usage limit, a bar at that level shall appear on the daily chart. The daily data shown shall be a total of all consumption recorded by the AMI during the 24-hour period.

2.9 Every Six-Hourly Consumption Screen

The account holder shall have the option to view every-six hours of data in charts. After selecting the hourly chart, the account holder shall be presented with the hours of the day of consumption in six-hour blocks.

2.10 Customer Settings

Customer Settings shall be accessible from the navigation tool. The settings page shall provide a location to update the customer's email address and phone numbers. These changes shall be kept in sync with CITY's customer contact information. Automatic messages shall be sent to all account holders every six months to remind them to update their account information. The message content shall be provided by CITY. Account holders shall also be able to set notifications if usage exceeds a certain limit. The user shall be able to select a period length (daily, weekly and/or monthly) and a measurement (gallons, cubic feet or cost). The user may choose how they want to be notified: via email, text and/or phone call (email will be the default setting). Text and phone call notifications are optional and at the discretion of CITY. CONSULTANT shall supply the data feeds to the text or calling service companies. Please note that this limit level shall appear as a bar on the chart on the daily, weekly or monthly consumption screens. In addition, notifications shall be sent out to notify users of possible continuous flow. The settings page shall allow the user to set the continuous flow notification frequency: daily, weekly or monthly (daily will be the default), including setting a maximum level to allow for a continuous use that will not generate a notification. Continuous flow detection and notification is described further in the Admin Site.

2.11 Continuous Flow Chart Presentment

Continuous flow chart presentment shall occur in daily, weekly, and monthly views. The continuous flow shall be presented in a stacked chart view with the bottom portion of the stacked bar in a different color.

The calculation of the quantity of the continuous flow presented in the stacked bar chart for daily, weekly, and monthly view shall be the volumetric flow rate determined in Paragraph 2.4 Continuous Flow Calculation & Severity.

3.0 ADMIN SITE

CONSULTANT shall ensure that the Admin Site is a website where CITY staff shall be able to view account holder information, water use summaries, run custom reports, update water rates or adjust billing periods.

3.1 Master Administrator's Page

The Master Administrator's Page shall allow a master administrator to create or modify staff or team member's access. This page shall include an option to add an administrator or user, their password and email address.

3.2 Customer Lookup Page

The Customer Lookup Page shall allow an administrator or CITY staff member to enter an account number, name, address or transmitter (MTU) number and shall display the account as the user sees it in the Customer Site. The account holder's default landing page shall display and the administrator shall be able to view and have access to all of the account holder's settings, charts and tables.

3.3 Water Usage Report Screen

The Water Usage Report shall show the total water usage from all customers and be customizable based on timeframe (6-hour, daily, weekly, monthly, and yearly) and measurement (gallons and cubic feet). The administrator shall be able to generate reports that identify specific accounts based on a set of criteria (i.e. greater than or less than a certain usage, changes in usage over time, etc.). All reports will also be downloadable in either Microsoft Excel or a standard comma separated value spreadsheet format.

3.4 Continuous Flow Detection Report Screen

A daily report of customer accounts with suspected continuous flows shall be generated and presented on the Continuous flow Detection Report Screen. This report shall include account number, number of days the continuous flow has been active, continuous flow category/severity, whether the customer has opted out of notifications, size of average usage and size of continuous flow. CITY staff will define the parameters that identify an account that has a continuous flow (in addition to the calculations in Paragraph 2.4) and will define categories of continuous flows (small, medium, large, emergency). Parameters will include such things as past usage and type of location (residential or commercial). Customers will be notified based on their preferences. If CITY elects to have a call service, Account holders who have not signed into the Customer Site will be notified by an automated call center. Phone numbers from the city's utility billing information will be sent to this center to notify customers via phone. CITY shall provide the phone message and contract with the automated call center directly. An audit log of customers who have opted not to receive notifications of continuous flows will also be available. If a new account is identified as having an emergency continuous flow, CITY staff will be notified based on settings the Master Administrator sets.

The leak shall be represented graphically in a daily, weekly, and monthly views. If a continuous flow is detected, each user will be linked to an additional page that defines continuous flow severity and potential causes of those continuous flows. The content for this continuous flow severity page shall be provided by CITY.

3.5 Continuous Flow Threshold

Admin shall be able to change and set the default threshold of continuous flow based on account type (single family, multi-family, commercial) defined by CITY. A user's threshold preference shall take precedence over admin settings. Therefore, if a customer sets their threshold then the admin shall not be able to change the default threshold unless they go into the individuals' settings.

3.6 Update Water Rates

CITY would like an easy to use user interface that allows CITY to enter, save and change water rates as well as the effective date of any rate changes. CITY uses a four-tier water rate structure and there are two separate rate structures for customers inside CITY and outside CITY. The rates entered into this page shall be used in any calculations for the account holder's reports on the Customer Site. When the administrator changes the rates, the customers' graphs will only be adjusted based on the effective date of the new rates.

3.7 Water System Statistics Report

The Admin Site shall include a specialty report that calculates total monthly consumption summaries for each predefined customer type. Types of customers include commercial, government, industrial, landscape irrigation, agricultural irrigation, single family residential and multi-family residential.

3.8 System Messages

The Master Administrator shall be allowed to broadcast a message system-wide to all users. Only one message can be displayed at a time. The message shall be able to hold at least 100 characters. At any time, the Master Administrator shall be able to cancel or change the message through the Admin Site.

3.9 Billing Period

The capability must exist to allow CITY to change the billing period from 60 days to monthly or 30 days.

4.0 ADDITIONAL ITEMS

4.1 CONSULTANT shall provide database access without restrictions.

4.2 Sufficient storage and backup shall be provided by CONSULTANT for at least 15 years of hourly data for each water meter.

4.3 Compound meters shall have a chart for the high side register, the low side register and a summary chart of the registers combined. Default views shall be of the combined registers.

4.4 The Admin Site shall have the ability to overlay an additional comparative consumption chart in the User Site, such as hourly chart below the daily chart. It can be either within the chart on the default landing page or simply another chart immediately underneath the original chart.

4.5 Both the User Site and Admin Site shall operate properly in Firefox 13 and later, Chrome 16 and later, Safari 5 and later and Internet Explorer 8 and later.

4.6 Any customizations outside of this Scope of Work shall be submitted to CONSULTANT by CITY. CONSULTANT shall, at the request of CITY, provide a quote, detailed Scope of Work, and timeline for those customizations.

Any such customizations which result in an increase in cost which do not exceed \$50,000 are subject to the written approval of the City Manager on behalf of CITY, and CONSULTANT. If the customizations exceed \$50,000, a written amendment between must be executed by mutual agreement of the parties.

**EXHIBIT A-2
LICENSE AGREEMENT**

1.0 THIS LICENSE AGREEMENT (hereinafter called the "Agreement") IS MADE BY AND BETWEEN Triton Water Technologies of California, Inc. with a principal place of business at 50 California Street, Suite 1500, San Francisco, California 94111 (hereinafter called "TRITON") and The City of Beverly Hills, a California municipal corporation with a principal place of business at 455 North Rexford Drive, Beverly Hills, California 90210 (hereinafter called the "CITY"). The CITY and TRITON are hereinafter sometimes referred to collectively as the "Parties" and individually as a "Party".

1.1 WHEREAS, TRITON is in the business of providing certain water meter data services and owns all intellectual property rights in and related to the technical information/data, trade secrets, know-how, inventions, patent rights, copyrights, trademarks, drawings, designs, blueprints and all related documentation concept or other intellectual property in connection with the website "simonsaves.com" and the firmware/software for the web service where customers who want to check their water consumption can log onto simonsaves.com and determine how much water is used per hour/day/month; and

1.2 WHEREAS, the CITY desires TRITON to grant to the CITY a license of any and all of its intellectual property rights in the design related to the WEBSITE, as defined in this Agreement, for use in the Territory upon the terms and conditions and period hereinafter set forth; and

1.3 NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

2.0 Definitions: When used in this Agreement, the terms identified shall have the following meanings:

2.1 "Affiliate(s)" shall mean any person, partnership, joint venture, corporation, or other form of enterprise, domestic or foreign, including, but not limited to, parent and subsidiaries, which directly or indirectly Control, are Controlled by, or are under common Control with, a party to this Agreement.

2.2 "Control" as used herein is defined as the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and operating policies of the entity in respect of which the determination is being made, through the ownership of voting securities, contract, voting trust, or otherwise.

2.3 "The CITY Indemnitees" and "The CITY's Indemnitees" shall mean THE CITY, its Affiliates, if any, and its and their directors, agents, representatives, employees and insurers and its contractors, vendors (other than TRITON) and customers and their respective employees.

2.4 "TRITON Indemnitees" and "TRITON' Indemnitees" shall mean TRITON, its Affiliates, if any, and its and their directors, agents, representatives, employees and insurers and its contractors and vendors and their respective employees.

2.5 "Claim" or "Claims" shall mean, unless specifically provided otherwise herein, all claims (including, but not limited to, those for bodily injury, personal injury, illness, disease, maintenance, cure, loss of consortium, loss of support, death, and wrongful termination of employment), damages (except consequential damages), liabilities, losses, demands, liens, encumbrances, fines, penalties, causes of action of any kind (including actions in rem or in personam), obligations, costs, judgments, interest and awards (including payment of reasonable attorneys' fees and costs of litigation) or amounts, of any kind or character (except punitive or exemplary damages), whether under judicial proceedings, administrative proceedings or otherwise, or conditions in the premises of or attributable to any person or persons or any party or parties, breach of representation or warranty (expressed or implied), under any theory of tort, contract, breach of contract (including any Claims which arise by reason of indemnification or assumption of liability contained in other contracts entered into by TRITON Indemnitees or THE CITY Indemnitees) arising out of, or incident to or in connection with this Agreement or the performance of this Agreement.

2.6 "Confidential Information" shall mean all information, knowledge or data of any nature, the disclosing Party and its Affiliates, or its or their businesses, furnished or made available to the receiving Party that may not be generally known to the public, whether provided by the disclosing Party or any of its Affiliates, agents, a representative or a third party, and whether such information has been prepared by the disclosing Party or for the disclosing Party by any of its Affiliates, agents, a representative or a third party, including, without limitation, all technical specifications, designs, models, drawings, processes, hardware, trade secrets, know-how, show-how, records, files, documents, materials, business plans and any other information directly or indirectly relating to the Website, whether provided to the receiving Party in tangible or electronic form or obtained by the receiving Party through discussions with the disclosing Party's officers,

directors, employees, agents or advisors, and all notes, analyses, studies or other materials prepared by the receiving Party or by employees or agents of the receiving Party relating to the Website or such technical specifications, designs, models, drawings, processes, object codes, source codes, computer programs, computer systems, software, hardware, trade secrets, know-how, show-how, records, files, documents, materials, business plans and any other information directly or indirectly related to the Website. Notwithstanding the foregoing, the term "Confidential Information" shall not include information which (a) becomes generally available to the public other than as a result of a disclosure by the receiving Party or a representative in violation of this Agreement, (b) was available on a non-confidential basis prior to disclosure to the receiving Party pursuant to this Agreement or (c) becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party or its affiliates, provided that such source is not bound by a confidentiality agreement with the disclosing Party or any of its affiliates.

2.7 "Territory" shall mean the water service area of The City of Beverly Hills, CA

2.8 "Website" shall mean the web service, Simon Saves, which presents personal water use profiles, group water use profiles, customer side continuous flows in both a tabular and chart view. This service also monitors individual and group continuous flows and daily budget limits and provides water user and Utility immediate notifications if any water use inefficiencies are detected. This web service has two primary sites called the Admin site and the User site all as more specified and described in Appendix A and any adaptations, improvements, modifications, enhancements and/or variations to the Website made by THE CITY and/or any third parties.

2.9 Term: The "Effective Date" of this Agreement is ____ _____, 2014. The "Initial Term" of this Agreement will be for a period of one (1) year from the Effective Date. The Parties, upon mutual written agreement or as provided in this Agreement, may extend this Agreement by additional periods of one (1) year.

3.0 Grant of Rights and Consideration:

3.1 Upon execution of this Agreement, TRITON hereby grants to THE CITY the non-exclusive right and license to utilize all intellectual property rights in all technical information/data, trade secrets, know-how, inventions, patent rights, copyrights, trademarks, drawings, designs, blueprints and all related

documentation concept or other intellectual property in connection with the Website in the Territory.

4.0 Representations and Restrictions:

4.1 TRITON warrants that it has the full and complete right to grant the license contemplated herein.

4.2 It is agreed that by virtue of this Agreement, neither Party is the agent or legal representative of the other Party for any purpose whatsoever. Neither Party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, in behalf of or in the name of the other Party or to bind the other Party in any manner or thing whatsoever.

4.3 Neither party shall represent that it has authority to act as agent for the other Party, to enter contracts on behalf of the other Party, whether for the sale of the design of the Website or otherwise, or to bind the other Party in any manner.

4.4 Neither Party shall, under any circumstances, be considered to be an employee of the other Party and none of the salespersons or other employees of the other Party shall be considered for any purposes to be employees of the other Party. Each Party shall assume full responsibility for its own account to and for all of its employees for their payment, either by salary, commission, or otherwise, and for all liability that can accrue against an employer by an employee, including, but not limited to, employer's tort or contractual liability, worker's compensation, unemployment insurance, and other so called social security acts, whether federal, state, or local in origin.

5.0 Intellectual Property:

5.1 TRITON shall retain ownership of all copyrights embodied in any and all intellectual property rights in all technical information/data, trade secrets, know-how, inventions, patent rights, copyrights, trademarks, drawings, designs, blueprints and all related documentation concept or other intellectual property in connection with the Website including, without limitation, any adaptations, improvements, modifications, enhancements and variations of the Website. TRITON shall also retain ownership of any and all rights to any trademarks used in association with the Website and the goodwill associated with the use of any of TRITON' trademarks shall inure to TRITON.

5.2 TRITON and the CITY agree that TRITON is the sole owner of all rights to any and all patents, patent applications, trademarks and copyrights, related to the Website, including any adaptations, improvements, modifications, enhancements and variations of the Website made by or on behalf of the CITY and/or any third parties including, without limitation, the CITY's customers. Further, TRITON shall own and control all technology associated with the Website, including any adaptations, improvements, modifications, enhancements and variations of the Website made by or on behalf of the CITY and/or any third parties including, without limitation, the CITY's customers, and shall retain ownership and control of all patents, patent applications, assignments, designs, manufacturing and development of the Website, including, without limitation, deciding which application shall be filed and how all applications with respect to any intellectual property rights shall be prosecuted and maintained.

5.3 The CITY shall have no right to sue third parties for infringement of any of TRITON' intellectual property or unauthorized use of TRITON' technical information.

5.4 The CITY shall not dispute or contest, directly or indirectly, TRITON' exclusive right and title to any and all intellectual property related to the design of the Website or the validity thereof including any adaptations, improvements, modifications, enhancements and variations of the Website made by or on behalf of the CITY and/or any third parties including, without limitation, the CITY's customers.

6.0 Confidential Information:

6.1 The CITY shall keep confidential TRITON' Confidential Information including the design of the Website and any adaptations, improvements, modifications, enhancements and/or variations to the Website made by the CITY and/or any third parties including, without limitation, the CITY's customers. Further, the CITY shall keep confidential TRITON' Confidential Information except to fully disclose same to TRITON, and TRITON shall not be liable for any use or disclosure of such information including that which is owned by TRITON. All information or data conveyed by either Party (the "Confidential Information"), remains the sole property of the disclosing Party except for the adaptations, improvements, modifications, enhancements and/or variations made by the CITY and/or any third parties including, without limitation, the CITY's customers, which shall become the property of TRITON, and shall not be disclosed to any third

party. All Confidential Information conveyed must be treated as proprietary and confidential. "Confidential Information" includes the terms of this Agreement.

6.2 Each Party agrees to require its employees, agents, contractors, customers and other third parties to be bound by and abide by these same obligations and to limit internal dissemination of Confidential Information to only those individuals whose duties justify their need to know such information. In the event of any disclosure of Confidential Information by either Party's employees, agents, contractors, customers or other third parties, each Party will cooperate with the other Party in taking further steps to prevent any further disclosures.

6.3 The requirements of this section shall survive the termination of this Agreement for a period of Ten (10) years. Neither Party shall be liable to the other Party nor any third party to any extent as a result of compliance with the terms of any order, decree, subpoena, summons, notice, request or demand of any court or government authority with respect to Confidential Information or the products and services provided under this Agreement; provided, however, that the Party required to disclose the information shall provide the owner of the Confidential Information with as much notice as practicable of the required disclosure, unless prohibited by law.

6.3 Notwithstanding the foregoing, TRITON acknowledges that CITY is subject to the California Public Records Act (the "Act") and that some or all of the Confidential Information (collectively "information") provided by TRITON may be disclosable thereunder. In the event a public records act request for TRITON's information is received, CITY shall use its best efforts to provide TRITON with written or verbal notice of such request, prior to compliance. However, nothing herein shall prevent CITY from complying with the requirements of the Act. In the event CITY determines that any documents containing TRITON's information are not disclosable, and litigation is commenced to compel production of such documents, TRITON agrees to defend and indemnify CITY, with counsel of CITY's choice, as to any claims, liabilities, costs, and/or judgments that may be incurred by CITY as a result of such litigation. The provisions of this section shall survive the expiration or termination of this Agreement for any reason.

7.0 Assignment:

7.1 Neither Party may assign this Agreement, including any assignment by operation of law, without the express written consent of the other Party; provided, that the Party may assign, in whole or in part, its rights or duties under this

Agreement to any third party which acquires all or substantially all of the business of the Party to which this Agreement pertains without the prior written consent of the other Party. It is understood that any assignee shall agree to be bound by all of the terms and provisions of this Agreement that are existing at the time of assignment.

8.0 Force Majeure:

8.1 Other than the obligation to pay and indemnify as required under this Agreement, neither Party shall be liable under the provisions of this Agreement for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing Party.

9.0 Termination:

9.1 Either Party shall have the right to terminate this Agreement with thirty (30) days' written notice if the other Party defaults in the performance of any of its material obligations under this Agreement and fails to cure such default within the thirty day notice period. No such termination shall affect the obligations of either Party arising prior to the effective date of termination of this Agreement.

9.2 Either Party may terminate this Agreement without penalty if the other Party becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to its liquidation or insolvency or for the appointment of a receiver for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations. Such Party may, by giving written notice thereof to the other Party, terminate this Agreement as of a date specified in such notice of termination.

9.3 Effect of Termination. No termination of this Agreement by expiration or otherwise shall relieve or release the CITY from any of its obligations hereunder, including its obligations to make payments as provided for in this Agreement, or rescind or give rise to any right to rescind anything done or any payment made or other consideration given to TRITON hereunder prior to the time such termination becomes effective. Termination of this Agreement for any reason whatsoever shall not operate as a waiver of any breach by any Party of any of its covenants

hereunder, and each Party shall have the right to any remedies otherwise available to it for damages and injunctions caused by such breach.

9.4 Upon expiration or termination of this Agreement, all rights granted to the CITY under this Agreement shall immediately terminate and revert to TRITON.

10.0 Notices:

10.1 All notices and other communications required, permitted or desired to be given hereunder shall be deemed effectively given when personally delivered, transmitted by facsimile or mailed by certified mail, postage prepaid, to such person or entity at his or its address or email address as designated below.

10.1 THE CITY:

The City of Beverly Hills
Information Technology Department
455 North Rexford Drive
Beverly Hills, CA 90210
Attn.: David Schirmer
EMAIL: dschirmer@beverlyhills.org

10.2 TRITON:

Triton Water Technologies Inc. of CA
117 Pintail Street
St. Rose, LA 70087
Attn.: Susie McMullan
EMAIL: smcmullan@tritonami.com

11.0 No Third Party Beneficiaries:

11.1 Nothing in this Agreement, express or implied, is intended to or shall confer upon any person (other than the Parties hereto and their respective Affiliates providing or receiving services hereunder or their respective successors or permitted assigns) any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, and no person shall be deemed a third-party beneficiary under or by reason of this Agreement.

12.0 Headings:

12.1 All headings of the articles of this Agreement are inserted for convenience only and shall not affect any construction or interpretations of this Agreement.

13.0 Entire Agreement:

13.1 This Agreement together with any Appendices specifically referenced and attached hereto embodies the entire understanding between TRITON and the CITY and there are no contracts, agreements, understandings, conditions, warranties or representations, oral or written, express or implied, with reference to the subject matter hereof which are not merged herein.

13.2 Except as otherwise specifically stated, no modification hereto shall be of any force or effect unless (1) reduced to writing and signed by duly authorized representatives of both Parties hereto, and (2) expressly referred to as being modifications of this Agreement.

14.0 Applicable and Governing Law; Venue.

14.1 The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

15.0 Survivability:

15.1 Where the context or wording of a section indicates, the terms of this Agreement shall survive its termination for any reason, including, without limitation, Paragraphs 5.0 (Intellectual Property); 6.0 (Confidential Information); 9.0 (Termination); 10.0 (Notices); 11.0 (No Third-Party Beneficiaries); 14 (Applicable and Governing Law); and this Paragraph 15.0, hereof.

16.0 Non-Waiver:

16.1 The failure of either Party to insist upon the performance or fulfillment of any of the other Party's obligations under this Agreement shall not be deemed or construed as a waiver or relinquishment of the future performance of any such right or obligation hereunder.

17.0 Annual Fee

17.1 The annual maintenance fee includes the ongoing maintenance of the web service and services that makes it functional over time according to the above scope of work. Including web browser updates, virtual server and domain maintenance cost.

17.2 The annual fee for service is a fixed \$29, 520/year with a built in fee escalation scale based on the CPI defined below. This shall be paid annually in advance. Either party may terminate the maintenance portion of the web service. The party terminating the agreement shall provide the other party with two months advanced notice in writing.

17.3 Annual Increase: The Annual Fee is subject to escalation at the beginning of each fiscal year, July 1st. The first fee escalation shall be no less than twelve months from the completion of the project. The Annual fee shall increase in direct proportion to the percent change in the CPI, Consumer Price Index. The Annual fee increase shall be calculated as the previous year's annual fee multiplied by the previous calendar year's CPI. This will then be added to the previous year's annual fee to provide the current year's fee.

18.0 Support Terms

18.1 TRITON shall respond to support issues reported by CITY'S authorized representatives relating directly to the Web-service. TRITON will not support directly or have contact with CITY'S water users or customers.

18.2 TRITON'S support hours are between 9AM and 5PM (Pacific) Monday through Friday except for federal holidays.

18.3 The process to report system services shall be through the CITY'S authorized representatives and includes the following:

- (a) Each authorized representative will be provided a username and password,
- (b) Each authorized representative will be able to log bugs or concerns into Triton's project management web tool found at triwatertech.basecamphq.com,
- (c) Alternatively, the CITY'S authorized representatives will also be able to log concerns, software bugs or other problems via email.
- (d) TRITON shall provide the CITY status of the resolution and TRITON shall document scheduled repairs into TRITON'S online project management tool.

(e) In case of emergencies, CITY may call TRITON'S office directly to speak with TRITON'S representatives at 415-277-5048.

18.4 Expected response times shall depend on the issue. Typically resolution occurs from between 48 hours from notification and 5 days from notification unless the database has been corrupted. The database is corrupted if either the billing system or Aclara's Star sends bad-data files. Corrupted databases usually take a couple of weeks to repair.

19.0 Maintenance Terms

19.1 The term of this maintenance agreement is for one (1) year post implementation, starting 30 days after contract implementation and acceptance.

19.2 Maintenance is renewable annually upon mutual agreement of the Parties and issuance of a valid purchase order by CITY.

**EXHIBIT B
SCHEDULE AND RATES OF PAYMENT**

CITY shall pay CONSULTANT an amount not to exceed One Hundred Thirteen Thousand, Five Hundred Dollars (\$113,500.00), including One Hundred Three Thousand, Thirty Dollars (\$103,030.00) for the licensing and services provided under this Agreement, and not to exceed Ten Thousand Four Hundred, Seventy Dollars (\$10,470.00) in contingency funds. CONSULTANT shall invoice CITY and CITY shall pay CONSULTANT based on the payment milestones detailed below.

PAYMENT MILESTONE	%	ORIGINAL AMOUNT
Contract Execution / PO Issuance	20%	\$20,606.00
User Site	30%	\$30,909.00
Administrator Site	30%	\$30,909.00
Acceptance (+ 30 days, maintenance due)	10%	\$10,303.00
Training	10%	\$10,303.00
TOTAL:	100%	\$103,030.00
Contingency not to Exceed:		\$10,470.00
Total not to Exceed:		\$113,500.00

Contingency funds authorized by CITY in writing for additional hardware, software, equipment or services shall be payable in full upon satisfactory completion of services.

CONSULTANT shall submit an itemized statement to CITY for its services performed as milestones for the project are completed and accepted by the City's authorized representative. Such acceptance shall not be unreasonably withheld. Invoices shall include documentation setting forth, in detail, a description of the services rendered and the equipment provided. CITY shall pay CONSULTANT all undisputed amounts of such billing within thirty (30) days of receipt of the same.

EXHIBIT C

CERTIFICATE OF INSURANCE

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

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

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

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

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

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

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

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

DATE : _____ BY : _____

 Authorized Insurance Representative

TITLE : _____
 AGENCY : _____ Address : _____

