



## AGENDA REPORT

**Meeting Date:** July 29, 2014

**Item Number:** D-14

**To:** Honorable Mayor & City Council

**From:** Don Rhoads, Director of Administrative Services and CFO  
Noel Marquis, Assistant Director of Administrative Services - Finance

**Subject:** APPROVAL OF AGREEMENTS AND AMENDMENTS TO AGREEMENTS WITH VARIOUS VENDORS FOR PROVISION OF ANNUAL SERVICES; AND

APPROVAL OF BLANKET PURCHASE ORDERS FOR SUPPLIES AND SERVICES FOR THE CITY'S DEPARTMENTS IN THE TOTAL NOT-TO-EXCEED AMOUNT OF \$37,687,134

**Attachments:**

1. Agreements (22)
2. Exhibit A

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### **RECOMMENDATION**

Staff recommends that the City Council approve the annual City-wide blanket purchase orders identified on Exhibit A in the total amount of \$37,687,134.

And approve the following agreements and amendments to agreements which are related to the annual City-wide blanket purchase orders with:

- ITEM A. 3M FOR AS NEEDED SERVICES RELATED TO MAINTENANCE AND SUPPORT OF THE CITY'S AUTOMATED LICENSE PLATE RECOGNITION ("ALPR") SYSTEM
- ITEM B. 3M COMPANY FOR MAINTENANCE OF THE BEVERLY HILLS PUBLIC LIBRARY 3M LIBRARY SYSTEMS PRODUCTS
- ITEM C. ACCUVANT, INC. TO PROVIDE CONSULTING SERVICES RELATED TO THE CITY'S WIRELESS SYSTEM

- ITEM D. CDW GOVERNMENT LLC FOR INFORMATION TECHNOLOGY CONSULTING SERVICES
- ITEM E. CLOUDEEVA, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATING TO WEB AND MOBILE APPLICATIONS ON AN AS-NEEDED BASIS
- ITEM F. COMMLINE INC. FOR RADIO CONSULTING SERVICES AND RELATED EQUIPMENT
- ITEM G. COMPUCOM MICROSOFT AGREEMENT
- ITEM H. DATA SPECIALTIES, INC. FOR MAINTENANCE AND SUPPORT RELATED TO THE INFORMATION TECHNOLOGY DEPARTMENT'S ELECTRICAL SYSTEMS
- ITEM I. ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM
- ITEM J. GOVERNMENT FINANCE OFFICERS ASSOCIATION FOR IMPLEMENTATION SERVICES RELATED TO THE CITY'S ENTERPRISE RESOURCE PLANNING SYSTEM
- ITEM K. INTERNATIONAL BUSINESS MACHINES (IBM) CORPORATION FOR ONGOING MAINTENANCE AND SUPPORT SERVICES FOR THE CITY'S DATA CENTER
- ITEM L. INDEPENDENT TECHNOLOGY GROUP TO PROVIDE PROFESSIONAL SERVICES RELATED TO THE SECURITY OF THE CITY'S NETWORK
- ITEM M. INTEGRATED MEDIA TECHNOLOGIES, INC. TO PROVIDE PROFESSIONAL SERVICES AND EQUIPMENT RELATED TO THE CITY'S NETWORK INCLUDING LAN, WAN, AND MAN NETWORK ENGINEERING SERVICES
- ITEM N. MAINLINE INFORMATION SYSTEMS, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES
- ITEM O. NEXLEVEL INFORMATION TECHNOLOGY, INC. TO PROVIDE AS NEEDED INFORMATION TECHNOLOGY CONSULTING SERVICES IN CONNECTION WITH CITY'S COMPUTING INFRASTRUCTURE
- ITEM P. QUARTIC SOLUTIONS, LLC FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM
- ITEM Q. VIDEO TO IP CONSULTING SERVICES, INC RELATED TO THE CITY'S IP VIDEO SYSTEMS
- ITEM R. ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) FOR SMALL ENTERPRISE LICENSE AGREEMENT, COUNTY AND MUNICIPALITY

ITEM S. EVERBRIDGE, INC. FOR LICENSING OF THE CITY'S MASS NOTIFICATION SYSTEM AND RELATED SERVICES

ITEM T. MAPLE COUNSELING CENTER FOR COMMUNITY ASSISTANCE FUNDS FOR COMMUNITY MENTAL HEALTH SERVICES

ITEM U. PEOPLE ASSISTING THE HOMELESS (P.A.T.H.) FOR COMMUNITY ASSISTANCE FUNDS

ITEM V. WESTSIDE FOOD BANK FOR COMMUNITY ASSISTANCE FUNDS

## **INTRODUCTION**

This report seeks City Council approval of the annual blanket purchase orders (BPO) to cover items or services available from particular vendors ordered by City departments on an "as-needed" basis. Due to the nature of some of the services provided, agreements are in some cases also required. As in previous fiscal years, this report is a request for City Council approval of agreements related to the annual services and authorization to issue the BPOs described herein. BPOs are traditionally brought to the City Council in the beginning of the fiscal year and intended to facilitate staff implementation of the adopted budget for the fiscal year.

## **DISCUSSION**

The City issues BPOs to vendors who provide goods and services to City departments throughout a fiscal year for the following reasons:

- Issuing vendors one purchase order rather than several increases efficiency and saves money.
- Issuing BPO's reduces delays in obtaining necessary goods or services. For instance, when Police Department vehicles are damaged, providing BPOs to more than one local body shop allows the Vehicle Maintenance Division to receive competitive quotations and repair vehicles with minimum delay.

The City also issues BPOs to:

- Consolidate many small purchases into one large purchase
- Provides the added benefit and protection of formal bidding
- Requires City Manager or City Council approval
- For the majority of these requests, City staff prepares and issues a Request for Proposal (RFP) and then City Council awards contracts, normally on a three-year basis. In addition, department staff periodically checks pricing to ascertain that the City continues to obtain the most competitive prices.

While the price for goods and services is a concern, it is never the sole determining factor in making a purchasing decision. Important considerations include:

- Reliability of a product
- Ability of a vendor to provide continuing service
- Current usage of a specific brand of product by the City
- Timely availability, quality, location (if some items are to be picked up by staff)
- Vendor performance

The total benefit to the City is the most important consideration in a purchasing decision of goods or services. The initial cost is a factor in the equation, but the net cost over the life of the product or service is of greater value.

Even though BPOs are issued, individual orders for goods or services (except routine, scheduled maintenance type services) must be specifically authorized in advance by a department head or supervisor. The City does not guarantee any minimum annual purchase and can cancel a BPO at any time and is under no obligation to spend any or all funds encumbered under a BPO. BPOs are for the convenience of the City and its daily operational needs. All BPOs automatically expire on June 30 of any given fiscal year.

The vendors and dollar amounts listed in Exhibit A are for items approved within the Fiscal Year 2014/2015 budget.

**FISCAL IMPACT**

Funds for each of the BPOs requested in Exhibit A have been approved in the Fiscal Year 2014/2015 budget. The total of all requests within this report is \$37,687,134 as follows:

Service	No. Vendors	Amount
Buildings and Facilities	2	\$ 2,046,821
Vehicles and Equipment	26	4,497,413
Postage, Uniforms and Supplies	3	287,457
Enterprise Fund Operations:		
Parking Operations	5	2,518,000
Solid Waste Operations	1	6,459,331
Water Operations	14	556,600
Community Services	11	12,622,099
Transportation Services	2	1,023,244
Consultants and Services	<u>11</u>	<u>7,676,169</u>
	TOTAL	\$37,687,134



Noel Marquis

Finance Approval



Don Rhoads

Approved By

# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND 3M COMPANY FOR AS NEEDED SERVICES  
RELATED TO MAINTENANCE AND SUPPORT OF THE  
CITY'S AUTOMATED LICENSE PLATE RECOGNITION  
("ALPR") SYSTEM

NAME OF CONSULTANT: 3M Company

RESPONSIBLE PRINCIPAL OF CONSULTANT: Greg Lary, Account Manager

CONSULTANT'S ADDRESS: 3M Center  
Bldg 225-4N-14  
St. Paul, MN 55144  
Attention: Greg Lary, Account Manager

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$100,000.00, as detailed in  
Exhibit B, Schedule of Rates and Payment

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND 3M COMPANY FOR AS NEEDED SERVICES  
RELATED TO MAINTENANCE AND SUPPORT OF THE  
CITY'S AUTOMATED LICENSE PLATE RECOGNITION  
("ALPR") SYSTEM

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and 3M Company (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein, collectively the "Services".

B. CONSULTANT represents that it is qualified and able to perform the Services.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall perform the Services 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. Term of Agreement. This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

Section 3. 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 and/or in conformance with the project timeline established by the City Manager or his designee.

Section 4. Compensation.

(a) Compensation

CITY agrees to compensate CONSULTANT for the services and/or goods provides 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, Schedule and Rates of Payment, attached hereto and incorporated herein.

(b) Expenses

The amount set forth in paragraph (a) 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, unless approved in writing by the Chief Information Officer.

Section 5. 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 the schedule of payment set forth in Exhibit B.

Section 6. 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 7. 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 8. 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 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

(3) A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

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

(b) CONSULTANT shall require each of its sub-contractors 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 on a form acceptable to the City's 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.

(f) The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured with respect to work under this Agreement.

(g) 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.

(h) 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. Waiver of subrogation does not apply to Professional Liability Insurance identified in subsection (a)(3) above.

(i) 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, its elected officials, officers, agents and employees, 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 calendar 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 Services.

Section 16. Information and Documents. All data, information, documents and drawings specifically prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 17. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the Scope of Services to be performed. Any changes in the Scope of Services must be made in writing and approved by both parties.

Section 18. 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 19. 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 20. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 23. 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:

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

CONSULTANT: 3M COMPANY

  
LINDA GONDRINGER  
Contracts and Agreements Manager/  
Motor Vehicle Systems & Services

[Signatures Continue]

APPROVED AS TO FORM:



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LAURENCE WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager



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DAVID SCHIRMER  
Chief Information Officer



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KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF SERVICES**

CONSULTANT shall perform the following services in connection to the maintenance and support of CITY's Automated License Plate Recognition ("ALPR") System:

CONSULTANT shall provide maintenance and support services on an as-needed basis to meet the CITY's ongoing needs related to the CITY's ALPR System. The services shall include all necessary installation, configuration, field performance testing, and any additional services necessary to ensure that the ALPR System is functional to CITY's full satisfaction.

For each requested engagement, CONSULTANT shall submit a written scope of work which shall include a breakdown of all costs, warranties and the performance schedule to CITY's authorized representative. Each proposal is subject to the City Manager or his designee's written approval, acceptance, and authorization to proceed.

## **EXHIBIT B**

### **SCHEDULE AND RATES OF PAYMENT**

CITY shall pay CONSULTANT compensation for scheduled service during normal business hours. The total sum paid to CONSULTANT under this Agreement shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00), as set forth in the purchase order issued by CITY for all services to be provided pursuant to this Agreement. Said Compensation 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 labor, materials, delivery, tax, assembly and installation, as applicable) unless otherwise approved in writing by the Chief Information Officer.

CONSULTANT 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 and the hours of service. CITY shall pay CONSULTANT all undisputed amounts of such billing within thirty (30) days of receipt of the same.

**EXHIBIT C**

**CERTIFICATE OF INSURANCE**

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

**NAMED INSURED**

**COMPANIES AFFORDING COVERAGE**

**ADDRESS**

- A.**
- B.**
- C.**

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

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

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: 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 : \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND 3M  
COMPANY FOR MAINTENANCE OF THE BEVERLY HILLS PUBLIC  
LIBRARY 3M LIBRARY SYSTEMS PRODUCTS

NAME OF CONTRACTOR: 3M Company

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Rita Anderson, Contract Coordinator – 3M Customer Contact Center

CONTRACTOR'S ADDRESS: 3M Company  
3M Library Systems Contracts  
ATTN: Contract Administrator  
P.O. Box 33900  
St. Paul, Minnesota 55133-3900

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2017, unless sooner terminated

CONSIDERATION: Not to exceed \$51,000 annually for a total Agreement cost not to exceed \$153,000

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND 3M  
COMPANY FOR MAINTENANCE OF THE BEVERLY HILLS PUBLIC  
LIBRARY 3M LIBRARY SYSTEMS PRODUCTS

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Innovative Interfaces, Inc. (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A-1 (the "Scope of Services"), Exhibit A-2 (CONTRACTOR's "Service Agreement Expiration Notices"), and Exhibit A-3 (Contractor's "Terms and Conditions"), attached hereto and incorporated herein by this reference (the "Services").

B. CONTRACTOR 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. CONTRACTOR's Services. CONTRACTOR shall perform the Services as described in Exhibits A-1, A-2, and A-3 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. Term. The Term of this Agreement shall commence on July 1, 2014 and shall end on June 30, 2017 for support and maintenance of the products as set forth in Exhibits A-1 and A-2 unless earlier terminated pursuant to Section 11.

Section 3. Independent Contractor. CONTRACTOR 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 CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR 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. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 5. Responsible Principal(s)

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR 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 6. Personnel. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 7. Permits and Licenses. CONTRACTOR 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 8. Interests of CONTRACTOR. CONTRACTOR 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 CONTRACTOR.

Section 9. Insurance.

(a) CONTRACTOR 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 CONTRACTOR.

(2) 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 Scope of Work required by this Agreement.

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

(b) CONTRACTOR shall require each of its sub-CONTRACTORS 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) CONTRACTOR 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 CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR 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. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this

Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR 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, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 10. Indemnification. CONTRACTOR 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 CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 11. 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 CONTRACTOR. CONTRACTOR 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 CONTRACTOR, CONTRACTOR shall be paid for its services rendered to City as of the date of termination.

Section 12. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 13. 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 14. 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 15. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, 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 CONTRACTOR.

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

Section 18. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 19. 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 \_\_\_\_\_ 201\_\_, at Beverly Hills, California.

CITY OF BEVERLY HILLS  
A Municipal Corporation

\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

ATTEST:

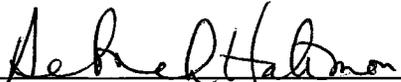
\_\_\_\_\_  
BYRON POPE  
City Clerk

CONSULTANT:  
3M COMPANY

\_\_\_\_\_  
Name:  
Title: **Mary Zilles**  
**Contract Administrator**

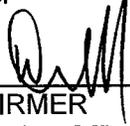
\_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

**EXHIBIT A-1  
SCOPE OF SERVICES**

CONTRACTOR shall maintain all of CITY's 3M Library Systems products, including all 3M Library Systems hardware and software located in the Beverly Hills Public Library, including, but not limited to the following:

- (a) Automated Materials Handling (AMH) System;
- (b) Selfcheck System;
- (c) Radio Frequency Identification (RFID) System;
- (d) Mediacheck System;
- (e) Bookcheck System; and
- (f) Fines and Fees System.

If CITY elects to expand or reduce the 3M Library Systems products, this maintenance agreement shall cover any additional 3M Library Systems products pursuant to the 3M Statement of Terms Conditions and Warranties of Sale, and 3M Terms and Conditions of Service included as Exhibit A-3 and as periodically modified on the 3M website.

**EXHIBIT A-2**  
**SERVICE AGREEMENT EXPIRATION NOTICES**

**EXHIBIT A-2**

3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067



**SERVICE AGREEMENT EXPIRATION NOTICE**

April 21, 2014  
Service Agreement: US44999  
**Service Agreement Expiration Date: June 30, 2014**  
3M Account # : CVG4829

BEVERLY HILLS PUBLIC LIBRARY  
Attn: **NICOLE MCCLINTON**  
9355 CIVIC CTR DRIVE  
BEVERLY HILLS, CA 90210

Dear Nicole,

I'm writing to you today to remind you that in 90 days your 3M Service Agreement will expire. You will need to renew your Service Agreement to continue coverage on your 3M™ Library Systems equipment.

In today's world there is no smarter investment than a 3M Service Agreement. It provides peace of mind knowing that your 3M Library Systems equipment will be functioning when you need it most to provide the services your customers have come to rely upon.

**Complete equipment coverage**

3M Library Systems advanced solutions help enhance the productivity of your library staff through industry leading technology. Even though great care goes into every product we build, it's impossible to manufacture a system that is 100% reliable for as long as you own it. That's why there is no smarter investment than a 3M Service Agreement.

Our Service Agreement covers labor, parts and equipment modifications necessary to keep your equipment operating at peak performance.

In short, we take care of practically everything.

**Rapid response to your service needs**

You can request service via our 800 number 24 hours a day, 7 days a week. While many issues can be quickly resolved over-the-phone, should you require on-site service, we offer a nationwide network of trained professionals ready to return your 3M system to full operation.

**EXHIBIT A-2**

3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067

**Help eliminate expensive surprises**

Your 3M Service Agreement helps you continue to receive the value provided by your 3M Library Systems purchase, and no one knows how to maintain your 3M equipment better than 3M service professionals. Should you choose not to renew your 3M Service Agreement, will you be ready for the unexpected?

Time and materials charge labor rates are \$250 per hour plus a callout charge of \$325 to \$425 depending on your service zone. You will also be responsible for the cost of any necessary replacement parts. You can see that just a single call could more than cover the cost of a whole year's Service Agreement coverage. Is it really worth it to take a chance?

**Renewing is easy**

Give yourself the peace of mind that renewing your 3M Service Agreement provides today. Just fax or mail a renewal purchase order to the number or address indicated below. You can also use your Visa or MasterCard (just call the number below for information on doing this). Your renewal price is guaranteed for a limited time, so please take a moment and renew today!

**Did you know you can now place a service call or renew your service contract on line?  
Visit us at [www.3m.com/uslibraryservice](http://www.3m.com/uslibraryservice) for details.**

Sincerely,



Service Sales Representative  
Telephone: 800-328-0067, Opt 1, Opt 2  
Fax: 888-263-1916

Return to: 3M Library Systems Contracts  
Attn: Contract Administrator  
PO Box 33900  
St Paul, MN 55133-3900

**P.S. If someone else is responsible for responding to this notice, please forward this letter to them! Thank You!**

EXHIBIT A-2

3M Library Systems  
 3M Center  
 PO Box 33900  
 St. Paul, MN 55133-3900  
 800-328-0067

Date: 4/21/2014  
 Service Agreement: US44999 Renewal Period: 07/01/14 to 06/30/15  
 Charge To Account #: CVG4829  
 Contact: NICOLE MCCLINTON  
 Telephone: 310-285-2597

3M Products(s) Located at: BEVERLY HILLS PUBLIC LIBRARY  
 9355 CIVIC CTR DRIVE  
 BEVERLY HILLS CA 90210  
 3M Acct #: CVG4829

Model	Model Type	Serial ID	Start Date	End Date	Amount
AMH Induction	2822	28220057	7/1/14	6/30/15	\$4,050.00
AMH Induction	2830	28300063	7/1/14	6/30/15	\$3,790.00
AMH Sortation	2850 FX	28500222	7/1/14	6/30/15	\$1,000.00
AMH Sortation	2850 FX	28500225	7/1/14	6/30/15	\$1,000.00
AMH Sortation	2850 FX	28500226	7/1/14	6/30/15	\$1,000.00
AMH Controller	2855 FX	28550082	7/1/14	6/30/15	\$2,000.00
AMH Conveyance	2860 FX	28600129L	7/1/14	6/30/15	\$750.00
Selfcheck	8410	84102640	7/1/14	6/30/15	\$3,285.00
Software	3225	84102640	7/1/14	6/30/15	\$0.00
Software	3225	84102641	7/1/14	6/30/15	\$0.00
Selfcheck	8410	84102641	7/1/14	6/30/15	\$3,285.00
Selfcheck	8410	84102643	7/1/14	6/30/15	\$3,285.00
Software	3225	84102643	7/1/14	6/30/15	\$0.00
Software	3225	84102644	7/1/14	6/30/15	\$0.00
Selfcheck	8410	84102644	7/1/14	6/30/15	\$3,285.00
Selfcheck	8410	84102645	7/1/14	6/30/15	\$3,285.00
Software	3225	84102645	7/1/14	6/30/15	\$0.00
Software	3225	84102646	7/1/14	6/30/15	\$0.00
Selfcheck	8410	84102646	7/1/14	6/30/15	\$3,285.00
RFID Detection Sys	9101DM	91101034	7/1/14	6/30/15	\$1,040.00
RFID Detection Sys	9102DM	91201036	7/1/14	6/30/15	\$1,333.00
RFID Detection Sys	9102DM	91201037	7/1/14	6/30/15	\$1,333.00
RFID STF WKSTN	896	P1208009	7/1/14	6/30/15	\$369.00
RFID STF WKSTN	896	P1208010	7/1/14	6/30/15	\$369.00
RFID STF WKSTN	896	P1208011	7/1/14	6/30/15	\$369.00
RFID STF WKSTN	896	P1208012	7/1/14	6/30/15	\$369.00
RFID STF WKSTN	896	P1208013	7/1/14	6/30/15	\$369.00

EXHIBIT A-2

3M Library Systems  
 3M Center  
 PO Box 33900  
 St. Paul, MN 55133-3900  
 800-328-0067

<b>3M Products(s) Located at:</b>		BEVERLY HILLS PUBLIC LIBRARY 9355 CIVIC CTR DRIVE BEVERLY HILLS CA 90210				
<b>3M Acct #:</b>		CVG4829				
Model	Model Type	Serial ID	Start Date	End Date	Amount	
RFID STF WKSTN	896	P1208014	7/1/14	6/30/15	\$369.00	
RFID STF WKSTN	896	P1208015	7/1/14	6/30/15	\$369.00	
RFID STF WKSTN	896	P1208016	7/1/14	6/30/15	\$369.00	

<b>3M Products(s) Located at:</b>		BEVERLY HILLS PUBLIC LIBRARY 444 N REXFORD DR BEVERLY HILLS CA 90210				
<b>3M Acct #:</b>		CVG4837				
Model	Model Type	Serial ID	Start Date	End Date	Amount	
Mediacheck	325	3251108	7/1/14	6/30/15	\$226.00	
Mediacheck	325	3251113	7/1/14	6/30/15	\$226.00	
Mediacheck	325	3251114	7/1/14	6/30/15	\$226.00	
Detection System	3501DM	3518056	7/1/14	6/30/15	\$885.00	
Detection System	3502BP	3521058	7/1/14	6/30/15	\$1,260.00	
Selfcheck	6420F	6420346	7/1/14	6/30/15	\$1,858.00	
Software	3192	6420346	7/1/14	6/30/15	\$0.00	
Software	3192	6420347	7/1/14	6/30/15	\$0.00	
Selfcheck	6420F	6420347	7/1/14	6/30/15	\$1,858.00	
Selfcheck	6420F	6420348	7/1/14	6/30/15	\$1,858.00	
Software	3192	6420348	7/1/14	6/30/15	\$0.00	
Bookcheck	942	94005679	7/1/14	6/30/15	\$243.00	

**TOTAL** \$48,598.00  
 Please Add Applicable Tax: \$  
*Payment Terms are "Net 30"*

Notes:

**EXHIBIT A-2**

3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067

Please indicate your intentions below:

\_\_\_\_\_ Yes, I wish to renew the Service Agreement: US44999 (Please attach your Purchase Order and return it to the address listed below.)

**Please indicate billing frequency preference:**

\_\_\_\_\_ Annual \_\_\_\_\_ Semi-annual \_\_\_\_\_ Quarterly \_\_\_\_\_ Monthly  
( \$100.00 Fee ) ( \$200.00 Fee ) ( \$600.00 Fee )

**Purchase Order Number:** \_\_\_\_\_ (Please provide if you require a purchase order on your invoice.)

\_\_\_\_\_ Indicate here if you wish to pay by check. (Please DO NOT enclose a check. You will be invoiced at a later date.)

\_\_\_\_\_ No, I do not wish to renew the Service Agreement.

Reason for Cancellation: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ I am interested in purchasing additional library equipment. Please have my Sales Representative contact me.

**Please enter below the name of the person authorizing the renewal or cancellation of the Service Agreement.**

\_\_\_\_\_  
Name (Please Print) Telephone Number Fax Number Date

\_\_\_\_\_  
Email Address

Service Sales Representative  
Telephone: 800-328-0067, Opt 1, Opt 2  
Fax: 888-263-1916

Return to: 3M Library Systems Contracts  
Attn: Contract Administrator  
PO Box 33900  
St. Paul, MN 55133-3900

**\*\*\*THIS IS NOT AN INVOICE\*\*\***

EXHIBIT A-2  
3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067



**SERVICE AGREEMENT EXPIRATION NOTICE**

March 26, 2014  
Service Agreement: US50612  
**Service Agreement Expiration Date: June 30, 2014**  
3M Account # : CVG4829

BEVERLY HILLS PUBLIC LIBRARY  
Attn: **NICOLE MCCLINTON**  
9355 CIVIC CTR DRIVE  
BEVERLY HILLS, CA 90210

Dear Nicole,

Does your library have funds budgeted for emergencies? Most libraries don't.

That's why I'm writing you about your 3M Depot Service Agreement. Your coverage will expire on the date listed above and your 3M Library Systems equipment will no longer be covered. So if your systems ever need repair, your library will somehow have to find the funds to cover it.

**Complete equipment coverage**

3M's high technology equipment is extremely complex. And even though great care goes into every product we build, it's impossible to manufacture a system that is 100% reliable for as long as you own it. That's why there is not a smarter investment than a 3M Service Agreement.

Our Depot Repair Service Agreement covers virtually all labor, parts and any other equipment modifications necessary to get - and keep - your systems working.

In short, we take care of practically everything. No matter what the problem, or where you are in the United States.

**Same day telephone response**

We typically give a telephone response on the same day you call.

**EXHIBIT A-2**

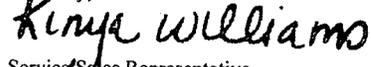
3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067

**Renewing is easy**

Give yourself some peace of mind and renew your 3M Depot Repair Service Agreement today. Just fax or mail a renewal purchase order to the number or address indicated below. Or use your Visa or MasterCard (just call the number below for information on doing this). We can guarantee your renewal price for only 30 days beyond the date on this notice, make sure you renew soon!

**Did you know you can now place a service call or renew your service contract on line?  
Visit us at [www.3m.com/uslibraryservice](http://www.3m.com/uslibraryservice) for details.**

Sincerely,



Service Sales Representative  
Telephone: 800-328-0067, Opt 1, Opt 2  
Fax: 888-263-1916

Return to: 3M Library Systems Contracts  
Attn: Contract Administrator  
PO Box 33900  
St Paul, MN 55133-3900

**P.S. If someone else is responsible for responding to this notice, please forward this letter to them! Thank You!**



**EXHIBIT A-2**

3M Library Systems  
3M Center  
PO Box 33900  
St. Paul, MN 55133-3900  
800-328-0067

Please indicate your intentions below:

Yes, I wish to renew the Service Agreement: US50612 (Please attach your Purchase Order and return it to the address listed below.)

**Please indicate billing frequency preference:**

Annual  Semi-annual  Quarterly  Monthly  
(\$100.00 Fee) (\$200.00 Fee) (\$600.00 Fee)

**Purchase Order Number:** \_\_\_\_\_ (Please provide if you require a purchase order on your invoice.)

Indicate here if you wish to pay by check. (Please DO NOT enclose a check. You will be invoiced at a later date.)

No, I do not wish to renew the Service Agreement.

Reason for Cancellation: \_\_\_\_\_  
\_\_\_\_\_

I am interested in purchasing additional library equipment. Please have my Sales Representative contact me.

**Please enter below the name of the person authorizing the renewal or cancellation of the Service Agreement.**

\_\_\_\_\_  
Name (Please Print) Telephone Number Fax Number Date

\_\_\_\_\_  
Email Address

Service Sales Representative  
Telephone: 800-328-0067, Opt 1, Opt 2  
Fax: 888-263-1916

Return to: 3M Library Systems Contracts  
Attn: Contract Administrator  
PO Box 33900  
St. Paul, MN 55133-3900

**\*\*\*THIS IS NOT AN INVOICE\*\*\***

## EXHIBIT A-3 3M TERMS AND CONDITIONS

### EXHIBIT A-3

### Terms and Conditions

#### WHAT WE WILL DO:

**Hardware:** In consideration of payment of the agreement price, 3M will furnish labor and replacement parts necessary to maintain the Equipment specified in this agreement in proper operating condition during the term of this agreement, provided that the Equipment is installed by an authorized 3M Service Provider and used as directed. This Service Agreement covers Equipment failure during normal usage. 3M agrees to provide:

- On-site remedial maintenance during On-Site Coverage Hours When 3M is notified that the Equipment is not in good working order. 3M will provide a toll-free telephone number for Customer to place, and 3M will receive, Equipment maintenance service calls twenty-four (24) hours per day, seven (7) days per Week.
- All labor, service parts and Equipment modifications 3M deems necessary to maintain the Equipment in good working order. All service parts will be furnished on an exchange basis and will be new parts or parts of equal quality. For certain Equipment, 3M reserves the right to replace the entire unit with new equipment or equipment of equal quality when 3M determines that replacement is more economical than on-site repair. All Equipment and service parts removed for replacement become the property of 3M.

**Software:** In consideration of payment of the agreement price, 3M will furnish over-the-phone software support and remote troubleshooting of the 3M Software specified in this agreement as well as updates necessary to maintain the 3M Software specified in this agreement in proper operating condition during the term of this agreement, provided that the 3M Software is installed and used as directed. 3M agrees to provide:

- All software configuration modifications 3M deems necessary to maintain the 3M Software in good working order
- 3M Software updates
- Internet Filter list updates (as applicable)
- A toll-free telephone number for Customer to place and 3M to receive software support calls. Over-the-phone software support calls may be placed twenty-four (24) hours per day, seven (7) days per week. Calls will be addressed during 3M Software Support Coverage Hours in the order they were received.

**WHAT IS NOT COVERED:** The basic maintenance fee does not include and 3M is not obligated to provide or perform repair of damage or increase in service time caused by (i) failure of Customer to provide continually a proper operating environment and supply of power as prescribed by the Equipment manufacturer; (ii) accident; (iii) Acts of God, including but not limited to fire, flood, water, wind and lightning; (iv) neglect, abuse or misuse; (v) failure of Customer to follow 3M's published operating instructions; (vi) modification, service or repair of the Equipment by other than 3M authorized personnel; (vii) use of Equipment for purposes other than for which designed; (viii) painting or refinishing the equipment; (ix) relocation of the equipment; (x) replacement of broken or damaged cabinetry; to include items such as lattices, base covers, book check covers, etc.; (xi) electrical work external to the Equipment; (xii) cosmetic restoration (e.g., filling of holes in floor or walls, plugging or wire run openings, removal of tape residue, etc.) after removal or relocation of equipment for any reason; (xiii) restoration of Equipment performance when it has been degraded by placement of unauthorized interference sources within the affected range of said equipment; (xiv) service requests related to use of markers (strips) other than those manufactured by 3M or its authorized distributor(s), (xv) modification, or repair of the 3M Software by other than 3M authorized personnel; (xvi) use of the 3M Software for purposes other than for which designed; (xvii) virus / hacker activity; (xviii) Non-3M Software related updates and upgrades including, but not limited to, Operation System, Anti-Virus, Intrusion Detection. (xix) labor or materials associated with consumables such as receipt printer paper, separator jaws, patron counter batteries, and similar items.

**RENEWAL:** This agreement is NOT automatically renewable. If a renewal agreement is offered by 3M, the agreement price quoted will reflect the age of the product and the service costs at the time of renewal.

**ENTIRE AGREEMENT:** This instrument sets forth the entire agreement between the parties, and no representation, promise or condition not contained herein shall modify these terms whether made prior to or subsequent to the execution of this agreement.

Library Systems  
3M Center, Building 225-4N-14  
St. Paul, MN 55144-1000  
1-800-328-0067  
www.3M.com/library

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3M is a trademark of 3M.

78-8123-7221-3 Rev B

Printed in U.S.A.

**EXHIBIT B**  
**SCHEDULE AND RATES OF PAYMENT**

CONTRACTOR shall submit a quotation for renewal of maintenance detailing the annual renewal fees due in advance of the annual services to be performed, which shall include documentation setting forth, in detail, a description of the services to be rendered and the hours of service. City shall pay CONTRACTOR 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"/> CONTRACTOR'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: 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

TITLE : \_\_\_\_\_

AGENCY : \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
ACCUVANT, INC. TO PROVIDE CONSULTING SERVICES  
RELATED TO THE CITY'S WIRELESS SYSTEM

NAME OF CONSULTANT: Accuvant, Inc.

RESPONSIBLE PRINCIPAL  
OF CONSULTANT: Jake Bowman, Project Coordinator

CONSULTANT'S ADDRESS: 2321 Rosecrans Ave, Ste 2240  
El Segundo, CA 90245  
Attention: Jake Bowman  
Project Coordinator

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$325,000 based on the rates  
set forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
ACCUVANT, INC. TO PROVIDE CONSULTING SERVICES RELATED TO  
THE CITY'S WIRELESS SYSTEM

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

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

**Section 1. Scope of Work.** CONSULTANT shall perform the Scope of Work described in Exhibit A in a manner 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. Term of Agreement.** This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

**Section 3. Time of Performance.** CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY in the manner described in Exhibit A. CONSULTANT shall complete the services in conformance with the project timeline established by the City Manager or his designee.

**Section 4. Compensation.**

(a) If services are requested by CITY, CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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). In no event shall the CONSULTANT be paid more than the yearly maximum Consideration set forth above.

(b) CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

**Section 5. Method of Payment.** CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

**Section 6. 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 7. 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 8. 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 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 against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

(3) A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONSULTANT agrees to maintain in full

force and effect such insurance for one year after performance of work under this Agreement is completed.

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

(b) CONSULTANT shall require each of its sub-contractors 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, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming 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 calendar 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. Information and Documents.** All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

**Section 17. Changes in the Scope of Work.** CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

**Section 18. 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 19. 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 20. 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 21. Governing Law.** The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

**Section 22. CITY Not Obligated to Third Parties.** CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

**Section 23. 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

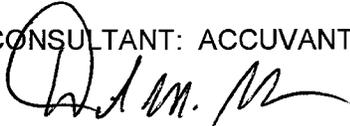
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

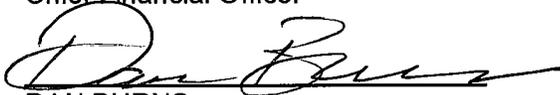
ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

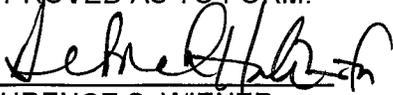
CONSULTANT: ACCUVANT, INC.

  
\_\_\_\_\_  
DAVID M. ROSHAK  
Chief Financial Officer

  
\_\_\_\_\_  
DAN BURNS  
Chief Executive Officer

[Signatures continue]

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall provide CITY with consulting services related to CITY's current and proposed Wi-Fi system which shall include the following:

PLANNING. Provide planning activities as follows:

- Provide a scope for each engagement requested by CITY and confirm that work requested by CITY has been accurately captured in the project proposal and to identify any significant obstacles to implementing the solution prior to coming onsite
- Provide engineering services to establish proper quantities and placement of the Wi-Fi data LAN components
- Scan and monitor active radio frequencies in areas of City Hall where Wi-Fi is to be deployed using specialized equipment
- Conduct pre-project call(s) to gather the detailed information about CITY environment necessary to perform the rest of the deployment
- Conduct a kick-off meeting to allow the entire project team to meet, review project objectives and strategy, and confirm the project plan and each team member's responsibilities
- Introduce team members and their role in the project
- Perform a review of the project's success criteria
- Perform a detailed walkthrough of the project plan, assigning dates and times of deliverables, status reporting requirements, and any change control impacts
- Confirm that CONSULTANT understands CITY's point(s) of contact and has all of the necessary materials and access to begin its work

CONFIGURATION. Provide configuration services as follows:

- Create a configuration/policy to implement defined policies on new systems
- Stage and configure any additional Aruba 6000 chassis components and/or Aruba access points
- Configure an internal wireless SSID with WPA2/Enterprise authentication (RADIUS > Active Directory)
- Configure an internal wireless SSID for the Vocera badges, with limited access to the internal network and optimized authentication and power management settings
- Informal training targeted to Information Technology staff
- Spot test CITY's access

DEPLOYMENT. Provide development services as follows:

- Conduct testing services such as validate installation and configuration
- Route test traffic through the new system and test the various configuration rules to ensure they are correct
- Troubleshoot & modify configuration as needed
- Migrate new solution into production—cutover to production
- Implement cut-over plan to production

CLOSING. Provide closing services as follows:

- Provide knowledge transfer to ensure that CITY personnel have the necessary skills to support and maintain the security solution going forward
- Conduct an informal knowledge transfer session with designated CITY personnel on utilizing the system to increase proficiency and ensure maximum results are achieved

(collectively "Services").

The above Services shall be provided to CITY on an as-needed basis as directed by CITY in the manner set forth herein.

For each requested engagement, CONSULTANT shall provide CITY with a written proposal which shall include (at a minimum) a detailed scope of work, deliverables and payment milestones ("Proposal"). CITY shall review and approve in writing such Proposal prior to the commencement of work. Upon approval by CITY, such Proposal shall be incorporated herein such Services and shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

CONSULTANT shall submit a detailed and itemized invoice(s) for the services rendered, which invoice shall include for each fee entry the following information: (i) the date each task is performed; (ii) the identifier of the timekeeper that performed each task (i.e. initials or timekeeper number); (iii) the hours or portion thereof, billed for the task that reflects the actual time spent on each activity; (iv) a clear description of the activity performed (each task must be billed as a separate entry and time should not be embedded); and (v) total fees billed for each entry.

CITY shall pay CONSULTANT compensation at a blended rate of Two-Hundred Fifty Dollars (\$250.00) per hour for scheduled service during normal business hours. The total sum paid to CONSULTANT under this Agreement shall not exceed the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000), as set forth in the purchase order issued by CITY for all Services to be provided pursuant to this Agreement. Said Compensation shall constitute reimbursement of CONSULTANT's fee for Services as well as the actual cost of any equipment, materials, and supplies necessary to provide the Services (including labor, materials, tax, assembly and installation as applicable.) There shall be no reimbursement for travel related expenses.

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"/> AUT MOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTIONS/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"/> 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: 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

TITLE : \_\_\_\_\_

AGENCY : \_\_\_\_\_ Address : \_\_\_\_\_

\_\_\_\_\_



AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND CDW GOVERNMENT LLC FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES

NAME OF CONSULTANT: CDW Government LLC.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Pat O'Brien, Regional Sales Manager

CONSULTANT'S ADDRESS: 230 N. Milwaukee Avenue  
Vernon Hills, IL 60061

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$650,000.00, as detailed in  
Exhibit B, Schedule of Rates and Payment

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND CDW GOVERNMENT LLC FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES

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

RECITALS

A. City desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein, collectively the "Services".

B. Consultant represents that it is qualified and able to perform the Services.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall perform the Services 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. Term of Agreement. This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

Section 3. 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 and/or in conformance with the project timeline established by the City Manager or his designee.

Section 4. Compensation.

(a) Compensation. City agrees to compensate Consultant for the services and/or goods provides 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, Schedule and Rates of Payment, attached hereto and incorporated herein.

(b) Expenses. The amount set forth in paragraph (a) 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, unless approved in writing by the Chief Information Officer.

Section 5. 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 the schedule of payment set forth in Exhibit B.

Section 6. 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 7. 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 8. 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 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) 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 Consultant in performing the Scope of Work required by this Agreement.

(3) A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Consultant agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

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

(b) Consultant shall require each of its sub-contractors 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 on a form acceptable to the City's 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.

(f) The general and auto liability insurance shall contain an endorsement naming the City, its elected officials, officers, agents and employees, as additional insureds with respect to work under this Agreement.

(g) 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.

(h) 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.

(i) 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 action brought by an unaffiliated third party either for death or personal injury or for damage to tangible personal property, to the extent that the claim is proximately caused by any person employed by Consultant in the performance of this Agreement or arising out of the work performed by Consultant.

**Section 14. Termination.**

(a) City and Consultant shall have the right to terminate this Agreement for any reason or for no reason upon fifteen calendar 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 Services.

**Section 16. Information and Documents/Work Product.**

(a) All data, information, documents and drawings prepared for City and required to be furnished to City in connection with this Agreement shall become the property of City, and City may use all or any portion of the work submitted by Consultant and compensated by City pursuant to this Agreement as City deems appropriate.

(b) City shall have a non-transferable, royalty-free, perpetual license to use all products of consulting, including, without limitation, any copyrightable works, ideas, discoveries, inventions, patents, products, videos, graphics, scripts, or other information (collectively the "Work Product") developed in whole or in part by Consultant in connection with this Agreement.

**Section 17. Changes in the Scope of Work.** City shall have the right to order, in writing, changes in the Scope of Services to be performed. Any changes in the Scope of Services must be made in writing and approved by both parties.

**Section 18. 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 19. 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 20. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than Consultant.

Section 23. 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

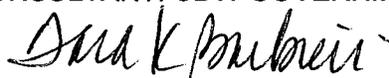
ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

[Signatures continue]

CONSULTANT: CDW GOVERNMENT, LLC



TARA BARBIERI  
Director, Program Sales

[Signatures Continue]

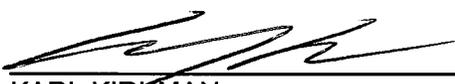
APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Consultant shall provide information technology consulting services (the "Services") and equipment related to the City's computing infrastructure, including hardware, software and related equipment in support of various City initiatives. Consultant shall provide the Services as directed by City on an as-needed basis including but not limited to:

- i. Analyze business requirements and subsequently create high-level technical design documents and related technical specifications for the implementation of SharePoint collaboration services
- ii. Install, configure and customize SharePoint services to have documents stored and indexed in a central repository, directly savable to the central repository from office applications, make is easily searchable and sharable among departments with appropriate security.
- iii. Install, configure and customize complex computing infrastructure components like servers, storage, networking gear, etc.
- iv. Perform sever consolidation services using private and public cloud offerings.
- v. Perform professional services engagements to address disaster recovery needs, mobile computing, messaging and evaluating new technologies.

For all work to be completed under this Agreement, Consultant shall provide a detailed scope of work subject to the prior written approval of City, including detailed deliverables and payment milestones, which shall be signed by both parties a be subject to the terms and conditions of this Agreement.

## **EXHIBIT B**

### **SCHEDULE AND RATES OF PAYMENT**

City shall pay Consultant compensation for scheduled service during normal business hours as set forth in each scope of work submitted by Consultant and signed by both parties. The total sum paid to Consultant under this Agreement shall not exceed the amount of Six Hundred Fifty Thousand Dollars (\$650,000.00), as set forth in the purchase order issued by City for all services to be provided pursuant to this Agreement. Said Compensation 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 labor, materials, delivery, tax, assembly and installation, as applicable) unless otherwise approved in writing by the Chief Information Officer.

Consultant 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 and the hours of service. City shall pay Consultant all undisputed amounts of such billing within thirty (30) days of receipt of the same.

**EXHIBIT C**

**CERTIFICATE OF INSURANCE**

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

**NAMED INSURED**

**COMPANIES AFFORDING COVERAGE**

**ADDRESS**

- A.
- B.
- C.

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

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

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: 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  
 TITLE : \_\_\_\_\_  
 AGENCY : \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
CLOUDEEVA, INC. FOR INFORMATION TECHNOLOGY CONSULTING  
SERVICES RELATING TO WEB AND MOBILE APPLICATIONS ON AN  
AS-NEEDED BASIS

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NAME OF CONSULTANT:	Cloudeeva, Inc.
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Adesh Tyagi Chief Executive Officer
CONSULTANT'S ADDRESS:	104 Windsor Center Drive, Suite 300 East Windsor, New Jersey 08520
CITY'S ADDRESS:	City of Beverly Hills 455 N. Rexford Drive Beverly Hills, CA 90210 Attention: David Schirmer Chief Information Officer
COMMENCEMENT DATE:	July 1, 2014
TERMINATION DATE:	June 30, 2015
CONSIDERATION:	Not to exceed \$230,000.00 based on the rates set forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
CLOUDEEVA, INC. FOR INFORMATION TECHNOLOGY CONSULTING  
SERVICES RELATING TO WEB AND MOBILE APPLICATIONS ON AN  
AS-NEEDED BASIS

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

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

**Section 1. Scope of Work.** CONSULTANT shall perform the Scope of Work 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. Term of Agreement.** This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

**Section 3. Time of Performance.** CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY in the manner described in Exhibit A. CONSULTANT shall complete the services in conformance with the project timeline established by the City Manager or his designee.

**Section 4. Compensation.**

(a) If services are requested by CITY, CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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). In no event shall the CONSULTANT be paid more than the yearly maximum Consideration set forth above.

(b) CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

**Section 5. Method of Payment.** CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the

services performed pursuant to this Agreement. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

**Section 6. 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 7. 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 8. 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 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

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

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

**Section 17. Records and Inspections.** CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 5 years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

**Section 18. Changes in the Scope of Work.** CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

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

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

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

**Section 22. Governing Law.** The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

**Section 23. CITY Not Obligated to Third Parties.** CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

**Section 24. 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.

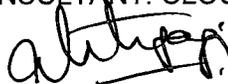
CITY OF BEVERLY HILLS  
A Municipal Corporation

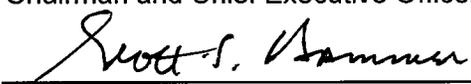
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

ATTEST:

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

CONSULTANT: CLOUDEEVA, INC.

  
\_\_\_\_\_  
ADESH TYAGI  
Chairman and Chief Executive Officer

  
\_\_\_\_\_  
SCOTT HAMMEL  
Vice President: Legal Counsel

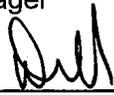
[Signatures continue]

APPROVED AS TO FORM

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall provide CITY with information technology ("IT") consulting services related to CITY's web and mobile applications which shall include the following:

- i. Analyze business requirements and subsequently create high-level technical design documents and detailed technical specifications for web and mobile applications, in accordance with CITY architecture standards
- ii. Develop application code as necessary
- iii. Test unit and system application code as well as execute implementation activities
- iv. Identify, document and estimate the technical tasks of projects of varying sizes and levels of complexity
- v. Analyze and identify technical areas of improvement within existing web and mobile applications
- vi. Work with internal IT teams to complete project activities, such as infrastructure, architecture and database design
- vii. Develop solutions, test systems, present solutions, and provide training and applications support.

(collectively "Services").

The above Services shall be provided to CITY on an as-needed basis as directed by CITY in the manner set forth herein.

For each requested engagement, CONSULTANT shall provide CITY with a written proposal which shall include (at a minimum) a detailed scope of work, deliverables and payment milestones ("Proposal"). Each Proposal is subject to the written approval of CITY prior to the commencement of work. Upon approval, such Proposal shall be incorporated herein as if set forth in full and the services provided thereunder such Proposal shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

For the term of this Agreement, CONSULTANT shall be paid for the services provided herein at the hourly rates set forth in CONSULTANT's 2014 Rate Schedule attached hereto as Attachment 1 to Exhibit B and incorporated herein by this reference. In no event shall the total compensation exceed Two Hundred Thirty Thousand Dollars (\$230,000). CONSULTANT may modify the Rate Schedule by giving CITY thirty (30) days prior written notice of such modification.

CONSULTANT shall submit a detailed and itemized invoice(s) for the services rendered, which invoice shall include for each fee entry the following information: (i) the date each task is performed; (ii) the identifier of the timekeeper that performed each task (i.e. initials or timekeeper number); (iii) the hours or portion thereof, billed for the task that reflects the actual time spent on each activity; (iv) a clear description of the activity performed (each task must be billed as a separate entry and time should not be embedded); and (v) total fees billed for each entry.

ATTACHMENT 1 TO EXHIBIT B  
CONTRACTOR'S RATE SCHEDULE

**Rate Schedule Effective: January 1, 2014 – June 30, 2014**

**I.**

***Hourly time & materials labor rates are provided for a sample of our resources for 2014. Other additional direct costs are not included & will be invoiced.***

**C/C++ Developer**

**Hourly Rate: \$75 to \$95/Hr.**

Staff Members in this category would typically do the following and/or have the following skillsets:

- Design, develop, and maintain complex, real-time, high-performance server technology.
- Document and build unit tests for your code.
- Strong C/C++ skills in an UNIX environment.
- Real-world experience with web servers, TCP/IP, HTTP, inter-process communication and multithreading.
- Strong understanding of algorithms and software engineering.

**IOS/Android/Mobile Developer**

**Hourly Rate: \$90 to \$110/Hr.**

Staff Members in this category would typically do the following and/or have the following skillsets:

- Design and implementation of intuitive and responsive user interfaces for touch screen devices.
- Delivery of fully featured and reliable APIs for 3rd party developers.
- Concurrent and multi-threaded application design and implementation.
- Databases enabled for cross-device synchronization through peer to peer and cloud connectivity solutions.
- High quality and high performance 2D graphics rendering pipelines.
- Specialist skills in developing custom applications for IOS or Android and other platforms.
- Experience with 2D and 3D graphics rendering and animation.

**Java Developer**

**Hourly Rate: \$65 to 85/Hr.**

Staff Members in this category would typically do the following and/or have the following skillsets:

- Provide designing, coding, and testing solutions and identifying system deficiencies and suggest technical solutions.
- Creating prototypes for business user approval. Documenting application functionality and programming.
- Creating and executing unit, integration and system test scripts, manual and automated.
- Accurately preparing written business correspondence that is coherent, grammatically correct, effective, professional and engaging Demonstrated proficiency in Java 2 Platform Enterprise Edition using Struts, Hibernate, Enterprise Java Beans, Servlets, JSP.
- Demonstrated proficiency with languages such as EL, JQuery, JavaScript and SQL
- Ability to read and understand XML schemas.

- Writ effective, scalable SQL queries and stored procedures.
- Use Rational Application Developer or another Eclipse base IDE for developing and testing J2EE based applications.

## II.

### **Java Senior Developer**

**Hourly Rate: \$75-\$95/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Perform development in Java and JavaScript, perform development in Java and JavaScript, code review, and provide oversight for the team of developers.
- Perform code review and provide oversight for the team of developers.
- Author technical design documentation, provide oversight for development team.
- Create build packages for delivery to the project QA testers and the customer.
- Extensive knowledge of Java, JavaScript, Web Services, SQL and Oracle Databases, WebSphere web application development.
- Experience in using SVN for code management and JIRA for defect tracking.
- Assist the project architect with technical design details.

### **Java Architect**

**Hourly Rate: \$110-\$130/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Provides technology expertise to IT activities and responsible to front-end all product related technical discussions with existing clients, prospective customers in creating unique.
- Architect, design and developing highly available, scalable and maintainable SOA based enterprise solutions.
- Significant experience with development of MVC based Rich Internet Applications Experience with open source frameworks like ExtJS, jQuery, Struts, Spring, Camel, Hibernate, iBatis.
- Engage in high value technology consulting with internal team members for strategic planning and development of tactical IT transformation or modernization roadmaps.
- Build comprehensive and in-depth Intellect platform technical skills across multiple product lines and, work collaboratively with cross-functional product teams, to help drive product and consulting sales.
- Enterprise application architecture, design and development experience using Java/J2EE and related technologies.
- Strong understanding of object oriented analysis, architecture and design patterns.

### **PHP Developer**

**Hourly Rate: \$75-\$95/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Maintain and expand software products
- Develop extensions to the software as per varying needs
- Install and maintain open-source Social Network Analysis software on a server and develop code to extend the software's capability
- Gather requirements, develop code, program, test, and maintain several web applications
- Experience and a strong passion for the LAMP (Linux, Apache, and MySQL & PHP) development stack.
- Working knowledge of memory objects caching technologies like Memcached.
- Experience designing, querying, and updating both RDBMS and NoSQL data stores like MySQL and Couchbase.
- Ability to design unit tests with PHPUnit and document source with phpDocumentor.
- Experience of web service development and consumption (SOAP, XML, Feeds, ReST, etc

### **III.**

#### **Python Developer**

**Hourly Rate: \$90-\$100/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Develop and documenting interactive Web applications and automation procedures.
- Creating, maintaining and updating various Web applications created primarily in Python.
- Execute on all new fresh code & work with Product owners and development team to build reusable UI components.
- Translate user's stories into highly usable software solutions.
- Write clean, maintainable code following best practices (unit testing, source control, continuous integration, automation, design patterns, etc.
- Debug code and troubleshoot problems.
- Collaborate with other developers, testers, and system engineers to ensure quality product enhancements.

#### **HTML5/Javascript Front End Developer**

**Hourly Rate: \$75-\$95/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Writes new software, makes modifications to existing software, or integrates software applications and modules in accordance with agreed upon specifications, created in partnership with others
- Contributes to the creation of design. May lead the design of less complex components.
- Provide technical support to operations or other development teams.

- Creates, reviews, and maintains all required technical documentation/ manual related to assigned software to ensure supportability and reuse.
- Provides wider feedback into performance
- Assists in identification and implementation of short-term and long-term solution options, including risk assessments.
- Assists with improvements to prevent problems, including problem resolution workflow.
- Participates in remediation solutions.
- Participates in project planning sessions with team members to analyze development requirements, provide design options, and provide work breakdown and estimates of work.
- Provides work breakdown and estimates for small software development tasks.
- Provides timely status updates for areas of individual responsibilities within projects to supervisor
- Actively participates in team and status meetings.
- Develops software using disciplined software development processes, adhering to team/company standards and software best practice guidelines, and corporate policies.

#### Ruby on Rails Developer

Hourly Rate: \$95-\$118/Hr.

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design, develop, and test significant client & middle tier components.
- Contribute to UI mock-ups.
- Contribute to user stories in content, review, and estimation.
- Work with web development teams, vendors, and partners to define new integrations.
- Good experience with open source development on Linux based platforms.

#### IV.

##### UI/Front-end Developer

Hourly Rate: \$70-\$90/Hr.

Staff Members in this category would typically do the following and/or have the following skill sets:

- Leverage the latest in JavaScript web front-end technologies to build a unique and demanding solution and bring new ways of visualizing and engaging with data.
- Recommend and develop user interface consistent with user experience design and product requirements.
- Drive common UI development architecture and tools.
- Design and implement user interface components considering usability, security, performance and customizability.
- Coordinate client-server interface design and implementation with server developers.
- Actively participate in Agile/Scrum development team if needed.

### **UI/UX Designer**

**Hourly Rate: \$90-\$110/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Study users to deeply understand their needs
- Create models that form the theoretical foundation for great solutions: workflow diagrams, flowcharts, storyboards, wireframes, sitemaps, personas and other models
- Collaborate closely with product managers, development leads and other designers
- Create low-fi sketches, prototypes and wireframes to establish the rough direction
- Create interactive prototypes for user testing
- Test designs with end-users
- Create precise, beautiful, hi-fi mock-ups
- Write thorough design specifications
- Support engineering through the development phase

### **NET Developer**

**Hourly Rate: \$60-\$85/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Work with application architects, lead developers and teams to design and develop robust Microsoft-based enterprise software solutions.
- Create proof of concepts for emerging technologies as they apply to the problem space.
- Assist with identifying and establishing tools, operating environments, design, development standards, and technical documentation as required.
- Work with other team members during development and implementation of solutions.
- Support other developers through problem solving by identifying as well as evolving standards, best practices and reusable solutions.
- Work with test and quality assurance staff during the development and implementation of enterprise solutions.
- Identify ambiguities and gaps in system requirements and liaise with analysts, architects, lead developers and customers to obtain clearer specifications.
- NET development skills with use of related technologies, concepts and products such as Microsoft Visual Studio 2005 or 2008, .NET Framework, Visual Basic .NET or C#
- Experience with MS SQL Server (2008 required, 2012 desired)
- Highly skilled in writing SQL queries
- Knowledge of CSS, JavaScript, and JQuery is a plus

### **V.**

#### **NET Senior Developer/Lead**

**Hourly Rate: \$75-\$95/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Experience architecting, installing and configuring .NET solutions in a lead role.
- Participate in solution design, concept visualization and functional and technical requirements definition and documentation.

- Interact with delivery team and clients to understand business requirements and determine how to best leverage technology to support those requirements in developing effective web solutions.
- Perform advanced troubleshooting at the application level.
- Build enhancements within existing software applications and envision future improvements to the architecture.
- Define and implement data object models.
- Design and development of complex business logic.
- Provide subject matter expertise to identify and translate system requirements into technical architecture and design documentation.

### **NET Architect**

**Hourly Rate: \$95-\$115/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design & Develop the overall enterprise architecture frameworks, methodologies, and tools.
- Evaluates and creates new tools and techniques to facilitate effective development practices.
- Sets the standard for highest quality of work. Provides thought leadership, mentors others, and leads by example.
- Act as the technical lead on all projects, help in creating and maintaining technical design artifacts. Anticipates and acts upon issues that arise, providing alternative approaches and solutions.
- Establish enterprise architecture and standards.
- Proficiency in Microsoft technologies including .Net 4.0, Web API, WCF, Visual Studio 2012, SQL Server, MVC, and custom ASP.Net applications.
- Articulate complex application designs and develop applications using emerging technologies.
- Develop Web services Framework that provides data/services to partners internal & external and mobile devices.
- Experience with cloud enablement of business applications is a plus.

### **SharePoint Developer –**

**Hourly Rate: \$70-\$90/Hr**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Develop reporting dashboards, reporting repositories and workflows.
- Provide guidance and expertise on topics surrounding strategy and best practices for SharePoint solutions.
- Troubleshoot technical and functional issues with the SharePoint software and solutions in a Production Environment.
- Work closely with other stakeholders to successfully deliver solutions.
- Transfer knowledge and technical expertise to other team members and end users.
- Experience working in a rapid application development environment.

- Experience developing SharePoint functional specs and design documents.
- Experience delivering high impact executive level dashboards.
- SRSS and SASS development.

## **VI.**

### **SharePoint Administrator**

**Hourly Rate: \$60-\$85/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Provide advanced operational administration support for SharePoint Farm, SharePoint Applications, IIS, and SharePoint Windows Systems.
- SME Expert in SharePoint, IIS and Windows Server administration skills, including SharePoint and IIS installation, configuration, architecture, and advanced troubleshooting experience.
- Architect, install, configure, maintain, and optimize SharePoint and ISS environments, and implement new SharePoint technologies.
- Provide in house technical support as well as contribute ideas for SharePoint applications in support of Business needs.
- Architect and maintenance of the SharePoint Enterprise environment.
- Resolve SharePoint, IIS, OS and application level problems (debug issues) and client's support problems.
- Perform and automate SharePoint environments and SharePoint applications monitoring.
- Design and maintain SharePoint configuration management.
- Document SharePoint Enterprise environment and application configuration.
- Create and maintain InfoPath Forms.
- Respond to SharePoint server and enterprise application maintenance calls.
- Plan and implement SharePoint systems installations and upgrades.
- Develop SharePoint server and Enterprise system standards.

### **SharePoint Architect**

**Hourly Rate: \$90-\$110/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design, development, and implementation of the project.
- Work on PoC as needed & owns the technology part of the project.
- Collaborate with Business to determine requirements.
- Develop Technical Architecture and designs for scalable enterprise applications.
- Actively participate in development and implementation of SharePoint solutions.
- Mentor junior-level developers in Web technologies, including SharePoint and software development best practices.
- Conduct performance and scalability testing, and capacity analysis/planning.
- Create custom lists and views using SharePoint Designer.
- Create custom Workflows using SharePoint Designer and Visual Studio.
- Create BCS's and external content lists and views using SharePoint Designer.

- Create and maintain master and layout pages.
- Define and Implement taxonomies.
- Be an advocate for Best Practice Guidance & Governance.

## **VII.**

### **QA Analyst**

**Hourly Rate: \$50 -\$70/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Identify test scenarios / write required test cases.
- Execute testing, manual and automated.
- Provide input/feedback to the design and development of new features.
- Develop and execute automated test cases.
- Record defects and follow up on corrections.
- Enforcing standard quality processes, making recommendations for improvements.
- Takes responsibility of quality for the whole sprint team; monitors quality testing of all testers.
- Develop test cases, test plans, and scenarios.
- Be experienced with quality assurance reporting and tracking software.

### **QA Lead**

**Rate: \$70-\$90/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design and implement test tools and infrastructures that will be utilized across multiple test and development teams.
- Provide best practices and leadership consultation on test strategies, methods, and best practices.
- Lead the definition, implementation, and maintenance of standard QA processes, methodologies, and templates for use on client deliverables.
- Build a collaborative working relationship with development, product management, and operations
- Define, track, and drive progress towards the quality objectives for client projects or the department as a whole.
- Manage multiple release cycles for various projects and ensure successful qualification prior to launch.

**GIS Project /Program Manager (Mid-Level)**

**Hourly Rate: \$95-\$115/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Executes planning for projects, including development of the project scope, task organization, estimates of effort and other required resources, and schedules necessary to complete the project.
- Creates estimate of cost and budget for the project.
- Develops and negotiates agreements for services, including scope, fee structure, fee amount, schedule, and all other provisions related to risk sharing/management. Obtains internal input and approvals as required by the company's policies.
- Executes internal project setup procedures in accordance with the company's policies.
- Directs, manages and participates in the production of the project deliverables. Performs or participates in some or all of the following tasks: Preliminary studies, plans and cost estimates, selection and contracting with vendors/sub-consultants, designs and plan production, project status/review meetings, specification and contract document development/production and bidding,

Contract award and construction administration oversight.

**VIII.**

**GIS Systems Administrator (Mid-Level)**

**Hourly Rate: \$55 to \$75/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Researches, implements, manage and maintain GIS software, network infrastructure, applications and computer systems for the centralized system running production.
- Provide general system administration within environment performing deployment, installation, and maintenance of enterprise geospatial system based on Esri, Google, OGC, GeoServer, Oracle, Microsoft and/or Citrix platforms.
- Perform operating system administration, application system administration, database administration, and web administration for local and remote systems.
- Establish GIS policies, standards, and procedures.
- Manages installation, configuration, upgrades, and troubleshooting of geospatial system including databases, software, user applications, and hardware; designs, manages, and monitors network.

**GIS Software Developer (Mid-Level)**

**Hourly Rate: \$70 to \$90/Hr.**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design, create, and maintain software by analyzing, testing, assessing and implementing programming applications based on business priorities and guidance from management.
- Assists teams with quickly and reliably debugging and solving the most complicated system issues.
- Proficiency in fundamental and advanced application development concepts.

- Expertise in algorithm analysis and performance tuning.
- Assist in the testing process by conducting reviews and analyses, witnessing tests and participating in software certification.
- Provide technical expertise and guidance to project teams and software engineers, demonstrating significant creativity and flexibility.
- Provide guidance to teams and individual software engineers for build and release management.
- Develop features across multiple subsystems within the portfolio, including collaboration in requirements definition, prototyping, design, coding, testing and deployment.

## **IX.**

### **iOS / Android / mobile resources – Offshore team**

#### **iOS/Android/Mobile Developer & Senior Developer**

**Hourly Rate: \$30 to \$35/Hr. - discounted rate (\$20hr.) for CITY**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Design and implementation of intuitive and responsive user interfaces for portable and handheld touch screen devices.
- Delivery of fully featured and reliable APIs for 3rd party developers.
- Concurrent and multi-threaded application design and implementation.
- Databases enabled for cross-device synchronization through peer to peer and cloud connectivity solutions.
- Specialist skills in developing custom native mobile apps for iOS or Android or Windows mobile.
- Specialist skills in developing cross-platform mobile apps with Apache Cordova API, Phonegap and Titanium platforms using jQuery mobile, JavaScript, HTML5 and CSS.
- Specialist skills in developing mobile web sites compatible with mobile phones running variety of operating systems
- Experience with 2D and 3D graphics rendering and animation.
- Experience in integrating Social Media such as Facebook, Twitter, LinkedIn.
- Experience in Augmented Reality and location based apps.
- Experience in OAuth, Security, Encryption, SOAP and RESTful web services.
- Experience in providing best user experience with Wow! Effect
- Experience in in-app purchases and in-app advertising

#### **iOS/Android/Mobile Tester**

**Hourly Rate: \$25 to \$30/Hr. - discounted rate (\$20hr.) for CITY**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Writing and executing test cases for mobile apps.
- Testing mobile apps for usability, user friendliness and rich user experience as per human interface guidelines and standards.
- Testing mobile apps for performance and responsiveness on various modes of networks like 2G, 3G, 4G, and Wi-fi.

- Testing the mobile apps for data privacy, security, authentication, authorization, vulnerabilities, crashes etc.

#### **iOS/Android/Mobile App UI / Graphics Designer**

**Hourly Rate: \$25 to \$30/Hr. - discounted rate (\$20hr.) for CITY**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Understanding business / functional requirements and creating mockup screens for mobile apps.
- Designing layouts, navigation flow and UI elements for mobile apps.
- Designing and creating logos, images and icons for mobile apps.
- Developing HTML5, CSS and JavaScript functions for cross-platform mobile apps and mobile web sites

#### **X.**

#### **iOS/Android/Mobile App Architect**

**Hourly Rate: \$35 to \$45/Hr. - discounted rate (\$20hr.) for CITY**

Staff Members in this category would typically do the following and/or have the following skill sets:

- Understanding business requirements and translating them into technical and UI specifications.
- Providing solution architecture and high level design.
- Planning, coordinating and managing the mobile app development work.
- Ensuring that delivery is made as per customer satisfaction in terms of quality, cost and scope.
- Ensuring that software is developed as per industry standards, best practices and latest technologies.
- Coordinating with client for requirements, progress, status and feedback.



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**

- A.
- B.
- C.

**ADDRESS**

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	LIMITS		AGGREGATE
				B.I.	P.D.	
	<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: \_\_\_\_\_  
 \_\_\_\_\_



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/6/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**  
 Bollinger Inc.  
 A subsidiary of Arthur J. Gallagher & Co.  
 101 JFK Parkway  
 Short Hills NJ 07078

**CONTACT NAME:** David Henriques  
**PHONE (A/C, No, Ext):** 973-921-8369 **FAX (A/C, No):** 973-921-2876  
**E-MAIL ADDRESS:** david\_henriques@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A :Hartford Fire Insurance Company	19682
INSURER B :Hartford Underwriters Insurance Com	30104
INSURER C :Hartford Casualty Insurance Company	29424
INSURER D :Philadelphia Indemnity Insurance Co	18058
INSURER E :	
INSURER F :	

**INSURED**  
 Cloudeeva, Inc.  
 104 Windsor Center Drive, #300  
 East Windsor NJ 08520

**COVERAGES** **CERTIFICATE NUMBER:** 1590533759 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y		13UUNZK3294	3/24/2014	3/24/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y		13UECNV1333	11/12/2013	11/12/2014	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000			13RHUZK2617	3/24/2014	3/24/2015	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
D	Technology E&O & 3rd Party Crime/ Fidelity			PHSD932295	4/1/2014	4/1/2015	Limit 5,000,000 Limit 2,000,000

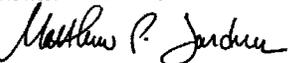
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Professional Liability includes Technology E&O  
The City of Beverly Hills and it's elected officials, officers and employees, as well as the Beverly Hills Unified School District and it's elected officials, officers and employees are named as Additional Insureds.

**CERTIFICATE HOLDER** **CANCELLATION**

City of Beverly Hills  
 455 N. Rexford Drive  
 Beverly Hills CA 90210

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  


AUTOMATIC DATA PROCESSING INS AGCY  
PO BOX 33015  
SAN ANTONIO TX 78265

CLOUDEEVA INC,  
104 WINDSOR CENTER DR STE 300  
HIGHTSTOWN NJ 08520



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/6/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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<b>PRODUCER</b> AUTOMATIC DATA PROCESSING INS AGCY 250717 P: F: PO BOX 33015 SAN ANTONIO TX 78265	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):	
	INSURER(S) AFFORDING COVERAGE		NAIC#
<b>INSURED</b> CLOUDEEVA INC, 104 WINDSOR CENTER DR STE 300 HIGHTSTOWN NJ 08520	INSURER A: TWIN CITY FIRE INSURANCE CO		29459
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED: RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	76 WEG GE3998	03/24/2014	03/24/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations.

**CERTIFICATE HOLDER**

CITY OF BEVERLY HILLS  
 455 N REXFORD DR  
 BEVERLY HILLS, CA 90210

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Joe Mailbox*

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
COMMLINE INC. FOR RADIO CONSULTING SERVICES AND RELATED  
EQUIPMENT

NAME OF CONTRACTOR: Commline Inc.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: James Jun, President

CONTRACTOR'S ADDRESS: 5563 Sepulveda Blvd. Suite D  
Culver City, CA 90230

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015, unless sooner terminated pursuant  
to Section 13

CONSIDERATION: An amount not to exceed \$55,000.00 as detailed in  
Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
COMMLINE INC. FOR RADIO CONSULTING SERVICES AND RELATED  
EQUIPMENT

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

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein by this reference (the "Services").

B. CONTRACTOR 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. CONTRACTOR's Services. CONTRACTOR shall perform the Services as 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. Time of Performance. CONTRACTOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above.

Section 3. Compensation. CITY agrees to compensate CONTRACTOR and CONTRACTOR 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 CONTRACTOR'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, CONTRACTOR 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 CONTRACTOR said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONTRACTOR 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 CONTRACTOR or any of CONTRACTOR's employees, except as

herein set forth. CONTRACTOR 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 CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR 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) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR shall not be made without prior written consent of CITY.

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

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

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

Section 10. Interests of CONTRACTOR. CONTRACTOR 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 CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR 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 CONTRACTOR.

(2) 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 Scope of Work required by this Agreement.

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

(b) CONTRACTOR shall require each of its sub-CONTRACTORS 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) CONTRACTOR 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 CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR 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. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR 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, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. CONTRACTOR 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 CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

### Section 13. 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 CONTRACTOR. CONTRACTOR 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 CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement.

CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. 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 16. 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 17. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, 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 CONTRACTOR.

Section 18. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 19. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 20. 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

ATTEST

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

CONTRACTOR:  
COMMLINE INC.

\_\_\_\_\_  
JEFF FUKASAWA  
Vice President

\_\_\_\_\_  
JAMES JUN  
CEO & Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

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

\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF WORK**

CONTRACTOR shall perform the following services:

CONTRACTOR shall provide, to the full satisfaction of CITY, consulting services related to CITY's Motorola radios on an as needed basis to meet CITY's ongoing needs ("the Services").

For each requested engagement, CONTRACTOR shall submit a written scope of work which shall include a breakdown of all costs and warranties to CITY's authorized representative for written approval, acceptance and authorization to proceed.

CONTRACTOR shall provide a full one year warranty on all products and workmanship. All work shall be performed in accordance with State and local laws.

## EXHIBIT B

### SCHEDULE AND RATES OF PAYMENT

CITY shall pay CONTRACTOR an amount not to exceed Fifty-Five Thousand Dollars (\$55,000.00) for the services provided under this Agreement at the rates set forth below.

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

#### Service & Install Rates

Description	Hourly Rate	Min. hrs	Notes	Total
Vehicle install technician	\$95.00	2	Scheduled	\$190.00
Vehicle install Technician	\$150.00	2	Same Day	\$300.00
RF Technician	\$150.00	2	Emergency Response	\$300.00
RF Technician	\$250.00	2	Off Hours/same day	\$500.00
Radio Console/IT Technician Hardware or Software base	\$195.00	2	Emergency Response	\$390.00
Radio Console/IT Technician Hardware or Software base	\$295.00	2	Off Hours/same day	\$590.00
			Emergency Response	

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"/> PRODUCTION/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"/> 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: 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 : \_\_\_\_\_  
 \_\_\_\_\_

## Program Signature Form

MBA/MBSA number	<input type="text"/>	<input type="text"/>
Agreement number	01E73134	

**Note:** Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
<Choose Agreement>	
Enterprise Enrollment	X20-10631
<Choose Enrollment/Registration>	
Product Selection Form	X20-03622

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* City of Beverly Hills
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*
Tax ID

\* indicates required field

Microsoft Affiliate
Microsoft Licensing, GP
Signature _____
Printed First and Last Name
Printed Title
Signature Date <small>(date Microsoft Affiliate countersigns)</small>
Agreement Effective Date <small>(may be different than Microsoft's signature date)</small>



Microsoft Licensing, GP

MAY 22 2014

Thomas Swinart

Duly Authorized on behalf of  
Microsoft Licensing, GP

Optional 2<sup>nd</sup> Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name* DAVID SCHIRMER
Printed Title CHIEF INFORMATION OFFICER
Signature Date*

\* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

\* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following

MICROSOFT –

CITY OF BEVERLY HILLS, a  
municipal corporation

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LILI BOSSE  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:



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LAURENCE S. WEINER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY KOLIN  
City Manager

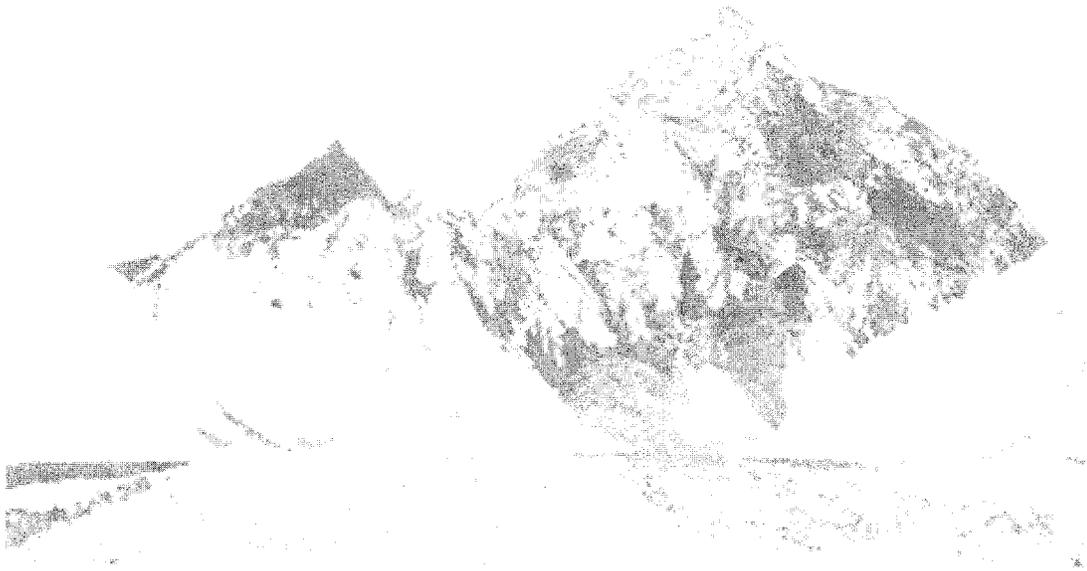


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KARL KIRKMAN  
Risk Manager

address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Licensing, GP**  
Dept. 551, Volume Licensing  
6100 Neil Road, Suite 210  
Reno, Nevada 89511-1137  
USA



# Enterprise and Enterprise Subscription Enrollment Product Selection Form – State and Local

Enrollment Number  
 Microsoft to complete for initial term  
 Reseller to complete for renewal

**Step 1. Please indicate whether Enrolled Affiliate is ordering Enterprise Products or Enterprise Online Services on the initial enrollment order. Choose both if applicable.**

**Enterprise Products.** Choose platform option: Custom Platform

Qualified Devices: 800

Qualified Users: 991

**Enterprise Online Services<sup>1</sup>**

**Step 2. Select the Products and Quantities Enrolled Affiliate is ordering on its initial Enrollment Order.** Quantity may not include any Licenses which Enrolled Affiliate has selected for optional future use, or to which it is transitioning or stepping up within enrollment term. Products for which the Enrolled Affiliate has an option to transition or step-up should be listed in Step 3.

Products <sup>2</sup>	Quantity
<b>Office Professional Plus</b>	
Office Pro Plus	800
Office Pro Plus for Office 365	
<b>Office 365 Plans<sup>1</sup></b>	
Office 365 (Plan E1)	
Office 365 (Plan E2)	
Office 365 (Plan E3)	
Office 365 (Plan E4)	
<b>Client Access License (CAL). Choose 1 Option.</b>	
<input checked="" type="checkbox"/> <b>Core CAL, including Bridge CAL's (if applicable)</b>	
Core CAL	991
Core CAL Bridge for Office 365	
Core CAL Bridge for Windows Intune	
Core CAL Bridge for Office 365 and Windows Intune	
<input type="checkbox"/> <b>Enterprise CAL (ECAL)</b>	
ECAL	
ECAL Bridge for Office 365	
ECAL Bridge for Windows Intune	
ECAL Bridge for Office 365 and Windows Intune	
The Client Access License selection must be the same across the Enterprise. Specify whether licensing CAL per Device or User: User	
<b>Windows Desktop</b>	
Windows OS Upgrade	800
Windows VDA	
<b>Windows Intune</b>	
Windows Intune	
Windows Intune Add-on <sup>3</sup>	
<b>Other Enterprise Products</b>	
Microsoft Desktop Optimization Pack (MDOP) <sup>4</sup>	

If selecting Windows Desktop or Windows Intune option, Enrolled Affiliate acknowledges the following:

- a. The Windows Desktop Operating System Upgrade licenses offered through this Enrollment are not full licenses. The Enrolled Affiliate and any included Affiliates have qualifying operating system licenses for all devices on which the Windows Desktop Operating System Upgrade or Windows Intune licenses are run.
- b. In order to use a third party to reimage the Windows Operating System Upgrade, Enrolled Affiliate must certify that Enrolled Affiliate has acquired qualifying operating system licenses. See the Product List for details.

Step 3. Indicate new Enterprise Products and Online Services Enrolled Affiliate has selected for optional future use where not selected on the initial enrollment order (above):

Products <sup>2</sup>	
<input type="checkbox"/>	Office Pro Plus for Office 365
<input type="checkbox"/>	Office 365 (Plan E1)
<input type="checkbox"/>	Office 365 (Plan E2)
<input type="checkbox"/>	Office 365 (Plan E3)
<input type="checkbox"/>	Office 365 (Plan E4)
<input type="checkbox"/>	Enterprise CAL (ECAL) Step-up, including Bridge CALs
<input type="checkbox"/>	Windows Intune
<input type="checkbox"/>	Windows Intune Add-on <sup>3</sup>

**This form must be attached to a signature form to be valid.**



# Enterprise Enrollment

# State and Local

Enterprise Enrollment number <i>(Microsoft to complete)</i>		Proposal ID/Framework ID	
Previous Enrollment number <i>(Reseller to complete)</i>	5412700	Earliest expiring previous Enrollment end date	7/31/2014

**This Enrollment must be attached to a signature form to be valid.**

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) any supplemental contact information form or Previous Agreement/Enrollment form that may be required, (5) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

**Effective date.** If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date each year this Enrollment is in effect.

**Term.** The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. If the Enrollment is renewed, the renewal term will expire 36 full calendar months after the effective date of the renewal term. Any reference in this Enrollment to "day" will be a calendar day.

**Product order.** The Reseller will provide Enrolled Affiliate with Enrolled Affiliate's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Enrolled Affiliate and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

## Terms and Conditions

### 1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product List and chosen by Enrolled Affiliate under this Enrollment.

"Enterprise Online Service" means any Online Service designated as an Enterprise Online Service in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise

Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

"Expiration Date" means the date upon which the Enrollment expires.

"Industry Device" (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) ("Industry Program"). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

"L&SA" means a License with Software Assurance for any Product ordered.

"Qualified Device" means any device that is used by or for the benefit of Enrolled Affiliate's Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), OR (2) a device used to access a virtual desktop infrastructure ("VDI").. Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, OR (2) an Industry Device, OR (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Enrolled Affiliate's Enterprise. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate's Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

"Qualified User" means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product List.

"Reserved License" means for an Online Service identified as eligible for true-ups in the Product List, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

"Transition" means the conversion of one or more License to or from another License(s). Products eligible for Transition and permitted Transitions are identified in the Product List.

"Transition Period" means the time between the Transition and the next Enrollment anniversary date for which the Transition is reported.

## **2. Order requirements.**

- a. **Minimum Order requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.
  - (i) **Enterprise Commitment.** If ordering any Enterprise Products, Enrolled Affiliate's order must include coverage for all Qualified Users or Qualified Devices, depending on the License Type, of one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services.
  - (ii) **Enterprise Online Services.** If ordering Enterprise Online Services *only*, then Enrolled Affiliate must maintain at least 250 Subscription Licenses.
- b. **Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products and Services.
- c. **Product Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the

applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

**d. Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.

**e. Adding Products.**

**(i) Adding new Products not previously ordered.** Enrolled Affiliate may add new Enterprise Products by entering into a new Enrollment or as part of a renewal. New Enterprise Online Services may be added by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

**(ii) Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products must be included in the next true-up order. Enrolled Affiliate must purchase Services and Licenses for Online Services prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product List or (2) included as part of other Licenses (e.g., Enterprise CAL).

**f. True-up requirements.**

**(i) True-up order.** Enrolled Affiliate must submit an annual true-up order that accounts for changes since the initial order or last true-up order, including: (1) any increase in Licenses, including any increase in Qualified Devices or Qualified Users and Reserved Licenses; (2) Transitions (if permitted); or (3) Subscription License quantity reductions (if permitted). Microsoft, at its discretion, may validate the customer true-up data submitted through a formal product deployment assessment using an approved Microsoft partner.

**(ii) Enterprise Products.** Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.

**(iii) Additional Products.** For Products that have been previously ordered, Enrolled Affiliate must determine the Additional Products used and order the License difference (if any).

**(iv) Online Services.** For Online Services identified as eligible for true-up orders in the Product List, Enrolled Affiliate may first reserve the additional Licenses prior to use. Microsoft will provide a report of Reserved Licenses in excess of existing orders to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively for the prior year based upon the month in which they were reserved.

**(v) Transitions.** Enrolled Affiliate must report all Transitions. Transitions may result in an increase in Licenses to be included on the true-up order and a reduction of Licenses for prior orders. Reductions in Licenses will be effective at end of the Transition Period. Associated invoices will also reflect this change. For Licenses paid upfront, Microsoft will issue a credit for the remaining months of Software Assurance or Subscription Licenses that were reduced as part of the Transition.

**(vi) True-up due date.** The true-up order must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The third-year anniversary true-up order is due within 30 days prior to the Expiration Date. Enrolled Affiliate may true-up more often than at each Enrollment anniversary date except for Subscription License reductions.

**(vii) Late true-up order.** If the true-up order is not received when due:

- 1) Microsoft will invoice Reseller for all Reserved Licenses not previously ordered.
- 2) Transitions and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

(viii) **Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses on a prospective basis if permitted in the Product List as follows:

- 1) For Subscription Licenses part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices identified on the Product Selection Form. Step-up Licenses do not count towards this total count.
- 2) For Enterprise Online Services not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
- 3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

(ix) **Update statement.** An update statement must be submitted instead of a true-up order if, as of the initial order or last true-up order, Enrolled Affiliate's Enterprise has not: (1) changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative. The update statement must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The last update statement is due within 30 days prior to the Expiration Date.

g. **Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

(i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.

(ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.

(iii) If Enrolled Affiliate has previously ordered an Online Service as an Additional Product and wants to step-up to an Enterprise Online Service eligible for a Transition, the step-up may be reported as a Transition.

(iv) If Enrolled Affiliate Transitions a License, it may be able to further step-up the Transitioned License. If Enrolled Affiliate chooses to step-up and the step-up License is separately eligible to be Transitioned, such step-up Licenses may result in a License reduction at the Enrollment anniversary date following the step-up.

h. **Clerical errors.** Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

### 3. **Pricing.**

a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment. Price Level's will be captured in the Product Selection Form.

b. **Setting Prices.** Enrolled Affiliate's prices for each Product will be established by its Reseller. As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service will be fixed throughout the applicable initial or renewal Enrollment term. However, if Enrolled Affiliate qualifies for a different price level, Microsoft will establish a new price level for future new orders either

upon Enrolled Affiliate's request or on its own initiative. Any changes will be based upon price level rules in the Product Selection Form.

#### **4. Payment terms.**

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and on each Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

#### **5. Transitions.**

##### **a. Transition requirements.**

- (i) Licenses with active Software Assurance or Subscription Licenses may be Transitioned at any time if permitted in the Product List. Enrolled Affiliate may not, however, reduce the quantity of Licenses or associated Software Assurance prior to the end of the Transition Period.
- (ii) Enrolled Affiliate must order the Licenses to which it is transitioning for the year(s) following the Transition Period.
- (iii) If a Transition is made back to a License that had active Software Assurance as of the date of Transition, then Software Assurance must be re-ordered for all such Licenses on a prospective basis following the Transition Period. Software Assurance coverage may not exceed the quantity of perpetual Licenses for which Software Assurance was current at the time of any prior Transition. Software Assurance may not be applied to Licenses transferred by Enrolled Affiliate.
- (iv) If a device-based License is Transitioned to a user-based License, all users of the device must be licensed as part of the Transition.
- (v) If a user-based License is Transitioned to a device-based License, all devices accessed by the user must be licensed as part of the Transition.

##### **b. Effect of Transition on Licenses.**

- (i) Transition will not affect Enrolled Affiliate's rights in perpetual Licenses paid in full.
- (ii) New version rights will be granted for perpetual Licenses covered by Software Assurance up to the end of the Transition Period.
- (iii) For L&SA not paid in full at the end of the Transition Period, Enrolled Affiliate will have perpetual Licenses for a proportional amount equal to the amounts paid for the Transitioned Product as of the end of the Transition Period.
- (iv) For L&SA not paid in full or granted a perpetual License in accordance with the above or Subscription Licenses, all rights to Transitioned Licenses cease at the end of the Transition Period.

#### **6. End of Enrollment term and termination.**

- a. General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. Renewal Option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing the Enrollment for one additional 36 full calendar month term or signing a new Enrollment. Microsoft must receive a Product Selection Form and renewal order prior to or at the Expiration Date. The renewal term will start on the day following the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may

make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.

**c. If Enrolled Affiliate elects not to renew.**

(i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring L&SA.

(ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product List, the following options are available at the end of the Enrollment initial or renewal term.

1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price for Enrolled Affiliate's price level as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate does want an Extended Term, Reseller must submit a request to Microsoft. Microsoft must receive the request not less than 30 days prior to the Expiration Date.

2) **Cancellation during Extended Term.** If Enrolled Affiliate has opted for the Extended Term and later determines not to continue with the Extended Term, Reseller must submit a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received the notice.

(iii) **Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

(iv) **Customer Data.** Upon expiration or termination of a License for Online Services, Microsoft will keep Customer's Data in a limited function account for 90 days so that Customer may extract it. Enrolled Affiliate will reimburse Microsoft if there are any associated costs. After 90 days Microsoft will disable Enrolled Affiliate's account and will delete its Customer Data. Enrolled Affiliate agrees that, other than as described above, Microsoft has no obligation to continue to hold, export or return Enrolled Affiliate's Customer Data and that Microsoft has no liability whatsoever for deletion of Enrolled Affiliate's Customer Data pursuant to these terms.

**d. Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement.

**e. Early termination.** Any Early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

## Enrollment Details

### 1. Enrolled Affiliate's Enterprise.

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Enrolled Affiliate's organization includes .

Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

Enrolled Affiliate only

Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):

Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Check only one box in this section:

Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment

Enrolled Affiliate's Enterprise will **not** include all new Affiliates acquired after the start of this Enrollment

If no selection is made, or if both boxes are checked, Microsoft will deem the Enterprise to include all future Affiliates

### 2. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (\*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

- a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

**Name of entity (must be legal entity name)\*** City of Beverly Hills

**Contact name\*** First Murugan Last Krishnan

**Contact email address\*** mkrishnan@beverlyhills.org

**Street address\*** 455 N. Rexford Drive

**City\*** Beverly Hills  
**State/Province\*** CA  
**Postal code\*** 90210-4817  
(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)  
**Country\*** USA  
**Phone\*** 310-285-2585  
**Tax ID**  
*\* indicates required fields*

- b. **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized for applicable Online Services to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as primary contact (default if no information is provided below, even if the box is not checked).

**Contact name\*** First Sam Last Andrews  
**Contact email address\*** sam.andrews@compucom.com  
**Street address\*** 7171 Forest Lane  
**City\*** Dallas  
**State/Province\*** TX  
**Postal code\*** 75230-2306  
(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)  
**Country\*** USA  
**Phone\*** 818-988-2195  
**Language preference.** Choose the language for notices. English  
 This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.  
*\* indicates required fields*

- c. **Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

**Contact name\*:** First Murugan Last Krishnan  
**Contact email address\*** mkrishnan@beverlyhills.org  
**Phone\*** 310-285-2585

This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.  
*\* indicates required fields*

- d. **Reseller information.** Reseller contact for this Enrollment is:

**Reseller company name\*** CompuCom Systems, Inc  
**Street address (PO boxes will not be accepted)\*** 7171 Forest Lane  
**City\*** Dallas  
**State/Province\*** Texas  
**Postal code\*** 75230-2306  
**Country\*** United States  
**Contact name\*** Bruce Valentin  
**Phone\*** 972-856-4617  
**Contact email address\*** msadmin@compucom.com  
*\* indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

Signature*	<i>Bruce E. Valentin</i>
Printed name*	Bruce E. Valentin
Printed title*	Microsoft Licensing Specialist
Date*	5/27/2014

\* indicates required fields

**Changing a Reseller.** If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*
- (i) Additional notices contact
  - (ii) Software Assurance manager
  - (iii) Subscriptions manager
  - (iv) Customer Support Manager (CSM) contact.

### 3. **Financing elections.**

Is a purchase under this Enrollment being financed through MS Financing? No

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft Licensing, GP.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND DATA SPECIALTIES, INC. FOR MAINTENANCE AND  
SUPPORT RELATED TO THE INFORMATION  
TECHNOLOGY DEPARTMENT'S ELECTRICAL SYSTEMS

NAME OF CONSULTANT: Data Specialties Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Juan M. Vega, Service Manager

CONSULTANT'S ADDRESS: 8400 Kass Drive  
Buena Park, CA 90621

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$55,000.00, as detailed in  
Exhibit B, Schedule of Rates and Payment

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND DATA SPECIALTIES, INC. FOR MAINTENANCE  
AND SUPPORT RELATED TO THE INFORMATION  
TECHNOLOGY DEPARTMENT'S ELECTRICAL SYSTEMS

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

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein, collectively the "Services".

B. CONSULTANT represents that it is qualified and able to perform the Services.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Services. CONSULTANT shall perform the Services 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. 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 and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation.

(a) Compensation

CITY agrees to compensate CONSULTANT for the services and/or goods provides 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) Expenses

The amount set forth above 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, unless approved in writing by the Chief Information Officer.

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 as further described in the Schedule of Payment set forth in Exhibit B.

Section 5. 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 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

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

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

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

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

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

Section 11. 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

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

(b) CONSULTANT shall require each of its sub-contractors 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 on a form acceptable to the City's 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.

(f) The general and auto liability insurance shall contain an endorsement naming the City, its elected officials, officers, agents and employees, as additional insureds with respect to work under this Agreement.

(g) 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.

(h) 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.

(i) 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 12. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend City, its elected officials, officers, agents and employees, 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 13. Termination.

(a) City shall have the right to terminate this Agreement for any reason or for no reason upon five (5) calendar 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.

(c) Section 14. 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.

(d) Section 15. Information and Documents. All data, information, documents and drawings prepared for City and required to be furnished to City in connection with this Agreement shall become the property of City, and City may use all or any portion of the work submitted by CONSULTANT and compensated by City pursuant to this Agreement as City deems appropriate.

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

Section 20. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 21. 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

(SEAL)

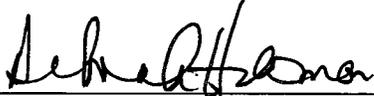
  
CONSULTANT:  
DATA SPECIALTIES, INC.

\_\_\_\_\_  
PHIL RAFFERTY  
President

  
\_\_\_\_\_  
RIC MAXSON  
Vice President / Financial Officer

[Signatures Continue]

APPROVED AS TO FORM:



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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager



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DAVID SCHIRMER  
Chief Information Officer



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KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF SERVICES**

CONSULTANT shall provide as needed support services related to the Information Technology Department's electrical systems. CONSULTANT shall perform the following services:

- Periodic assessment and reporting of IT data center's electrical operations to ensure that no problems develop over time that could threaten the Data Center's reliability;
- Replacement of end-of-life batteries for uninterrupted power supplies to ensure business continuity.

For specific work plan items to be completed under this Agreement, CONSULTANT shall provide a detailed scope of work, which is subject to the approval of CITY, including deliverables and payment milestones for acceptance by CITY prior to commencement of the work.

## EXHIBIT B

### SCHEDULE AND RATES OF PAYMENT

The total sum paid to CONSULTANT under this Agreement shall not exceed the amount of Fifty-Five Thousand Dollars (\$55,000.00) at the rates set forth in the Exhibit and as set forth in the purchase order issued by CITY for all services to be provided pursuant to this Agreement. Said Compensation 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 labor, materials, tax, assembly and installation as applicable.) There shall be no reimbursement for travel related expenses.

CONSULTANT shall submit an itemized statement to CITY for its services performed in the previous month, which shall include documentation setting forth in detail a description of the services rendered and expenses incurred. CITY shall pay CONSULTANT the amount of such billing within thirty (30) days of receipt of same.

#### Rate Schedule

June 1, 2014 through June 30, 2015

Category	Straight Time	Time & a Half	Double Time
Periodic Assessment	\$116.00/hr.	\$144.00/hr.	\$175.00/hr.
Battery Replacement	\$351.00/hr.	\$448.00/hr.	\$559.00/hr.
<b>Preventative Maintenance</b>			
UPS System	\$351.00/hr.	\$448.00/hr.	\$559.00/hr.
Mechanical System	\$188.00/hr.	\$254.00/hr.	\$312.00/hr.
Generator System	\$156.00/hr.	\$234.00/hr.	\$312.00/hr.
ATS System	\$195.00/hr.	\$293.00/hr.	\$390.00/hr.
Pre-Action System	\$189.00/hr.	\$254.00/hr.	\$332.00/hr.
Leak Detection System	\$163.00/hr.	\$228.00/hr.	\$293.00/hr.

1. Straight Time Rate — Weekdays, 7:00 AM to 3:30 PM
  - a. Service calls: Include travel one direction with a four hour minimum.
  - b. Installations (Time and Material): Less than one day, includes travel one way with a four hour minimum.
  - c. If agreed upon with customer for a particular day, the start time may be adjusted to 5:00 AM or 6:00 AM as necessary.

2. Time and One-Half Rate

- a. Any work between 3:30 PM and 7:30 PM weekdays, including travel to and from job with a four hour minimum.
- b. Any work Saturday, 7:00 AM to 3:30 PM, including travel to and from job with a four hour minimum.

3. Double Time Rate

- a. Any work any day, 7:30 PM to 7:00 AM, including travel to and from job with a four hour minimum.
- b. Any work on Saturday between 3:30 PM and 12:00 Midnight, including travel to and from job with a four hour minimum.
- c. All work on Sunday and holidays, any hours, including travel to and from job with a four hour minimum.

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: 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  
 TITLE : \_\_\_\_\_  
 AGENCY : \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.  
(ESRI) FOR INFORMATION TECHNOLOGY CONSULTING  
SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM

NAME OF CONSULTANT: Environmental Systems Research Institute, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Bruce Rowland, Program Manager

CONSULTANT'S ADDRESS: 380 New York Street  
Redlands, CA 92373-8100  
Attention: Bruce Rowland

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$75,000 as more fully described in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Environmental Systems Research Institute, Inc. (ESRI) (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

**Section 1. Scope of Work.** CONSULTANT shall perform the Scope of Work described in Exhibit A in a manner 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. Term of Agreement.** This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

**Section 3. Time of Performance.** CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY or in accordance with a mutually agreed upon project schedule and shall terminate on the Termination Date set forth above, unless sooner terminated pursuant to Section 14 of this Agreement.

**Section 4. Compensation.**

(a) CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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).

(b) CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

(c) CITY may submit a request to CONSULTANT to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

**Section 5. Method of Payment.** Unless otherwise provided for herein, CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the services performed pursuant to this Agreement during the previous 30-day period. Monthly invoices for services shall be calculated on the basis of actual hours expended during the previous month, multiplied by the appropriate labor rate, plus other direct burdened costs.

**Section 6. 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 7. 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 8. 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 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

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

(4) Workers' compensation 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 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, 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 and auto liability shall contain an endorsement naming 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.

**Section 13. Indemnification.** General Indemnity. CONSULTANT agrees to indemnify, hold harmless and defend the City of Beverly Hills, the City Council and each member thereof, and every officer, employee and agent of the CITY, (collectively the "Indemnified Parties") from and against any and all claims, damages, losses, liabilities, claims, judgments and settlements, including all reasonable costs, expenses and attorneys fees) arising out of any action or claim for bodily injury, death or property damage (except for databases not subject to a reasonable backup program) brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct by CONSULTANT, its subcontractors or their respective directors, officers, employees, or agents.

#### **Section 14. Termination.**

(a) **Termination for Cause.** Either party may terminate this Agreement immediately upon written notice to the other party in the event that one or more of the following occur:

- (i) Either party becomes insolvent, ceases to pay its debts in the ordinary course of business, is unable to pay its debts as they become due, or makes an assignment for the benefit of creditors;
- (ii) A trustee or receiver is appointed for any or all of either party's assets;
- (iii) Any bankruptcy or insolvency proceeding under any federal or state bankruptcy or insolvency code, or similar law, whether voluntary or involuntary, is commenced by or against either party;
- (iv) Either party is dissolved or liquidated;
- (v) Either party defaults under this Agreement three (3) or more times within any six (6)-month period, regardless of whether such defaults are cured;
- (vi) Either party breaches any provision of this Agreement and there is no possibility of cure;
- (vii) There is any (1) Material change in the management or control of either party, (2) Transfer of any substantial part of either party's business; or (3) Bulk transfer by either party pursuant to the Uniform Commercial Code or similar law.

(b) **Upon termination of this Agreement:**

(i) In the event of termination pursuant to Subsections v–vii of Subsection (a) of this Section, the due dates of all invoices for amounts owed by CITY to CONSULTANT shall be accelerated automatically so that such amounts become due and payable on the effective date of termination, regardless of the payment term provisions set forth in this Agreement.

(ii) Except where a provision specifically provides otherwise, any cause of action or claim of one party accrued to or to accrue because of any breach or default of the other party and any accrued license rights shall survive to the degree necessary to permit their complete fulfillment or discharge.

(c) **Termination for Convenience.** CITY may terminate this Agreement at any time on fifteen (15) days written notice to CONSULTANT and upon payment to CONSULTANT for all amounts due to date, including the prorated Agreement price 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.

(d) **Obligations upon Termination.** Upon termination of this Agreement, the parties shall have no further obligations pursuant to its terms, except that Sections 12, 15, 1, 25, 27 and 28 of this Agreement shall survive termination.

**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. In addition, CITY shall provide the appropriate staff to work with CONSULTANT.

**Section 16. Work Product.** Except as specifically granted in this Agreement, CONSULTANT or its licensors own and retain all right, title, and interest in any tangible output produced as a result of the services provided by CONSULTANT under this Agreement ("Services Output"). Subject to the terms and conditions set forth in this Agreement, CONSULTANT hereby grants to CITY a nonexclusive, royalty-free, worldwide license to use, modify, and/or reproduce the Services Output in connection with CITY's authorized use of the CONSULTANT's commercial off the shelf software. This section shall survive termination of this Agreement.

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

**Section 18. Records and Inspections.** CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 2 year(s). CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same. This right to audit excludes profit, overhead, general and administrative costs of CONSULTANT.

**Section 19. Confidentiality and Non-Disclosure.**

(a) **CITY's Confidential Information.** Pursuant to the terms of this Agreement, CITY may provide CONSULTANT with certain information, and/or access to certain information including public safety information which was or will be obtained by CITY pursuant to a License Agreement with a third party, or which is the proprietary information of CITY, or which is not publicly known (the "Information"). CONSULTANT, its employees, agents, representatives, contractors and subcontractors shall hold the Information which at the time of disclosure is identified as being confidential and confirmed in writing as "Confidential," 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 CITY,

(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 CONSULTANT's duties to CITY.

(b) **CONSULTANT's Confidential Information.** Except research and analysis documentation prepared by CONSULTANT for CITY, and unless otherwise agreed in writing, the deliverables are CONSULTANT confidential and CITY shall preserve and protect their

confidentiality. Insofar as its rights may be legally restricted, CITY agrees not to reverse engineer or decompile deliverables delivered only in object code, executable code, or formats subject to similar or greater means of access control (collectively, "Secure Formats"). For deliverables delivered in source code or other human-readable formats, CITY shall have met its obligations under this Section if its disclosure of deliverables is limited to deliverables in Secure Formats, provided that the means for reverse engineering, decompiling, or disassembling such deliverables is withheld from disclosure, and the person or entity in receipt of such deliverables similarly agrees not to perform such acts or allow others to do so. CITY shall not disclose the deliverables to employees or third parties without advance written consent of CONSULTANT. However, CITY may, without such consent, make such disclosures to employees as are reasonably required for CITY's authorized use of the deliverables, provided that such disclosure is strictly limited to the portions of the deliverables needed for that purpose.

(c) Exclusions to Confidentiality. Neither party shall have any obligations to protect any information in this Section if:

- (i) The party was in possession of the information before receipt from the disclosing party.
- (ii) The information is or becomes a matter of public knowledge through no fault of the recipient.
- (iii) The information is rightfully disclosed by a third party without a duty of confidentiality;
- (iv) The information is disclosed by discloser to a third party without a duty of confidentiality;
- (v) The information is individually developed by a party; or
- (vi) The information is required to be disclosed by operation of law.

The disclosures permitted under the preceding paragraph shall not relieve CITY of its obligation to maintain the deliverables in confidence and comply with all applicable laws and regulations of the United States including, without limitation, its export control laws.

(d) Notwithstanding, CONSULTANT acknowledges that CITY is subject to the California Public Records Act (the "Act") and that some or all of the deliverables (collectively "information") provided by CONSULTANT may be disclosable thereunder. In the event a public records act request for CONSULTANT's information is received, CITY shall use its best efforts to provide CONSULTANT 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 CONSULTANT's information are not disclosable, and litigation is commenced to compel production of such documents, CONSULTANT 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.

**Section 20. Changes in the Scope of Work.** CITY shall have the right to request, in writing, changes in the scope of work or the services to be performed. If the parties approve such changes to the scope of work, and such changes cause an increase or decrease in the cost or time required to provide a service under the Scope of Work (regardless of whether the service

itself is changed), an equitable adjustment in the price or schedule, or both, shall be made, and this Agreement shall be modified accordingly in writing and signed by both parties.

**Section 21. 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 22. 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 23. 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 24. Governing Law.** The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

**Section 25. CITY Not Obligated to Third Parties.** CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

**Section 26. 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.

**Section 27. Required Corrections and Limited Warranty.**

(a) Time and Materials Scopes of Work

(i). Limited Warranty. CONSULTANT warrants that for a period of thirty (30) days from the date of acceptance that the Services will conform to the professional and technical standards in the software industry. During the limited warranty period, if the services do not substantially conform to such standards, CITY may require CONSULTANT to perform the Services again at no additional cost to CITY. Any tangible output produced as a result of the Services provided by CONSULTANT under this Agreement is provided "AS IS" without warranty of any kind.

(ii). Disclaimer of Warranties. WITH THE EXCEPTION OF THE LIMITED WARRANTY SET FORTH IN SECTION (a)(i) OF THIS SECTION, CONSULTANT DISCLAIMS, AND THIS AGREEMENT EXPRESSLY EXCLUDES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(b) Map Data Disclaimer. CONSULTANT DOES NOT WARRANT IN ANY WAY THE MAP DATA, WHETHER SUPPLIED BY CITY OR CONSULTANT, OR THE VENDORS OF EITHER OF THEM. IF SUPPLIED BY CONSULTANT OR ITS VENDORS, CONSULTANT BELIEVES SUCH MAP DATA IS RELIABLE, BUT IT MAY NOT BE FREE OF

NONCONFORMITIES, DEFECTS, ERRORS, OR OMISSIONS; BE AVAILABLE WITHOUT INTERRUPTION; BE CORRECTED IF ERRORS ARE DISCOVERED; OR MEET CITY'S NEEDS OR EXPECTATIONS. CONSULTANT IS NOT INVITING RELIANCE ON MAP DATA, AND CITY SHOULD ALWAYS VERIFY ACTUAL DATA FROM DOCUMENTS OF RECORD, FIELD MEASUREMENT, OR OBSERVATION."

**Section 28. Limitation of Liability.** In no event shall CONSULTANT be liable to CITY for any indirect, special, exemplary, consequential, or incidental damages or lost profits arising out of, or related to, this Agreement, even if it has been advised of the possibility of such damages. CONSULTANT'S liability for direct damages shall in no event exceed the amount actually paid by CITY for the portion of the professional services involved.

**Section 29. Nonhire of Consultant Personnel.** It is hereby mutually agreed that CITY will not solicit for hire any employee(s) of CONSULTANT'S technical staff, who is (are) associated with efforts called for under this effort, for a period of one (1) year thereafter. In the event the foregoing provision is breached, liquidated damages equal to twelve (12) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by CITY to CONSULTANT.

**Section 30. Taxes.** Services provided are quoted exclusive of all state; local; value-added or other taxes, customs, or duties; or other charges (other than income taxes payable by CONSULTANT). In the event such taxes and/or charges become applicable to CONSULTANT'S services, applications, or data, CITY shall pay any such applicable tax upon receipt of written notice that such tax(es) is/are due.

**Section 31. UCC Inapplicability.** Services provided hereunder will not be governed by the Uniform Commercial Code (UCC) and will not be deemed "goods" within the definition of the UCC.

EXECUTED the \_\_\_\_\_ day of \_\_\_\_\_ 201 \_\_, at Beverly Hills, California.

CITY OF BEVERLY HILLS  
A Municipal Corporation

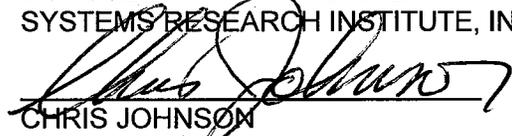
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

ATTEST:

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

[Signatures continue]

CONSULTANT: ENVIRONMENTAL  
SYSTEMS RESEARCH INSTITUTE, INC.

A handwritten signature in black ink, appearing to read "Chris Johnson", is written over a horizontal line.

CHRIS JOHNSON  
Manager, Commercial and Government  
Contracts

[Signatures continue]

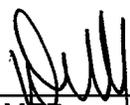
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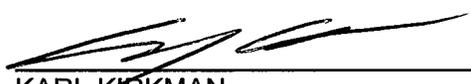


LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF WORK**

CONSULTANT shall provide CITY up to 300 hours of remote and onsite ArcGIS consulting services, which shall include assisting CITY with ArcGIS API for flex application development support, application code review, and best practices technology transfer on web mapping application development and related ArcGIS software topics ("Services"). CONSULTANT shall provide and support the Services remotely from CONSULTANT's offices. CONSULTANT shall work at the direction of CITY's technical staff in the manner set forth herein.

It is anticipated that consulting services shall include:

- Geo spatial development and usability enhancement support for mobile, browser, standalone applications and processes.
- Enterprise GIS database and infrastructure support to optimize and accommodate the requirements of new workflows.
- As needed technical support for CITY's existing and new best of breed geospatial technology implementation

Prior to providing Services under this Agreement, CITY shall request and CONSULTANT shall provide CITY with a written scope of work and price for requested Services ("Proposal"). Each Proposal shall be subject to the written approval of CITY prior to the commencement of work. Upon CITY approval, such Proposal shall be incorporated herein as if set forth in full and the services provided thereunder such Proposal shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

#### **Assumptions**

Pricing assumes all services will be provided remotely, and no travel will be necessary. If travel is required under a Proposal, it will be detailed in the Proposal in conformance with CITY's Administrative Regulations (Attachment 2 to Exhibit B).

All work shall be accomplished in accordance with the Scope of Work with the deliverable being consulting time. If additional work is requested by CITY in writing beyond the scope of this Exhibit A, CONSULTANT shall provide an updated written estimate in accordance with the rate schedule set forth in Exhibit B and any changes which require an increase in compensation shall be approved by written amendment between the parties..

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

For Services provided during the term of the Agreement, CONSULTANT shall be paid at the hourly rates set forth in CONSULTANT's 2014 and 2015 Rate Schedule attached hereto as Attachment 1 to this Exhibit B. In no event shall the total compensation exceed \$75,000. CONSULTANT anticipates using staff from the GIS Consultant/Project Manager and Senior GIS System/Software Architect labor categories. Depending on the level of expertise required to perform certain activities during this engagement, CONSULTANT may be required to utilize other CONSULTANT staff members with a different skill-set and labor category. CONSULTANT may modify the Rate Schedule as described in Attachment 1 to Exhibit B.

The parties assume that Services will be provided remotely and no travel will be necessary. However, if travel is required, there will be no travel reimbursement for any local resource. A local resource is defined as a CONSULTANT employee residing within 100 miles from CITY. All eligible estimated travel expenses shall be detailed in the Proposal which is subject to CITY's written approval. Travel expenses shall comply with CITY's Travel and Meeting Expense Policy (Policy No. 3A.1), attached hereto as Attachment 2 to this Exhibit B.

In the event CONSULTANT completes the Scope of Work for less than the not to exceed ("NTE") budget listed below, CITY will only be invoiced for the actual hours expended plus other burdened direct costs, if such direct costs are listed in the Proposal. In the event CONSULTANT reaches the NTE budget limit before the Scope of Work is completed, CITY will have the option to either: (a) increase the funding in order to allow the work to continue by written amendment between the parties; or (b) instruct CONSULTANT to stop work. If CITY chooses to stop work, CONSULTANT will do so without liability and shall provide CITY with all work product to date.

CONSULTANT shall submit a detailed and itemized invoice(s) for the services rendered, which invoice shall include for each fee entry the following information: (i) the number of hours performed during the previous calendar month; (ii) a clear description of the activity performed (each activity must be billed as a separate entry and time should not be embedded); and (iii) total fees billed for each activity.

<b>NTE BUDGET - Price by Activity</b>		
<b>Activity Description</b>	<b>Estimated Labor (\$)</b>	<b>NTE Price</b>
ArcGIS API for Flex Consulting Services	\$75,000	\$75,000
<b>Total Not-to-Exceed (NTE) Price:</b>		<b>\$75,000</b>

**ATTACHMENT 1 TO EXHIBIT B**

**RATE SCHEDULE**

Hourly time and materials labor rates have been provided for each labor category from January 1, 2014 to the end of the calendar year 2015. The hourly labor rates for services that are performed after 2015 may be escalated in an amount not to exceed five percent (5%) each year by giving CITY thirty days prior written notice of such escalation. Other direct costs, such as travel, reproduction, subcontractor, telecommunication/freight, or materials, will be charged a material handling fee and invoiced.

<b>Labor Category</b>	<b>Hourly Rate</b>	
	<b>2014</b>	<b>2015</b>
GIS Technical Specialist/Engineer (SI)	\$197	\$205
GIS System/Software Developer (S2)	\$254	\$264
Sr. GIS System/Software Architect (S3)	\$312	\$324
GIS Consultant/Project Manager (M1)	\$239	\$249
Sr. GIS/Consultant/Project Manager (M2)	\$301	\$313
Principal/GIS Consultant/Prog. Manager (M3)	\$397	\$413
GIS Database Specialist/Analyst (DB)	\$166	\$173



Administrative Regulations  
Policy No. 3A.1

Revised: March 29, 2012

Approved: 3/29/2012

**SUBJECT: TRAVEL AND MEETING EXPENSE POLICY**

**PURPOSE: To establish a uniform policy and procedure for reimbursing City employees for travel, meeting, and out-of-pocket expenses incurred while on official business.**

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**I. GENERAL POLICY:**

To establish policies and a basis for subsequent procedures regarding travel outside City limits for authorized activities. It is the City's policy to provide for the normal costs associated with travel for City business. Department Heads, or designees, are expected to use discretion, common sense and good business judgment when approving travel reimbursement for employees. This policy shall be administered, interpreted and implemented by the Administrative Services Director / CFO.

**II. DEFINITIONS:**

- A. City-Authorized Travel:** Authorized activity which causes a City Employee to travel outside the City limits on approved City business.
- B. Authorized Activities:** City-related business which has been approved by the City Manager, or his/her designee (for international travel); the Department Head, or his/her designee, or by action of the City Council.
- C. Categories of Travel:** For purposes of determining reimbursable expenses and record-keeping, City-Authorized Travel shall be comprised of the following three categories:
1. Category 1 – Local or All Day Travel – Local Travel shall be any activity which requires a commute that can be made in one business day and does not require overnight accommodations. Local travel must be approved by the Department Head, or designee, for City business only, and only when adequate funds have been budgeted and are available for this activity.
  2. Category 2 – Overnight Travel – Overnight Travel shall be any travel activity which requires overnight accommodations. Overnight travel may be approved only by the Department Head, or designee (or the City Manager, or designee, for international travel); only for City business and only when adequate funds have been budgeted for the activity requested. For purposes of maximizing training, it is recognized that there may be instances where it is in the City's best interest to have an employee stay overnight even though all training can be accomplished in one day.
  3. Category 3 – Emergency/Disaster Travel – Emergency/Disaster Travel shall be any travel that has resulted from a declared emergency. During such travel, an employee may experience out-of-pocket expenses. Such expenses will be reimbursed to the employee by the City, whether or not the City has been reimbursed from another governmental agency. In such cases, receipts must be submitted, and authorization for travel must be obtained from the Department Head. Please see the Emergency Management Policy for more information.

D. **Travel Forms/Procedures** – The Administrative Services Department will make travel forms available in the BEVY that must be used by all City Departments in connection with this Travel and Meeting Expense Policy.

III. **REIMBURSABLE EXPENSES:**

A. **Category 1 - Local Travel:** When local travel is approved, the following expenses will be reimbursed:

1. **Mileage** – When using a personal vehicle, calculate mileage reimbursement based on Administrative Regulation 3A.4, SECT. VI.
2. **Fuel** – When using a City-provided vehicle, the employee will ensure that the vehicle is adequately fueled prior to leaving the City.
3. **Lunch or Dinner Per-Diem** – When a meal is not provided as a part of the activity the City employee is attending, a lunch per-diem of \$15.00 and a dinner per-diem of \$25.00 shall be authorized when approved by the Department Head, or designee.
4. **Registration Fees** – The City will pay the employee's costs of the program, or activity, and all required or approved fees for program materials.

B. **Category 2 - Overnight Travel:** When overnight travel is approved, the following expenses will be reimbursed:

1. **Transportation** – Overnight travel shall be by commercial air at the lowest published airfare available for economy class. If an employee requests the use of a personal vehicle for his or her convenience, reimbursement will be for the lesser of (i) miles driven in excess of normal commute round-trip mileage between home and the primary workplace at the current IRS mileage rate or (ii) at the lowest economy-class airfare to the destination. Travel by personal vehicle requires approval from the Department Head. For more information please refer to Administrative Regulation 3A.4.
2. **Airport Parking** – The City will reimburse an employee for the actual cost of standard parking at parking lots for long-term travelers. At certain airports, the City may contract with certain parking lots for discounted rates. If so, employees are encouraged to use those lots when parking at the airport. If the employee chooses not to use the contracted parking lot, the employee will be reimbursed up to the actual contracted price for parking elsewhere. In all other instances, employees who choose to use short-term or valet parking will be reimbursed at the long-term rate. When a stay of an extended duration is anticipated, the employee should commute to the airport via a shuttle service rather than park at the airport.
3. **Ground Transportation** – The City will reimburse the employee for the cost of taxi or shuttle service between the airport to their hotel, and other taxi rides to the airport. In circumstances where lodging or restaurants are at a location different than the training or meeting facility, the City will reimburse the employee for shuttle or taxi-cab costs from their place of lodging to these other locations.

4. Rental Cars – The City will provide a rental vehicle only when alternative transportation at the travel destination is not available, or the costs are excessive, and it is pre-approved by the Department Head. The City authorizes each employee renting a vehicle to purchase the full daily rental car insurance coverage for both liability and collision offered by the rental agency. Vehicles should be refueled prior to return to the rental agency to avoid excessive charges.
5. Per-Diem – For each travel day requiring overnight stay, the City will reimburse the employee a daily per-diem based on the current IRS M&IE (Meals, Incidentals & Entertainment) per-diem rate for the respective county of the travel destination. Please refer to IRS Publication 1542 at [www.irs.gov](http://www.irs.gov) for the current Per Diem Locality Rates. **Please note, the IRS web page printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement** (see Addendum A). A particular locality's per diem rates can be looked up by city or zip code on the U.S. General Services Administration website at <http://www.gsa.gov/perdiem> (see addendum B- GSA per diem rates lookup page and addendum C- per diem rate sample page for 90210). Please note, the IRS or GSA website printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement. Employees may request up to one additional day of per-diem when travel is required on the day before, or after, the training or meeting. Circumstances resulting in additional cost factors will be considered on a case-by-case basis and will require expense receipts if reimbursement is approved.

Reimbursement will not be made for items identified as being covered by the per-diem allowance. Per-diem expenses include, but are not limited to, the following items:

- i. Meals/Food
  - ii. Tips and gratuities for meals.
  - iii. Any incidental personal expenses.
6. Lodging – The City will provide hotel accommodations for each scheduled day of the activity or event requiring an overnight stay. Unless approved by the City Manager, overnight lodging will only be approved when the activity or event is greater than 50 miles (one-way) from both City Hall and the employee's residence. When appropriate, an additional day of accommodations may be approved by the Department Head, or designee, prior to, or following, an event or activity. Additional days will also be considered to accommodate reduced airfares.
  7. Registration Fee – The City will pay the employee's costs of the event or activity and all approved fees for program materials. Books and publications received as part of the activity are considered City property.
  8. Family Members – Family members may share City-paid accommodations, but the employee must pay for all other costs. The City will not pay for any travel, meal, lodging, or personal costs of family members.

#### IV. Per-Diem and Actual Cost Reimbursement:

Upon approval of their respective Department Head, or designee for approved travel, all employees will receive either a per-diem or a reimbursement of actual costs. Per-diem will be paid per the prescribed IRS rates based on the county of the travel destination. The IRS or GSA website printout

must be submitted listing the applicable per-diem rate. Receipts are required to obtain reimbursement for actual costs unless a City purchase card is used.

**Procedures:**

**A. Planning Travel:**

**1. General Guidelines and Rules:**

- a. Use the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls, or the BEVY.
- b. Identify the funding source (program and account) and obtain approval prior to departure. (i.e.: Make sure there is enough money in your budget.)
- c. You must obtain approval from your Department Head before being reimbursed for other costs for which you would like reimbursement that may not be mentioned in this policy.
- d. You should use the City Purchase Card or City Check for expenses whenever possible, including expenses for registration fees, air travel, and lodging. If you want to pay for these types of items with your own credit card (or other means), and then expect to be reimbursed, you must first obtain approval from your Department Head (or designee) in addition to all other necessary approvals.

**2. Guidelines on Travel Costs for Local Travel:**

- a. Meals: If a meal is not provided as part of the authorized activity, then obtain approval from your Department Head for a lunch per-diem of \$15.00 and if required, a dinner per-diem of \$25.00.
- b. Personal Car: Please refer to Administrative Regulation 3A.4. In general, reimbursement for mileage will be calculated at the current IRS mileage rate based on the actual miles traveled.

**3. Guidelines on Travel Costs for Overnight Travel:**

- a. Air: Book your reservations in advance to take advantage of reduced airfares. You will be reimbursed for commercial air travel at the lowest published fare available for economy class. Use Government and group rates when available. Non-commercial flying (including rented aircraft) may not be used by, nor reimbursed to employees at any time.
- b. Personal Car: First, get approval from the Department Head. You will be reimbursed for the amount of round-trip airfare, or the appropriate mileage, whichever is less, only if you are not receiving an "auto-allowance" as defined in Administrative Regulation 3A.4. Proof of the required auto insurance must be submitted to Risk Management before departure. Please read Administrative Regulation 3A.4 for a detailed explanation.

- c. **City Vehicle:** If you plan on traveling in a City Vehicle, you need approval from your Department Head.
- d. **Conference Registration Fees:** Use the OFFICIAL TRAVEL REQUEST FOR WARRANT so conference registration fees, or other meeting fees, can be paid in advance.

4. Guidelines on Methods of Pre-Payment:

- a. *Methods of payment are the following:*
  - i. City Credit Card
  - ii. Advance Check
  - iii. Regular Check
  - iv. Actual Cost Reimbursement
- b. *City Credit Cards:* You may not use the City credit/program cards for personal expenses.
- c. *Advance Check:* An advance check is a check requested before departure to take with you to pay a vendor. While on your trip, you must keep your receipts. You can request an advanced check by completing a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your advance check for the time you need it.
- d. *Regular Check:* A regular check processed to pay a vendor for trip expenses before departure or after your return. This check gets mailed to the vendor or can be requested for pick-up. To request a regular check for travel, you must complete a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your regular check for the time you need it.
- e. *Actual Cost Reimbursement:* During planning, if you choose to receive actual cost reimbursement, and it's approved by your Department Head, or designee, keep track of your costs. You will need to complete the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls when you return and submit it to Accounts Payable in order to process the reimbursement. You must include your actual receipts and indicate the nature of the expense.

B. **While Traveling:**

1. Finances during travel:

- a. *Maintaining an Understanding:* By completing the OFFICIAL TRAVEL REQUEST FOR WARRANT, you should understand which expenses have already been paid, and which ones are eligible for reimbursement. You are expected to exercise good judgment in the type of expenses incurred while traveling. Expenses for the employee's spouse, or family members, are the employee's responsibility and will not be reimbursed by the City.
- b. *Unexpected Costs:*



ADDENDUM A

Table 3. Maximum Federal Per Diem Rates (Effective October 1, 2010 – September 30, 2011)<sup>1</sup>

Note: The standard rate of \$123 (\$77 for lodging and \$46 for M&IE) applies to all locations within the continental United States (CONUS) not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation allowances. (See parts 302-2, 302-4, and 302-5 of 41 CFR.)

Table 4 lists all per diem rates alphabetically by state abbreviation. Click on a link below to find rates for your state: [Alabama](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

State	Key City <sup>2</sup>	County and/or Other Defined Location <sup>3,4</sup>	Effective Dates	Computing Maximum Rate		
				Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
AL	Birmingham	Jefferson, Shelby	All year	\$ 88	\$56	\$144
	Gulf Shores	Baldwin	1/1 - 5/31	101	51	152
			6/1 - 7/31	126	51	177
			8/1 - 12/31	101	51	152
	Huntsville	Madison, Limestone	All year	88	51	137
Mobile	Mobile	1/1 - 2/28	98	51	149	
		3/1 - 12/31	90	51	141	
AR	Hot Springs	Garland	All year	101	46	147
	Little Rock	Pulaski	All year	88	61	149
AZ	Grand Canyon, Flagstaff	Coconino (except city limits of Sedona), Yavapai	1/1 - 2/28	77	66	143
			3/1 - 10/31	95	66	161
			11/1 - 12/31	77	66	143
	Kayenta	Navajo	1/1 - 4/30	77	46	123
			5/1 - 9/30	89	46	135
			10/1 - 12/31	77	46	123
	Phoenix, Scottsdale	Maricopa	1/1 - 5/31	126	71	197
			6/1 - 8/31	81	71	152
			9/1 - 12/31	106	71	177
	Sedona	City limits of Sedona	1/1 - 2/28	129	66	195
			3/1 - 4/30	145	66	211
5/1 - 12/31			129	66	195	
Sierra Vista	Cochise	All year	81	46	127	
Tucson	Pima	1/1 - 1/31	93	56	149	
		2/1 - 5/31	111	56	167	
		6/1 - 8/31	77	56	133	
		9/1 - 12/31	93	56	149	
Yuma	Yuma	All year	81	46	127	
CA	Antioch, Brentwood, Concord	Contra Costa	All year	101	66	167
	Barstow, Ontario, Victorville	San Bernardino	Before 4/01/11	83	56	139
			After 3/31/11	99	56	155
	Benicia, Dixon, Fairfield	Solano	All year	84	56	140
	Death Valley	Inyo	All year	92	46	138
	Eureka, Arcata, McKinleyville	Humboldt	1/1 - 5/31	82	61	143
			6/1 - 8/31	92	61	153
	9/1 - 12/31	82	61	143		
Fresno	Fresno	All year	91	61	152	
Los Angeles	Los Angeles (except the city of Santa Monica), Orange, Ventura, Edwards AFB	All year	123	71	194	
Mammoth Lakes	Mono	All year	116	61	177	

ADDENDUM B





**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		AGGREGATE
					P.D.		
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> VENDOR'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: \_\_\_\_\_  
 \_\_\_\_\_

RM02.DOC REVISED 10/14/96.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND GOVERNMENT FINANCE OFFICERS ASSOCIATION  
FOR IMPLEMENTATION SERVICES RELATED TO THE  
CITY'S ENTERPRISE RESOURCE PLANNING SYSTEM

NAME OF CONSULTANT: Government Finance Officers Association

RESPONSIBLE PRINCIPAL OF CONSULTANT: Barry McMeekin, Consulting Practice Manager

CONSULTANT'S ADDRESS: 203 N LaSalle Street, Suite 2700  
Chicago, IL, 60601

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$55,000.00, as detailed in  
Exhibit B, Schedule of Rates and Payment

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND GOVERNMENT FINANCE OFFICERS ASSOCIATION  
FOR IMPLEMENTATION SERVICES RELATED TO THE  
CITY'S ENTERPRISE RESOURCE PLANNING SYSTEM

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "City"), and Government Finance Officers Association (hereinafter called "Consultant").

RECITALS

- A. City desires to have certain services provided as set forth in Exhibit A (the "Scope of Services"), attached hereto and incorporated herein, collectively the "Services".
- B. Consultant represents that it is qualified and able to perform the Services.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall perform the Services 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. 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 and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation.

(a) City agrees to compensate CONSULTANT for the services and/or goods 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 amount set forth above 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, unless approved in writing by the Chief Information Officer.

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 as further described in the Schedule of Payment set forth in Exhibit B.

Section 5. 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 6. Assignment. This Agreement shall not be assigned in whole or in part, by Consultant without the prior written approval of City. Any attempt by Consultant to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

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

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

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

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

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

Section 11. 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) 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 Consultant in performing the Scope of Services required by this Agreement.

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

(b) Consultant shall require each of its sub-contractors 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 on a form acceptable to the City's 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.

(f) The general and auto liability insurance shall contain an endorsement naming the City, its elected officials, officers, agents and employees, as additional insureds with respect to work under this Agreement.

(g) 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.

(h) 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.

(i) 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 12. 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, from any third party claim for injury or property damage (including without limitation, attorney's 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. Notwithstanding any other section of this agreement, consultant's liability for any matter arising under this Agreement or from any transaction contemplated herein, including without limitation the provision of the Services, shall not exceed the actual amount paid by an insurer as a result of any claim made with respect to such matter under Consultant's insurance policies as set forth in Section 11, the "Liability Cap." The Government acknowledges that the Liability Cap is a material term upon which Consultant

has relied in entering into this Agreement and that Consultant would not have entered into this Agreement in the absence of such provision.

(b) City agrees to indemnify, hold harmless and defend the Consultant, from and against any claim (including, without limitation, attorney's fees and costs) arising from any action taken by the City to implement the recommendations provided by Consultant under this Agreement.

Section 13. Termination.

(a) City shall have the right to terminate this Agreement for any reason or for no reason upon five (5) calendar 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 14. 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 15. Information and Documents. All data, information, documents and drawings prepared for City and required to be furnished to City in connection with this Agreement shall become the property of City, and City may use all or any portion of the work submitted by Consultant and compensated by City pursuant to this Agreement as City deems appropriate.

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

Section 20. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than Consultant.

Section 21. 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

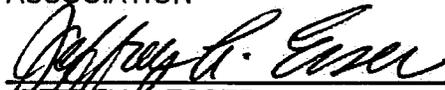
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

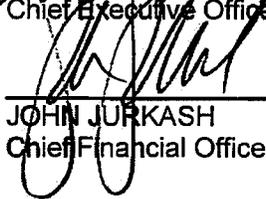
ATTEST:

\_\_\_\_\_ (SEAL)

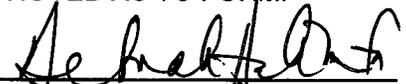
BYRON POPE  
City Clerk

CONSULTANT:  
GOVERNMENT FINANCE OFFICERS  
ASSOCIATION

  
\_\_\_\_\_  
JEFFREY L. ESSER  
Chief Executive Officer/ Executive Director

  
\_\_\_\_\_  
JOHN JURKASH  
Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF SERVICES

Consultant shall provide project assistance and consulting services (the "Services") related to the implementation of the upgrade of the City's current Enterprise Resource Planning (ERP) system used by all City departments as well as the public, (including the following subsystems: finance, budget, human resources, CRM, asset management, permit, eCommerce, etc.), as directed by City. The Services shall include, but are not limited to the following:

Consultant shall assist and advise City as follows during the upgrade of the ERP system to ensure successful implementation:

- A. Serve as liaison between City representatives and the ERP vendor;
- B. Schedule and conduct conference calls and meetings with key City representatives and ERP project managers and/or implementers as needed;
- C. Ensure the implementation and deliverables defined in the contract are executed fully and assist City representatives in resolving any conflicts that arise;
- D. Review, verify and present all necessary documentation submitted by the ERP vendor, and;
- E. Provide weekly status reports to City staff.

For specific work plan items to be completed under this Agreement, Consultant shall provide a detailed scope of work, which is subject to the written approval of City, including deliverables and payment milestones for acceptance by City prior to commencement of the work.

## **EXHIBIT B**

### **SCHEDULE AND RATES OF PAYMENT**

For the term of this Agreement, Consultant shall be paid for the services provided herein at the hourly rate of \$195.00. In no event shall the total compensation exceed Fifty-Five Thousand Dollars (\$55,000.00). Consultant shall submit detailed and itemized invoices for the services rendered, which shall include for each fee entry the following information: (i) the date each task is performed; (ii) the identifier of the timekeeper that performed each task (i.e. initials or timekeeper number); (iii) the hours or portion thereof, billed for the task that reflects the actual time spent on each activity; (iv) a clear description of the activity performed (each task must be billed as a separate entry and time should not be embedded); and (v) total fees billed for each entry.

Unless provided for in a Proposal, this Agreement provides for no reimbursement of expenses. There will be no reimbursement for travel of any local resource. A local resource is defined as a Consultant employee residing within 100 miles from City. However, if travel is required under a Proposal, the estimated travel expenses shall be detailed in the Proposal. Travel expenses are subject to City's Travel and Meeting Expense Policy (Policy No. 3A.1), attached hereto as Attachment 1 to this Exhibit.

Consultant 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 and the hours of service. City shall pay Consultant all undisputed amounts of such billing within thirty (30) days of receipt of the same.



Administrative Regulations

Policy No. 3A.1

Revised: March 29, 2012

Approved: *[Signature]*

**SUBJECT:** TRAVEL AND MEETING EXPENSE POLICY

**PURPOSE:** To establish a uniform policy and procedure for reimbursing City employees for travel, meeting, and out-of-pocket expenses incurred while on official business.

---

I. GENERAL POLICY:

To establish policies and a basis for subsequent procedures regarding travel outside City limits for authorized activities. It is the City's policy to provide for the normal costs associated with travel for City business. Department Heads, or designees, are expected to use discretion, common sense and good business judgment when approving travel reimbursement for employees. This policy shall be administered, interpreted and implemented by the Administrative Services Director / CFO.

II. DEFINITIONS:

- A. **City-Authorized Travel:** Authorized activity which causes a City Employee to travel outside the City limits on approved City business.
- B. **Authorized Activities:** City-related business which has been approved by the City Manager, or his/her designee (for international travel); the Department Head, or his/her designee, or by action of the City Council.
- C. **Categories of Travel:** For purposes of determining reimbursable expenses and record-keeping, City-Authorized Travel shall be comprised of the following three categories:
  - 1. Category 1 – Local or All Day Travel – Local Travel shall be any activity which requires a commute that can be made in one business day and does not require overnight accommodations. Local travel must be approved by the Department Head, or designee, for City business only, and only when adequate funds have been budgeted and are available for this activity.
  - 2. Category 2 – Overnight Travel – Overnight Travel shall be any travel activity which requires overnight accommodations. Overnight travel may be approved only by the Department Head, or designee (or the City Manager, or designee, for international travel); only for City business and only when adequate funds have been budgeted for the activity requested. For purposes of maximizing training, it is recognized that there may be instances where it is in the City's best interest to have an employee stay overnight even though all training can be accomplished in one day.
  - 3. Category 3 – Emergency/Disaster Travel – Emergency/Disaster Travel shall be any travel that has resulted from a declared emergency. During such travel, an employee may experience out-of-pocket expenses. Such expenses will be reimbursed to the employee by the City, whether or not the City has been reimbursed from another governmental agency. In such cases, receipts must be submitted, and authorization for travel must be obtained from the Department Head. Please see the Emergency Management Policy for more information.

- D. **Travel Forms/Procedures** – The Administrative Services Department will make travel forms available in the BEVY that must be used by all City Departments in connection with this Travel and Meeting Expense Policy.

III. **REIMBURSABLE EXPENSES:**

- A. **Category 1 - Local Travel:** When local travel is approved, the following expenses will be reimbursed:

1. **Mileage** – When using a personal vehicle, calculate mileage reimbursement based on Administrative Regulation 3A.4, SECT. VI.
2. **Fuel** – When using a City-provided vehicle, the employee will ensure that the vehicle is adequately fueled prior to leaving the City.
3. **Lunch or Dinner Per-Diem** – When a meal is not provided as a part of the activity the City employee is attending, a lunch per-diem of \$15.00 and a dinner per-diem of \$25.00 shall be authorized when approved by the Department Head, or designee.
4. **Registration Fees** – The City will pay the employee's costs of the program, or activity, and all required or approved fees for program materials.

- B. **Category 2 - Overnight Travel:** When overnight travel is approved, the following expenses will be reimbursed:

1. **Transportation** – Overnight travel shall be by commercial air at the lowest published airfare available for economy class. If an employee requests the use of a personal vehicle for his or her convenience, reimbursement will be for the lesser of (i) miles driven in excess of normal commute round-trip mileage between home and the primary workplace at the current IRS mileage rate or (ii) at the lowest economy-class airfare to the destination. Travel by personal vehicle requires approval from the Department Head. For more information please refer to Administrative Regulation 3A.4.
2. **Airport Parking** – The City will reimburse an employee for the actual cost of standard parking at parking lots for long-term travelers. At certain airports, the City may contract with certain parking lots for discounted rates. If so, employees are encouraged to use those lots when parking at the airport. If the employee chooses not to use the contracted parking lot, the employee will be reimbursed up to the actual contracted price for parking elsewhere. In all other instances, employees who choose to use short-term or valet parking will be reimbursed at the long-term rate. When a stay of an extended duration is anticipated, the employee should commute to the airport via a shuttle service rather than park at the airport.
3. **Ground Transportation** – The City will reimburse the employee for the cost of taxi or shuttle service between the airport to their hotel, and other taxi rides to the airport. In circumstances where lodging or restaurants are at a location different than the training or meeting facility, the City will reimburse the employee for shuttle or taxi-cab costs from their place of lodging to these other locations.

4. Rental Cars – The City will provide a rental vehicle only when alternative transportation at the travel destination is not available, or the costs are excessive, and it is pre-approved by the Department Head. The City authorizes each employee renting a vehicle to purchase the full daily rental car insurance coverage for both liability and collision offered by the rental agency. Vehicles should be refueled prior to return to the rental agency to avoid excessive charges.
5. Per-Diem – For each travel day requiring overnight stay, the City will reimburse the employee a daily per-diem based on the current IRS M&IE (Meals, Incidentals & Entertainment) per-diem rate for the respective county of the travel destination. Please refer to IRS Publication 1542 at [www.irs.gov](http://www.irs.gov) for the current Per Diem Locality Rates. **Please note, the IRS web page printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement (see Addendum A).** A particular locality's per diem rates can be looked up by city or zip code on the U.S. General Services Administration website at <http://www.gsa.gov/perdiem> (see addendum B- GSA per diem rates lookup page and addendum C- per diem rate sample page for 90210). Please note, the IRS or GSA website printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement. Employees may request up to one additional day of per-diem when travel is required on the day before, or after, the training or meeting. Circumstances resulting in additional cost factors will be considered on a case-by-case basis and will require expense receipts if reimbursement is approved.

Reimbursement will not be made for items identified as being covered by the per-diem allowance. Per-diem expenses include, but are not limited to, the following items:

- i. Meals/Food
  - ii. Tips and gratuities for meals.
  - iii. Any incidental personal expenses.
6. Lodging – The City will provide hotel accommodations for each scheduled day of the activity or event requiring an overnight stay. Unless approved by the City Manager, overnight lodging will only be approved when the activity or event is greater than 50 miles (one-way) from both City Hall and the employee's residence. When appropriate, an additional day of accommodations may be approved by the Department Head, or designee, prior to, or following, an event or activity. Additional days will also be considered to accommodate reduced airfares.
  7. Registration Fee – The City will pay the employee's costs of the event or activity and all approved fees for program materials. Books and publications received as part of the activity are considered City property.
  8. Family Members – Family members may share City-paid accommodations, but the employee must pay for all other costs. The City will not pay for any travel, meal, lodging, or personal costs of family members.

IV. Per-Diem and Actual Cost Reimbursement:

Upon approval of their respective Department Head, or designee for approved travel, all employees will receive either a per-diem or a reimbursement of actual costs. Per-diem will be paid per the prescribed IRS rates based on the county of the travel destination. The IRS or GSA website printout

must be submitted listing the applicable per-diem rate. Receipts are required to obtain reimbursement for actual costs unless a City purchase card is used.

**Procedures:**

**A. Planning Travel:**

**1. General Guidelines and Rules:**

- a. Use the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls, or the BEVY.
- b. Identify the funding source (program and account) and obtain approval prior to departure. (i.e.: Make sure there is enough money in your budget.)
- c. You must obtain approval from your Department Head before being reimbursed for other costs for which you would like reimbursement that may not be mentioned in this policy.
- d. You should use the City Purchase Card or City Check for expenses whenever possible, including expenses for registration fees, air travel, and lodging. If you want to pay for these types of items with your own credit card (or other means), and then expect to be reimbursed, you must first obtain approval from your Department Head (or designee) in addition to all other necessary approvals.

**2. Guidelines on Travel Costs for Local Travel:**

- a. Meals: If a meal is not provided as part of the authorized activity, then obtain approval from your Department Head for a lunch per-diem of \$15.00 and if required, a dinner per-diem of \$25.00.
- b. Personal Car: Please refer to Administrative Regulation 3A.4. In general, reimbursement for mileage will be calculated at the current IRS mileage rate based on the actual miles traveled.

**3. Guidelines on Travel Costs for Overnight Travel:**

- a. Air: Book your reservations in advance to take advantage of reduced airfares. You will be reimbursed for commercial air travel at the lowest published fare available for economy class. Use Government and group rates when available. Non-commercial flying (including rented aircraft) may not be used by, nor reimbursed to employees at any time.
- b. Personal Car: First, get approval from the Department Head. You will be reimbursed for the amount of round-trip airfare, or the appropriate mileage, whichever is less, only if you are not receiving an "auto-allowance" as defined in Administrative Regulation 3A.4. Proof of the required auto insurance must be submitted to Risk Management before departure. Please read Administrative Regulation 3A.4 for a detailed explanation.

- c. **City Vehicle:** If you plan on traveling in a City Vehicle, you need approval from your Department Head.
  - d. **Conference Registration Fees:** Use the OFFICIAL TRAVEL REQUEST FOR WARRANT so conference registration fees, or other meeting fees, can be paid in advance.
4. **Guidelines on Methods of Pre-Payment:**
- a. *Methods of payment are the following:*
    - i. City Credit Card
    - ii. Advance Check
    - iii. Regular Check
    - iv. Actual Cost Reimbursement
  - b. *City Credit Cards:* You may not use the City credit/program cards for personal expenses.
  - c. *Advance Check:* An advance check is a check requested before departure to take with you to pay a vendor. While on your trip, you must keep your receipts. You can request an advanced check by completing a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your advance check for the time you need it.
  - d. *Regular Check:* A regular check processed to pay a vendor for trip expenses before departure or after your return. This check gets mailed to the vendor or can be requested for pick-up. To request a regular check for travel, you must complete a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your regular check for the time you need it.
  - e. *Actual Cost Reimbursement:* During planning, if you choose to receive actual cost reimbursement, and it's approved by your Department Head, or designee, keep track of your costs. You will need to complete the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls when you return and submit it to Accounts Payable in order to process the reimbursement. You must include your actual receipts and indicate the nature of the expense.

**B. While Traveling:**

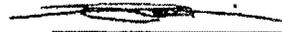
- 1. **Finances during travel:**
  - a. *Maintaining an Understanding:* By completing the OFFICIAL TRAVEL REQUEST FOR WARRANT, you should understand which expenses have already been paid, and which ones are eligible for reimbursement. You are expected to exercise good judgment in the type of expenses incurred while traveling. Expenses for the employee's spouse, or family members, are the employee's responsibility and will not be reimbursed by the City.
  - b. *Unexpected Costs:*

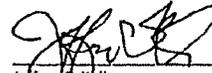
- i. *Incidental:* These types of expenses include the same expenses described in Section IV.B.5 of this policy. Incidentals are covered under per-diem.
- ii. *Purchase of Materials related to the conference:* During a conference, you may decide to purchase materials related to the conference for future reference and education. You need to get approval first, and then submit your receipts for reimbursement with the OFFICIAL TRAVEL REQUEST FOR WARRANT.
- c. *Planning for Reimbursement:* Reimbursement is based on proof of payment. Receipts, invoices and other types of documentation will be required for obtaining reimbursement. Therefore, plan accordingly.

C. After Traveling:

1. Wrapping up:

- a. General Guidelines and Rules:
  - i. *Getting Reimbursed:* To be reimbursed for expenses, complete the "OFFICIAL TRAVEL REQUEST FOR WARRANT" and submit the form to Accounts Payable within 14 days of the last day of the travel. Attach a signed copy of the OFFICIAL TRAVEL REQUEST FOR WARRANT and include all receipts. Failure to attach a complete package will delay any reimbursement and could possibly void any reimbursement claims.
  - ii. If an "OFFICIAL TRAVEL REQUEST FOR WARRANT" is not completed after six (6) months from travelling, reimbursements will not be given.
  - iii. *Deviations:* The Administrative Services Director / CFO is responsible, in his/her judgment, to report any significant differences between the estimated and actual costs of travel to the appropriate Department Head, and/or the City Manager, and shall have the authority to disapprove any reimbursement claim.
  - iv. *Advances:* If your advance check was for an amount greater than the costs of your trip, then you must refund the difference to the City within seven (7) days of your return. If the amount advanced did not meet the costs of the travel, a reimbursement check shall be issued to you by submitting the OFFICIAL TRAVEL REQUEST FOR WARRANT.
  - v. *Conference Materials:* City employees, who attend conferences or seminars, are encouraged to bring back all relevant materials from these events and share experiences, materials, procedures, etc., with fellow staff.

  
 \_\_\_\_\_ 3/29/12  
 Date  
 Scott G. Miller  
 Chief Financial Officer  
 Director of Administrative Services

  
 \_\_\_\_\_ 3-29-12  
 Date  
 Jeffrey K. Kilin  
 City Manager

ADDENDUM A

Table 3. Maximum Federal Per Diem Rates (Effective October 1, 2010 – September 30, 2011)<sup>1</sup>

Note: The standard rate of \$123 (\$77 for lodging and \$46 for M&IE) applies to all locations within the continental United States (CONUS) not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation allowances. (See parts 302-2, 302-4, and 302-5 of 41 CFR.)

Table 4 lists all per diem rates alphabetically by state abbreviation. Click on a link below to find rates for your state: [Alabama](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

State	Per Diem Locality			Computing Maximum Rate		
	Key City <sup>a</sup>	County and/or Other Defined Location <sup>1A</sup>	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
AL	Birmingham	Jackson, Shelby	All year	\$ 68	58	\$144
	Gulf Shores	Baldwin	1/1 - 5/31	101	51	182
			6/1 - 7/31	120	51	177
			8/1 - 12/31	101	51	182
	Fairbairn	Madison, Limestone	All year	66	51	137
Mobile	Mobile	1/1 - 2/28	98	51	149	
		3/1 - 12/31	90	51	141	
AR	Hol Springs	Garland	All year	101	46	147
	Little Rock	Pulaski	All year	88	61	149
AZ	Grand Canyon, Flagstaff	Coconino (except city limits of Sedona) Yavapai	1/1 - 2/28	77	66	143
			3/1 - 10/31	95	66	161
			11/1 - 12/31	77	66	143
	Keyenta	Navajo	1/1 - 4/30	77	46	123
			5/1 - 9/30	89	46	135
			10/1 - 12/31	77	46	123
	Phoenix, Scottsdale	Maricopa	1/1 - 5/31	120	71	187
			6/1 - 8/31	81	71	152
			9/1 - 12/31	100	71	177
	Sedona	City limits of Sedona	1/1 - 2/28	120	66	186
		3/1 - 4/30	145	66	211	
		5/1 - 12/31	120	66	195	
Sierra Vista	Cochise	All year	81	46	127	
Tucson	Pima	1/1 - 1/31	93	56	149	
		2/1 - 5/31	111	56	167	
		6/1 - 8/31	77	56	133	
		9/1 - 12/31	99	56	149	
Yuma	Yuma	All year	81	46	127	
CA	Antioch, Brentwood, Concord	Contra Costa	All year	101	66	167
	Barstow, Ontario, Victorville	San Bernardino	Before 4/01/11	83	66	139
			After 3/31/11	99	56	155
	Benicia, Dixon, Fairfield	Solano	All year	84	56	140
	Death Valley	Inyo	All year	92	46	138
	Eureka, Arcata, McKinleyville	Humboldt	1/1 - 5/31	82	61	143
			6/1 - 8/31	92	61	153
			9/1 - 12/31	82	61	143
	Fresno	Fresno	All year	91	61	152
	Los Angeles	Los Angeles (except the city of Santa Monica), Orange, Ventura, Edwards AFB	All year	123	71	194
Mammoth Lakes	Mono	All year	116	61	177	

ADDENDUM B

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## Per Diem Rates

Rates are set by fiscal year, effective October 1. Find current rates in the continental United States ("CONUS Rates") by searching below with city and state (or ZIP code) or by clicking on the map. Find previous rates by selecting year in the pull-down and clicking on the map.

SEARCH BY CITY, STATE OR ZIP CODE (current fiscal year)

Enter your city \_\_\_\_\_ or Enter your ZIP Code \_\_\_\_\_

Select a State \_\_\_\_\_

SEARCH BY STATE

Find Rates for: Fiscal Year 2012 (Current Year)

CONTACTS

Additional Contacts

Travel Management & Tools

On the go

Get the mobile app for government Per Diem rates

TAX QUESTIONS?

Have a question about per diem and your taxes? Please contact the Internal Revenue Service at 800-829-1049 or visit [www.irs.gov](http://www.irs.gov). GSA cannot answer tax-related questions or provide tax advice.

Per diem rates all in one! Download the latest DOCX file

ADDENDUM C

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## FY 2012 Per Diem Rates for ZIP 90210

(October 2011 - September 2012)

SEARCH BY CITY, STATE OR ZIP CODE

Enter your city \_\_\_\_\_ or Enter your ZIP Code 90210

Per Diem Map >

Cities not appearing below may be located within a county for which rates are listed. To determine what county a city is located in, visit the [National Association of Counties \(NACo\)](http://www.naco.org) website (a non-federal website).

Back to search by city for 90210

Primary Destinations (1)	County (2)	Max Lodging by Month (excluding taxes)												Days & In-Exp**
		2011			2012									
		Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	
Los Angeles	Los Angeles, Orange, Ventura and Edwards AFB, less the city of Santa Monica	125	125	125	125	125	125	125	125	125	125	125	125	71

\* NOTE: Traveler reimbursement is based on the location of the city address and not the actual location.

\*\* Meals and incidental expenses: see Breakdown of MAE Expenses for important information on fees and last days of travel.

Internet Permitted Mobile 09



# IBM Customer Agreement

This IBM Customer Agreement (called the "Agreement") governs transactions by which Customer purchases Machines, licenses ICA Programs, obtains Program licenses, and acquires Services (including, without limitation, customized development and support, business consulting, and maintenance Services) from International Business Machines Corporation ("IBM").

## 1. General Terms

### 1.1 Agreement Structure

This Agreement is organized in six Parts:

**Part 1 – General Terms** includes terms regarding Agreement Structure, Definitions, Acceptance of Terms, Delivery, Charges and Payment, Changes to Agreement Terms, IBM Business Partners, Intellectual Property Protection, Limitation of Liability, Compliance Verification, General Principles of Our Relationship, Agreement Termination, and Geographic Scope and Governing Law.

**Part 2 – Warranties** defines applicable Warranties for IBM Machines, ICA Programs, IBM Services, and Systems, and terms regarding Extent of Warranty.

**Part 3 – Machines Terms** includes Machine terms regarding Production Status, Title and Risk of Loss, and Installation.

**Part 4 – Licenses for Machine Code and Other Internal Licensed Code** includes the License for Machine Code and the License for Other Internal Licensed Code.

**Part 5 – License for ICA Programs** includes ICA Program terms regarding License, Distributed System License Option, Program Services, Compliance Verification, and License Termination.

**Part 6 – Services Terms** includes terms regarding Personnel, Materials Ownership and License, Customer Resources, Service for Machines (during and after warranty), Maintenance Coverage, Automatic Service Renewal, and Termination and Withdrawal of a Service.

### 1.2 Attachments and Transaction Documents

Additional terms for Products and Services are in documents called "Attachments" and "Transaction Documents" provided by IBM. In general, Attachments contain terms that may apply to more than one Product or Services transaction, while Transaction Documents (such as a statement of work, supplement, schedule, invoice, exhibit, change authorization, or addendum) contain specific details and terms related to each individual transaction. Customer may receive one or more Transaction Documents for a single transaction. Attachments and Transaction Documents are part of this Agreement only for those transactions to which they apply. Each transaction is separate and independent from other transactions.

If there is a conflict among the terms of this Agreement, Attachments, and Transaction Documents, those of an Attachment prevail over those of this Agreement, and the terms of a Transaction Document prevail over those of both this Agreement and an Attachment.

### 1.3 Definitions

**Authorized Built-in Capacity** -- the Built-in Capacity for a Covered Machine that was Properly Acquired and Activated and is used in accordance with the AUT. For purposes of this definition, "Activated" means when IBM causes, directly or indirectly, the Authorized Built-in Capacity to be made available for Customer's use on a Covered Machine.

**Authorized Use Table (AUT)** -- the "IBM Authorized Use Table for Machines" that is provided at the following address: [www.ibm.com/systems/support/machine\\_warranties/machine\\_code/aut.html](http://www.ibm.com/systems/support/machine_warranties/machine_code/aut.html) and is in effect for a Covered Machine as of the acquisition date of the Covered Machine or, if there are one or more Machine Upgrades on the Covered Machine, then as of the acquisition date of the most recently acquired Machine Upgrade. The AUT is incorporated by reference into this Agreement.

**Built-in Capacity** -- the type and quantity of all resources and capabilities that IBM provides for a Machine, the access or use of which IBM has the ability to restrict by contract or Technological Measures. Built-In Capacity includes, without limitation, the type and quantity of the following: 1) processors, cores, processing capacity, processor performance setting and interactive processing capacity and capabilities; 2) memory; 3) storage; 4) cryptographic capability; 5) input/output ports, and 6) workload-specific resources and capabilities (including, for example, System z mainframe specialty processors such as zIIPs, zAAPs and IFLs, and other limited purpose products (including "appliances"). Built-in Capacity is either Authorized Built-in Capacity or Unauthorized Built-in Capacity.

**Circumvent** -- to, directly or indirectly, by or through any means, alter, avoid, disrupt, subvert, go around, or otherwise interfere with.

**Covered Machine** -- the specific Machine (as identified by serial number or order number on a Transaction Document or other similar contract document issued by IBM) for which use of Machine Code is licensed. A Covered Machine that receives a Machine Upgrade remains a Covered Machine and a Machine that receives a Machine Upgrade becomes a Covered Machine.

**Customer-set-up Machine** -- an IBM Machine that Customer is responsible for installing according to instructions provided with it.

**Date of Installation** --

- a. for an IBM Machine that IBM is responsible for installing, the business day after the day IBM installs it or, if Customer defers installation, makes it available to Customer for subsequent installation by IBM;
- b. for a Customer-set-up Machine and a non-IBM Machine, the second business day after the Machine's standard transit allowance period; and
- c. for a Program --
  - (1) basic license, the second business day after the Program's standard transit allowance period,
  - (2) copy, the date (specified in a Transaction Document) on which IBM authorizes Customer to make a copy of the Program, and
  - (3) chargeable component (also called a feature), the date Customer uses the chargeable component or a copy. Customer agrees to notify IBM of the chargeable component's Date of Installation.

**Designated Machine** -- a Machine of a type specified in the Mainframe Exhibits provided at the following address: <http://www.ibm.com/systems/z/resources/swprice/reference/exhibits/hardware.html>.

**Engineering Change** -- an update to modify certain aspects of the design of an installed Machine, including without limitation the design of a certain Machine part or Machine Code.

**Enterprise** -- any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. The term "Enterprise" applies only to the portion of the Enterprise located in the United States.

**IBM Machine** -- a Machine bearing an IBM logo.

**IBM Product** -- an IBM Machine, ICA Program, or Other IBM Program.

**ICA Program** -- an IBM Program licensed under Part 5 of this Agreement.

**Licensed Internal Code (called "LIC")** -- another term for Machine Code commonly used for certain IBM product lines, such as for IBM System z Machines. LIC and Machine Code are interchangeable terms that have the same meaning.

**Machine** -- a hardware device, including its resources, capabilities, features, conversions, Machine Upgrades, elements, or accessories, or any combination of them. The term "Machine" includes an IBM Machine and any non-IBM Machine (including other equipment).

**Machine Code** -- all of the following: (i) all code provided for an IBM Machine (including, without limitation, a Machine's firmware and microcode), excluding code that is licensed under a license agreement other than the license agreement governing use of Machine Code (for example, IBM operating system and middleware products); and (ii) records, data, and structures created, used or relied on by the code in item (i) (for example, IBM System z Machine LIC configuration control records and passwords that help restrict access or use of the code in item (i)). The term Machine Code specifically includes any whole or partial copy of Machine Code, and any fix, patch, or replacement provided for Machine Code.

**Machine Upgrade** -- the following changes that IBM sells for installation on a Machine: a hardware or Machine Code change to modify, add, remove, enable or disable certain Built-in Capacity or other resources and capabilities. Each such change can be accomplished through a Machine conversion, or through the conversion, addition, removal, or exchange of a Machine's feature(s).

**Materials** -- literary works or other works of authorship (such as software programs and code, documentation, reports, and similar works) that IBM may deliver to Customer as part of a Service. The term "Materials" does not include Programs, Machine Code, or other items available under their own license terms or agreements.

**Non-IBM Program** -- a Program licensed under a separate third party license agreement.

**Other IBM Program** – an IBM Program licensed under a separate IBM license agreement (e.g., IBM International Program License Agreement).

**Other Internal Licensed Code** – code for a Covered Machine that is separately provided by IBM and licensed by a third party.

**Product** – a Machine or a Program.

**Program** – the following, including the original, any portion thereof, and all whole or partial copies:

- a. one or more sequences of instructions suitable for processing by a computer;
- b. control data (such as control blocks, event logs, configuration files) defined within or generated by the execution of such sequence(s) of instructions. Control data includes without limitation data that is designed to (i) manage or limit the operation of programs, or (ii) help monitor, record, manage, or limit the consumption of software or hardware resources, including, without limitation, data used in IBM's implementation of Technological Measures;
- c. components;
- d. audio-visual content (such as images, text, recordings, or pictures) defined within or generated by the execution of, such sequence(s) of instructions; and
- e. related licensed materials such as publications and other documentation.

The term "Program" includes any ICA Program, Other IBM Program, or Non-IBM Program, and any fix, patch or replacement that IBM may provide for a Program. The term does not include Machine Code or Materials.

**Service** – performance of a task, assistance, support, or access to resources (such as an information database) that IBM makes available to Customer.

**Specifications** – information specific to a Product. IBM Machine Specifications are in a document entitled "Official Published Specifications." ICA Program Specifications are in a document entitled "Licensed Program Specifications."

**Specified Operating Environment** – the Machines and Programs with which an ICA Program is designed to operate, as described in its Licensed Program Specifications.

**Technological Measures** – all means, methods, systems, processes, checks, tests, monitoring, validations, instruments, and other measures that IBM implements for the purpose of: (i) protecting, controlling, limiting, and restricting the use of Machine Code; (ii) protecting, controlling, limiting, and restricting the access to or use of Built-in Capacity (including, for clarity, both Unauthorized Built-in Capacity and Authorized Built-in Capacity); and (iii) monitoring and reporting use of the Machine Code, Authorized Built-in Capacity, and Unauthorized Built-In Capacity, including for the purpose of calculating usage-based charges for IBM Products. Without limiting the generality of the preceding sentence, Technological Measures may be implemented, in whole or in part, in Machine Code, IBM Programs, other code, other IBM technology, and in the data created, used or relied upon by such Machine Code, IBM Programs, other code, and IBM technology.

**Unauthorized Built-in Capacity** -- all Built-in Capacity for a Covered Machine other than Authorized Built-in Capacity. For example and for the avoidance of any doubt, each of the following is Unauthorized Built-In Capacity: (i) in the case of a processor authorized to operate at less than its full processor performance setting, the capability to operate the processor at a greater processor performance setting, and (ii) in the case of a System z Machine specialty processor, the capability to use the specialty processor for anything other than the "Authorized Uses" as such term is defined in the AUT.

#### 1.4 **Acceptance of Terms**

Customer accepts the terms in Attachments and Transaction Documents by signing them (by hand or electronically).

A Product or Service becomes subject to this Agreement when IBM accepts Customer's order by i) sending Customer a Transaction Document, ii) shipping the Machine or making the Program available to Customer, or iii) providing the Service.

Any Attachment or Transaction Document will be signed by both parties if requested by either party.

#### 1.5 **Delivery**

Delivery dates and ship dates are estimates unless otherwise specifically agreed in a Transaction Document. Transportation charges, if applicable, will be specified in a Transaction Document. For

Programs IBM provides to Customer in tangible form, IBM fulfills its shipping and delivery obligations upon the delivery of such Programs to the IBM-designated carrier, unless otherwise agreed to in writing by Customer and IBM.

## **1.6 Charges and Payment**

### **1.6.1 Charges**

A Transaction Document specifies the amount payable for Products or Services, based on one or more of the following types of charges: one-time, recurring, time and materials, or fixed price. Additional charges may apply (such as special handling or travel related expenses). IBM will inform Customer in advance whenever additional charges apply.

Recurring charges for a Product begin on its Date of Installation. Charges for Services are billed as specified in a Transaction Document, which may be in advance, periodically during the performance of the Service, or after the Service is completed. Unless otherwise provided in this Agreement (including any applicable Attachment or Transaction Document): i) Services for which Customer prepays must be used within the applicable contract period; and ii) IBM does not give credits or refunds for any prepaid or other charges already due or paid.

If a Transaction Document provides an estimated total charge for time and materials or for usage charges, the estimate is for planning purposes only. For non-fixed price Products or Services, IBM invoices charges based on actual time and materials expended or Customer's actual or authorized use, subject to any specified minimum commitment.

### **1.6.2 Usage Charges**

One-time and recurring charges may be based on measurements of actual or authorized use (for example, authorized capacity for Machines, number of users or processor size for Programs, or meter readings for maintenance Services). Customer agrees to provide actual usage data as described in an Attachment or Transaction Document.

If Customer makes changes to its environment that impact usage charges, Customer agrees to promptly notify IBM and pay any applicable charges. Recurring charges will be adjusted accordingly. In the event that IBM changes the basis of measurement, its terms for changing charges will apply.

### **1.6.3 Changes to Charges**

Unless provided for otherwise in a Statement of Work, from time to time, IBM may change its charges. Customer receives the benefit of a decrease in charges for amounts that become due on or after the effective date of the decrease.

Unless provided otherwise in an Attachment or Transaction Document, IBM may increase recurring charges for Products and Services, as well as labor rates and minimums for Services provided under this Agreement, by giving Customer three months' written notice. An increase applies on the first day of the invoice or charging period on or after the effective date IBM specifies in the notice.

IBM may increase one-time charges without notice. However, an increase to one-time charges does not apply to Customer if i) IBM receives the order before the announcement date of the increase and ii) one of the following occurs within three months after IBM's receipt of the order:

- a. IBM ships Customer the Machine or makes the Program available to Customer;
- b. Customer makes an authorized copy of a Program or distributes a chargeable component of a Program to another Machine; or
- c. a Program's increased use charge becomes due.

### **1.6.4 Payment**

IBM will invoice Customer upon acceptance by Customer of the applicable Service or work in accordance with the acceptance criteria contained in the Statement of Work. Amounts are due upon receipt of invoice and payable within 30 days or as specified in a Transaction Document. Customer agrees to pay accordingly. Payment may be made electronically to an account specified by IBM or by other means agreed to by the parties.

### **1.6.5 Taxes**

If any authority imposes upon any transaction under this Agreement a duty, tax, levy, or fee, excluding those based on IBM's net income, then Customer agrees to pay that amount as specified in an invoice, unless Customer supplies exemption documentation. Customer is responsible for any personal property taxes for each Product from the date IBM ships it to Customer. For Programs that IBM delivers

electronically to Customer and for which Customer claims a state sales and use tax exemption, Customer and IBM agree that no tangible personal property (e.g., media and publications) is transferred to Customer.

Additional taxes and tax related charges may apply if IBM personnel are required to perform Services outside their normal tax jurisdiction. The need for such additional charges must be agreed to in advance by the parties and reflected in the applicable Statement of Work. As practical, IBM will work to mitigate such additional tax and tax-related charges.

## **1.7 Changes to the Agreement Terms**

In order to maintain flexibility in our business relationship, IBM may change the terms of this Agreement by providing Customer at least three months' written notice. However, these changes are not retroactive. They apply, as of the effective date IBM specifies in the notice, only to new orders, on-going transactions that do not expire, and transactions with a defined renewable contract period. For transactions with a defined renewable contract period, Customer may request that IBM defer the change effective date until the end of the current contract period.

Changes to charges are implemented as described in the Charges and Payment section above.

For a change to be valid, authorized representatives from both the Customer and IBM must sign it.

## **1.8 IBM Business Partners**

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain Products and Services. Customer may order Products or Services that are promoted or marketed to Customer by IBM Business Partners or other suppliers, however, i) this Agreement applies only if a Transaction Document subject to this Agreement is provided for the specific transaction, and ii) such Business Partners and suppliers remain independent and separate from IBM. IBM is not responsible for the actions or statements of IBM Business Partners or other suppliers, any obligations either has to Customer, or any products or services that they supply to Customer under their agreements.

## **1.9 Intellectual Property Protection**

For purposes of this Intellectual Property Protection section, the term "Product" also includes Materials and Machine Code.

### **1.9.1 Third Party Claims**

If a third party asserts a claim against Customer that an IBM Product that IBM provides to Customer under this Agreement infringes that party's patent or copyright, IBM will defend Customer against that claim at IBM's sole expense and pay all costs, damages, and attorney's fees that a court finally awards against Customer or that are included in a settlement approved in advance by IBM, provided that Customer:

- a. promptly notifies IBM in writing of the claim;
- b. allows IBM to control, and cooperates with IBM in, the defense and any related settlement negotiations; and
- c. is and remains in compliance with the Product's applicable license terms and Customer's obligations under section 1.9.2 (Remedies) below.

### **1.9.2 Remedies**

If a patent or copyright claim is made or appears likely to be made, IBM may either i) enable Customer to continue to use the Product, ii) modify it, or iii) replace it with one that is at least functionally equivalent; provided, however, that Customer must agree in writing to such modification or replacement. If IBM determines that none of these alternatives is reasonably available, then on IBM's written request, Customer agrees to promptly return the Product to IBM and discontinue its use. IBM will then give Customer a credit equal to:

- a. for a Machine, Customer's net book value calculated according to generally-accepted accounting principles;
- b. for an ICA Program, the amount Customer paid IBM for the Program's license or 12 months' charges (whichever is less); and
- c. for Materials, the amount Customer paid IBM for the creation of the Materials.

### **1.9.3 Claims for Which IBM is Not Responsible**

IBM has no obligation regarding any claim based on any of the following:

- a. anything provided by Customer or a third party on Customer's behalf that is incorporated into a Product or IBM's compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer's behalf;
- b. a Product's use other than in accordance with its applicable licenses and restrictions or use of a non-current version or release of a Product, to the extent a claim could have been avoided by using the current release or version;
- c. any modification of a Product made by Customer or by a third party on Customer's behalf or the combination, operation, or use of a Product with any other Product, hardware device, program, data, apparatus, method, or process;
- d. the distribution, operation or use of a Product outside Customer's Enterprise;
- e. running or executing an ICA Program on other than a Designated Machine; or
- f. a non-IBM Product or an Other IBM Program.

This Intellectual Property Protection section states IBM's entire obligation and Customer's exclusive remedy regarding any third party intellectual property claims.

### **1.10 Limitation of Liability**

#### **1.10.1 Items for Which IBM May Be Liable**

Circumstances may arise where, because of a default on IBM's part or other liability, Customer is entitled to recover damages from IBM. Regardless of the basis on which Customer is entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), IBM's entire liability for all claims in the aggregate arising from or related to each Product or Service or otherwise arising under this Agreement will not exceed the amount of any actual direct damages up to the greater of \$100,000 or the charges (if recurring, 12 months' charges apply) for the Product or Service that is the subject of the claim, plus the amounts referred to in subsections a. and b. below, as applicable. For purposes of this Limitation of Liability section, the term "Product" also includes Materials and Machine Code.

This limit also applies to any of IBM's subcontractors and Program developers. It is the maximum for which IBM and its subcontractors and Program developers are collectively responsible. The following amounts are not subject to a cap on the amount of damages:

- a. payments referred to in the Intellectual Property Protection section above; and
- b. damages for bodily injury (including death) and damage to real property and tangible personal property for which IBM is legally liable.

#### **1.10.2 Items for Which IBM Is Not Liable**

Except as expressly required by law without the possibility of contractual waiver, under no circumstances is IBM, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:

- a. loss of, or damage to, data;
- b. special, incidental, exemplary, or indirect damages or for any economic consequential damages; or
- c. lost profits, business, revenue, goodwill, or anticipated savings.

### **1.11 Compliance Verification**

Upon reasonable notice, IBM may verify the usage data and other information affecting the calculation of charges under this Agreement. Such verification will be conducted in a manner that minimizes disruption to Customer's business and may be conducted on Customer's premises, during Customer's normal business hours. Customer agrees to i) provide records, system tools outputs, and other electronic or hard copy system information reasonably necessary for such verification, and ii) promptly pay any additional, valid charges and other liabilities determined as a result of such verification.

IBM's right to verify Customer's usage data and other information affecting the calculation of charges also includes the right to verify Customer's compliance with all other terms of this Agreement (including applicable Attachments and Transaction Documents). IBM may use an independent auditor to assist with such verification, provided IBM has a written confidentiality agreement in place with such auditor.

Customer agrees to create, retain, and provide to IBM and its auditors written records, system tools outputs, and other system information sufficient to provide auditable verification that Customer's installation and running or executing ICA Programs complies with the Agreement terms, including IBM's applicable licensing and pricing terms. IBM will notify Customer in writing if any such verification indicates that Customer is not in compliance with Agreement terms. The rights and obligations in this section remain in effect during the period any ICA Programs are licensed to Customer and for two years thereafter.

#### **1.11.1 Circumvention of Technological Measures**

Customer will not (i) Circumvent or attempt to Circumvent any Technological Measures in an IBM Product or use a third party or third party product to do so, or (ii) in any way access, use, or attempt to access or use, Unauthorized Built-in Capacity.

### **1.12 General Principles of Our Relationship**

#### **1.12.1 Notices and Communications**

Written communications, including notices to the receiving party's designated representative, are to be sent to the address (physical, e-mail or facsimile) specified in an applicable Attachment or Transaction Document. The parties consent to the use of electronic means and facsimile transmissions to send and receive communications in connection with our business relationship arising out of this Agreement, and such communications are acceptable as a signed writing. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity.

#### **1.12.2 Assignment and Resale**

Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other, which consent shall not be unreasonably withheld. Any attempt to assign without consent is void. The assignment of this Agreement, in whole or in part, within the Enterprise of which either party is a part or to a successor organization by merger or acquisition does not require the consent of the other. IBM is also permitted to assign its rights to payments without obtaining Customer's consent. It is not considered an assignment for IBM to divest a portion of its business in a manner that similarly affects all of its customers.

Customer agrees not to resell any Service without IBM's prior written consent. Any attempt to do so is void.

Customer agrees to acquire each Machine with the intent to use it as designed and in the form it was sold within Customer's Enterprise and not for reselling, leasing, or transferring it, in whole or in part, to a third party, unless either of the following applies:

- a. Customer is arranging lease-back financing for the Machine; or
- b. Customer has paid IBM's list price or reference price, as applicable for the Machine, and does not remarket it in competition with IBM or IBM's authorized remarketers.

#### **1.12.3 Compliance with Laws**

IBM will comply with laws applicable to IBM generally as a provider of information technology Products and Services. IBM is not responsible for determining the requirements of laws applicable to Customer's business, including those relating to Products and Services that Customer acquires under this Agreement, or that IBM's provision of or Customer's receipt of particular Products or Services under this Agreement meets the requirements of such laws. Neither party is obligated to take any action that would violate applicable law.

Each party will comply with all applicable export and import laws, regulations, and associated embargo and sanction regulations, including prohibitions on export for certain end uses or to certain end users.

#### **1.12.4 Dispute Resolution**

Each party will allow the other party reasonable opportunity to comply before it claims that the other has not met its obligations under this Agreement. The parties will attempt in good faith to resolve all disputes, disagreements, or claims between the parties relating to this Agreement. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation, i) neither party will bring a legal action, regardless of form, arising out of or related to this Agreement or any transaction under it more than two years after the cause of action arose; and ii) after such time limit, any legal action arising out of this Agreement or any transaction under it and all respective rights related to any such action lapse.

### 1.12.5 Other Principles of Our Relationship

- a. Neither party grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion or publication without prior written consent.
- b. The exchange of any confidential information will be made under a separate, signed confidentiality agreement. However, to the extent confidential information is exchanged in connection with any Product or Service under this Agreement, the applicable confidentiality agreement is incorporated into, and subject to, this Agreement.
- c. This Agreement and any transaction under it do not create an agency, joint venture, or partnership between Customer and IBM. Each party is free to enter into similar agreements with others to develop, acquire, or provide competitive products and services.
- d. Each party grants only the licenses and rights specified in this Agreement. No other licenses or rights (including licenses or rights under patents) are granted either directly, by implication, or otherwise. The rights and licenses granted to Customer under this Agreement may be terminated if Customer fails to fulfill its applicable payment obligations.
- e. Customer agrees that IBM may process the business contact information of Customer's employees and contractors and information about Customer as a legal entity (contact information) in connection with IBM Products and Services or in furtherance of IBM's business relationship with Customer. This contact information can be stored, disclosed internally and processed by International Business Machines Corporation and its subsidiaries, Business Partners and subcontractors wherever they do business, solely for the purpose described above provided that these companies comply with applicable data privacy laws related to this processing. Where required by applicable law, Customer has notified and obtained the consent of the individuals whose contact information may be stored, disclosed internally and processed and will forward their requests to access, update, correct or delete their contact information to IBM who will then comply with those requests.
- f. No right or cause of action for any third party is created by this Agreement or any transaction under it, nor is IBM responsible for any third party claims against Customer except as described in the Intellectual Property Protection section above, Section 1.16 Indemnification below, or as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable to that third party.
- g. Customer is responsible for selecting the Products and Services that meet its needs and for the results obtained from the use of the Products and Services, including Customer's decision to implement any recommendation concerning Customer's business practices and operations.
- h. Where approval, acceptance, consent or similar action by either party is required under this Agreement, such action will not be unreasonably delayed or withheld.
- i. Neither party is responsible for failure to fulfill any non-monetary obligations due to events beyond its control.
- j. As reasonably required by IBM to fulfill its obligations under this Agreement, Customer agrees to provide IBM with sufficient and safe access (including remote access) to Customer's facilities, systems, information, personnel, and resources, all at no charge to IBM. IBM is not responsible for any delay in performing or failure to perform caused by Customer's delay in providing such access or performing other Customer responsibilities under this Agreement.
- k. Customer shall not be obligated or liable under this Agreement to any party other than IBM.

### 1.13 Agreement Termination

Either party may terminate this Agreement on written notice to the other following the expiration or termination of the terminating party's obligations under this Agreement, including any applicable Attachment or Transaction Document.

Either party may terminate this Agreement if the other does not comply with any material terms, provided the one who is not complying is given written notice and reasonable time to cure. License termination and termination of a Services transaction are described in Parts 5 and 6, respectively.

Any terms of this Agreement that by their nature extend beyond the Agreement termination remain in effect until fulfilled, and apply to both parties' respective successors and assignees.

#### **1.14 Geographic Scope and Governing Law**

The rights, duties, and obligations of each party are valid only in the United States except that all licenses are valid as specifically granted.

Both parties agree to the application of the laws of the State of California to govern, interpret, and enforce all of Customer's and IBM's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

#### **1.15 Insurance**

IBM shall at all times during the term of a Statement of Work or other applicable Transaction Document carry, maintain, and keep in full force and effect, insurance as follows:

- a. 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 of IBM.
- b. 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 IBM in performing the Statement of Work or other applicable Transaction Document required by this Agreement.
- c. Workers' compensation insurance as required by the State of California.

IBM shall require any subcontractors engaged on a Statement of Work or other applicable Transaction Document with the Customer to maintain insurance coverage consistent with the requirements in this section 1.15.

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.

IBM agrees that if it does not keep the aforesaid insurance in full force and effect during the period of performance of a Statement of Work or other applicable Transaction Document, Customer may terminate this Agreement for its convenience in accordance with the provisions herein.

At all times during the performance period of a Statement of Work or other applicable Transaction Document, IBM shall maintain on file with Customer a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts. IBM shall, prior to commencement of work under a Statement of Work or other applicable Transaction Document, file with the Beverly Hills City Clerk such certificate or certificates. The Comprehensive General Liability and Comprehensive Vehicle Liability Insurance shall contain an endorsement naming the City of Beverly Hills as an additional insured. IBM will provide Customer with thirty (30) days prior written notice of cancellation of coverage.

The Comprehensive General Liability and Comprehensive Vehicle Liability Insurance provided by IBM shall be primary and non contributory to any coverage available to Customer, only with respect to liability arising out of this Agreement. The Comprehensive General Liability and Comprehensive Vehicle Liability Insurance shall include provisions for waiver of subrogation.

#### **1.16 Indemnification**

IBM agrees to indemnify and hold harmless the City of Beverly Hills, the City Council and each member thereof, and every officer and employee of the City of Beverly Hills by defending them from and against any third party claims for damages for bodily injury (including death) and damage to real property or tangible personal property for which IBM is legally liable to that third party, and pay all costs, damages and attorney's fees that a court finally awards or that are included in a settlement approved by IBM, provided that the City shall give IBM prompt written notice of any such claim and allow IBM to control the defense and shall cooperate in the defense and any related settlement negotiations.

## **2. Warranties**

### **2.1 The IBM Warranties**

#### **2.1.1 Warranty for IBM Machines**

IBM warrants that each IBM Machine is free from defects in materials and workmanship and conforms to its Specifications.

The warranty period for an IBM Machine is a fixed period, specified in a Transaction Document. For Machines, unless otherwise specified, the Date of Installation is the Warranty Start Date.

During the warranty period, IBM provides repair and exchange Service for the IBM Machine, without charge, under the type of Service IBM designates for the IBM Machine. If an IBM Machine does not function as warranted during the warranty period and IBM is unable to either i) make it do so or ii) replace it with one that is at least functionally equivalent, Customer may return it to IBM for a refund.

Additional terms regarding Service for Machines during and after the warranty period are in Part 6.

#### **2.1.2 Warranty for ICA Programs**

IBM warrants that each warranted ICA Program, when used in the Specified Operating Environment, will conform to its Specifications.

During the warranty period, IBM provides defect-related Program Services without charge. Program Services are available for a warranted ICA Program for at least one year following its general availability. The warranty period for an ICA Program expires when its Program Services are no longer available.

If an ICA Program does not function as warranted during the first year after Customer obtains its license and IBM is unable to make it do so, Customer may return the ICA Program and the charges Customer paid for the license will be refunded. To be eligible, Customer must have obtained its license while Program Services (regardless of the remaining duration) were available for the ICA Program. Additional terms regarding Program Services are contained in Part 5.

#### **2.1.3 Warranty for IBM Services**

IBM warrants that it performs each IBM Service using reasonable care and skill and according to its current description (including any completion criteria) contained in this Agreement, an Attachment, or a Transaction Document. Customer agrees to provide timely written notice of any failure to comply with this warranty so that IBM can take corrective action.

#### **2.1.4 Warranty for Systems**

When IBM specifies in an Attachment or Transaction Document that it is providing Products to Customer that are intended to operate together as a system, IBM warrants that those Products are compatible and, when installed in accordance with their Specifications, will operate with one another. This warranty is in addition to IBM's other applicable warranties.

### **2.2 Extent of Warranty**

If a Machine is subject to federal or state consumer warranty laws, IBM's statement of limited warranty included with the Machine applies in place of these Machine warranties.

The warranties stated above will not apply to the extent that there has been misuse (including, but not limited to, use of any Unauthorized Built-in Capacity or Circumvention of Technological Measures), accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by Customer or a third party, or failure or damage caused by a product for which IBM is not responsible. The warranty for IBM Machines is voided by removal or alteration of Machine or parts identification labels.

For a Machine that IBM is responsible to install, if Customer elects to install the Machine itself or have a third party install the Machine, IBM may inspect the Machine at Customer's expense before providing warranty Service on the Machine. If the Machine is not in an acceptable condition for warranty Service, as solely determined by IBM, Customer may request that IBM restore it to an acceptable condition for Service or Customer may withdraw its request for warranty Service. IBM, at its sole discretion, will determine if restoration is possible. Restoration is provided as a billable Service.

**THESE WARRANTIES ARE CUSTOMER'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT.**

### **2.2.1 Items Not Covered by Warranty**

IBM does not warrant uninterrupted or error-free operation of a Product or Service or that IBM will correct all defects.

IBM will identify IBM Machines and ICA Programs that it does not warrant.

IBM's Warranty for ICA Programs does not extend to an ICA Program that is run or executed on other than a Designated Machine.

Unless otherwise specified in an Attachment or Transaction Document, IBM provides Materials, non-IBM Products (including those provided with, or installed on, an IBM Machine at Customer's request), and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND**. However, non-IBM manufacturers, developers, suppliers, or publishers may provide their own warranties to Customer. Warranties, if any, for Other IBM Programs and Non-IBM Programs may be found in their license agreements.

## **3. Machines Terms**

### **3.1 Production Status**

Each IBM Machine is manufactured from parts that may or may not be new. In some cases, a Machine may not be new and may have been previously installed. Regardless, IBM's applicable warranty terms described in Part 2 apply.

### **3.2 Title and Risk of Loss**

When IBM accepts Customer's order, IBM agrees to sell Customer the Machine described in a Transaction Document. IBM transfers title to Customer or, if applicable, Customer's lessor when the Machine is shipped to Customer or its designated location. However, IBM reserves a purchase money security interest in the Machine until IBM receives the amounts due. For a feature, conversion, or Machine Upgrade involving the removal of parts that become IBM's property, IBM reserves a security interest until IBM receives payment of all the amounts due and the removed parts. Customer authorizes IBM to file appropriate documents to permit IBM to perfect its security interest.

For each Machine, IBM bears the risk of loss or damage up to the time it is delivered to the IBM-designated carrier for shipment to Customer or Customer's designated location. Thereafter, Customer assumes the risk. Each Machine will be covered by insurance, arranged and paid for by IBM for Customer, covering the period until it is delivered to Customer or Customer's designated location. For any loss or damage, Customer must i) report the loss or damage in writing to IBM within 10 business days of delivery and ii) follow the applicable claim procedure.

### **3.3 Installation**

#### **3.3.1 Machine Installation**

Customer agrees to provide an environment meeting the requirements for the Machine as specified in its published documentation.

Within 30 calendar days of the shipment of a Machine, Customer agrees to install the Machine or, if IBM is responsible for the installation, to allow IBM to install the Machine. IBM has standard installation procedures. IBM will successfully complete these procedures before it considers an IBM Machine (other than a Machine for which Customer defers installation or a Customer-set-up Machine) installed. For a Machine that IBM is responsible to install, if the Machine is not made available for IBM to install within six months from shipment, installation will be subject to an installation charge.

Customer is responsible for installing a Customer-set-up Machine and a non-IBM Machine according to instructions provided by IBM or the Machine's manufacturer.

#### **3.3.2 Machine Upgrades and Engineering Changes**

IBM sells Machine Upgrades for installation on Machines, and, in certain instances, only for installation on a designated, serial-numbered Machine. Within 30 calendar days of the shipment of a Machine Upgrade, Customer agrees to install the Machine Upgrade or, if IBM is responsible for the installation, to allow IBM to install the Machine Upgrade. Certain Machine Upgrade orders may be terminated at IBM's discretion if not made available for IBM to install within 30 calendar days of shipment, in which case Customer must return the Machine Upgrade to IBM at Customer's expense. In all cases, if the Machine Upgrade is not made available for IBM to install within six months from the date IBM ships the Machine Upgrade, installation will be subject to an installation charge.

Customer agrees to allow IBM to install mandatory Engineering Changes (such as those required for safety) on a Machine within 30 calendar days of IBM's notice to Customer unless otherwise agreed to by the parties.

Many Machine Upgrades and Engineering Changes require the removal of parts and the transfer of ownership and possession of the removed parts to IBM. Customer is responsible for the return of all removed parts to IBM upon installation of the Machine Upgrade or Engineering Change. As applicable, Customer represents that Customer has permission from the owner and any lien holders to i) install Machine Upgrades and Engineering Changes and ii) transfer ownership and possession of removed parts to IBM. Customer further represents that all removed parts are genuine, unaltered, and in good working order. A part that replaces a removed part will assume the warranty or maintenance Service status of the replaced part.

#### **4. Licenses for Machine Code and Other Internal Licensed Code**

Customer acknowledges that each Covered Machine contains Machine Code and may also contain Other Internal Licensed Code. Regardless of the source from which Customer acquires an IBM Machine, IBM's license terms regarding Machine Code and Other Internal Licensed Code included with the Machine apply.

##### **4.1 License for Machine Code**

Customer's use of Machine Code on a Covered Machine is governed by the terms of the applicable IBM License Agreement for Machine Code provided at

[http://www.ibm.com/systems/support/machine\\_warranties/machine\\_code.html](http://www.ibm.com/systems/support/machine_warranties/machine_code.html)

##### **4.2 License for Other Internal Licensed Code (OILC)**

OILC is licensed under, and Customer's use is governed by, the terms of the applicable license agreement(s) for such OILC provided at:

[http://www.ibm.com/servers/support/machine\\_warranties/support\\_by\\_product.html](http://www.ibm.com/servers/support/machine_warranties/support_by_product.html)

#### **5. License for ICA Programs**

##### **5.1 License**

When IBM accepts Customer's order, IBM grants Customer a nonexclusive license to use the ICA Program only within Customer's Enterprise in the United States. ICA Programs are owned by International Business Machines Corporation, one of its subsidiaries, or a third party and are copyrighted and licensed (not sold).

###### **5.1.1 Authorized Use**

Under each license, IBM authorizes Customer to:

- a. run or execute the ICA Program only on the Designated Machine specified by the Customer to IBM under the terms of Section 5.1.2 below;
- b. use the ICA Program to the extent of authorizations Customer has obtained;
- c. solely in support of the level of use authorized by IBM, make and install copies of the ICA Program on the following: (i) the Designated Machine, and (ii) on an additional Designated Machine, for backup purposes, if the ICA Program is not performing productive work (including, without limitation, production, development, test, program maintenance, mirroring, etc.) on such additional Designated Machine; provided that Customer reproduces the copyright notices and any other legends of ownership on each copy or partial copy; and
- d. use any portion of the ICA Program IBM i) provides in source form, or ii) marks restricted (for example, marked "Restricted Materials of IBM") only to:
  - (1) resolve problems related to the use of the ICA Program, and
  - (2) modify the ICA Program so that, while not otherwise violating the terms of this Agreement, it will work together with other products.

###### **5.1.2 Customer's Additional Obligations**

For each ICA Program, Customer agrees to:

- a. provide its IBM representative with the type/model and serial number of the Designated Machine, and provide advance written notice and the effective date of any change from one Designated Machine to another Designated Machine;

- b. comply with any additional or different terms in its Licensed Program Specifications or another Attachment or Transaction Document;
- c. ensure that anyone who uses it (accessed either locally or remotely) does so only for Customer's authorized use and complies with IBM's terms regarding ICA Programs; and
- d. maintain a record of all copies and provide it to IBM at its request.

### 5.1.3 Actions Customer May Not Take

For each ICA Program, Customer agrees not to:

- a. modify the ICA Program except as IBM expressly allows in this Agreement;
- b. reverse assemble, reverse compile, otherwise translate, or reverse engineer the ICA Program unless expressly permitted by applicable law without the possibility of contractual waiver; or
- c. sublicense, assign, rent, or lease the ICA Program or transfer it outside Customer's Enterprise.

## 5.2 Distributed System License Option

For some ICA Programs, Customer may make a copy under a Distributed System License Option (called a "DSLO" copy). IBM charges less for a DSLO copy than for the original license (called the "Basic" license). In return for the lesser charge, Customer agrees to do the following while licensed under a DSLO:

- a. have a Basic license for the ICA Program;
- b. provide problem documentation and receive Program Services (if any) only through the location of the Basic license; and
- c. distribute to, and install on, the DSLO's Designated Machine, any release, correction, or bypass that IBM provides for the Basic license.

## 5.3 Program Services

IBM provides Program Services for warranted ICA Programs. If IBM can reproduce Customer's reported problem in the Specified Operating Environment, IBM will issue defect correction information, a restriction, or a bypass. IBM provides Program Services for only the unmodified portion of a current release of an ICA Program.

IBM provides Program Services i) on an on-going basis (with at least six months' written notice before IBM terminates Program Services), ii) until the date IBM specifies, or iii) for a period IBM specifies.

## 5.4 License Termination

Customer may terminate the license for an ICA Program at any time on 30 calendar days' written notice to IBM.

IBM may terminate Customer's license for an ICA Program if Customer fails to comply with:

- a. the terms of this Section 5,
- b. the license terms for Machine Code applicable to the Designated Machine to which the ICA Program is licensed, or
- c. Section 1.11 of this Agreement as such Section pertains to the ICA Program or the Designated Machine to which the ICA Program is licensed.

For each ICA Program license that Customer acquired for a one-time charge, a replacement license may be acquired for an upgrade charge, if available. When Customer obtains a license for such replacement ICA Program, the license of the replaced ICA Program is terminated when charges become due, unless IBM specifies otherwise.

If an ICA Program's license is terminated, Customer's authorization to use the ICA Program is also terminated.

Customer agrees to promptly destroy all copies of the Program after either party has terminated the license.

## 6. Services

### 6.1 Personnel

Each party will assign personnel that are qualified to perform the tasks required of such party under this Agreement and is responsible for the supervision, direction, control, and compensation of its personnel. Subject to the foregoing, each party may determine the assignment of its personnel and its contractors.

IBM may engage subcontractors to provide or assist in providing Services, in which case IBM remains responsible for the fulfillment of its obligations under this Agreement and for the performance of the Services.

## **6.2 Materials Ownership and License**

An Attachment or Transaction Document will specify Materials to be delivered to Customer and identify them as "Type I Materials," "Type II Materials," or otherwise as both parties agree. If not specified, Materials will be considered Type II Materials.

Customer will own the copyright in Materials created as part of a Service that are identified as "Type I Materials" and each such Material will constitute a "work made for hire" to the extent permissible under U.S. copyright law. If any such Materials are not works made for hire under applicable law, IBM assigns the ownership of copyrights in such Materials to Customer. Customer grants IBM an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works based on, Type I Materials.

IBM or its suppliers will own the copyright in Materials created as part of a Services transaction that are identified as Type II Materials. IBM grants Customer an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute (within Customer's Enterprise only) copies of Type II Materials.

IBM or its suppliers retains ownership of the copyright in any of IBM's or its suppliers' works that pre-exist or were developed outside of this Agreement and any modifications or enhancements of such works that may be made under this Agreement. To the extent they are embedded in any Materials, such works are licensed in accordance with their separate licenses provided to Customer, if any, or otherwise as Type II Materials.

Each party agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the licenses granted in this section.

## **6.3 Customer Resources**

If Customer is making available to IBM any facilities, software, hardware or other resources in connection with IBM's performance of Services, Customer agrees to obtain any licenses or approvals related to these resources that may be necessary for IBM to perform the Services and develop Materials. IBM will be relieved of its obligations that are adversely affected by Customer's failure to promptly obtain such licenses or approvals. Customer agrees to reimburse IBM for any reasonable costs and other amounts that IBM may incur from Customer's failure to obtain these licenses or approvals.

Unless otherwise agreed in an Attachment or Transaction Document, Customer is responsible for i) any data and the content of any database Customer makes available to IBM in connection with a Service under this Agreement, ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and iii) backup and recovery of the database and any stored data. IBM's responsibilities regarding such data or database, including any confidentiality and security obligations, are governed by the Attachments and Transaction Documents applicable to the particular Services Transaction (which prevail over the terms of any separate confidentiality agreements) and subject to the Limitation of Liability and other terms in this Agreement.

## **6.4 Service for Machines (during and after warranty)**

### **6.4.1 Service for Machines**

IBM provides certain types of Service to keep Machines in, or restore them to, conformance with their Specifications. IBM will inform Customer of the available types of Service for a Machine. At its discretion, IBM will i) either repair or exchange the failing Machine and ii) provide the Service either at Customer's location or a service center. IBM manages and installs selected Engineering Changes that apply to IBM Machines and may also perform preventive maintenance.

Any feature, conversion, or Machine Upgrade IBM Services must be installed on a Machine which is i) the designated, serial-numbered Machine, if applicable, and ii) at an Engineering-Change level compatible with the feature, conversion, or Machine Upgrade.

When the type of Service requires that Customer deliver the failing Machine to IBM, Customer agrees to ship it suitably packaged (prepaid unless IBM specifies otherwise) to a location IBM designates. After IBM has repaired or exchanged the Machine, IBM will deliver it to Customer at IBM's expense unless IBM specifies otherwise. IBM is responsible for loss of, or damage to, Customer's Machine while it is i) in IBM's possession or ii) in transit in those cases where IBM is responsible for the transportation charges.

Customer agrees:

- a. to obtain authorization from the owner to have IBM service a Machine that Customer does not own;
- b. where applicable, before IBM provides Service, to --
  - (1) follow the problem determination and service request procedures that IBM provides,
  - (2) secure all programs, data, and funds contained in a Machine, and
  - (3) inform IBM of changes in a Machine's location.
- c. to follow the Service instructions that IBM provides (which may include installing Machine Code and other software updates either downloaded from an IBM Internet Web site or copied from other electronic media); and
- d. when Customer returns a Machine to IBM for any reason --
  - (1) to securely erase from any Machine all programs not provided by IBM with the Machine and data, including without limitation, the following: i) information about identified or identifiable individuals or legal entities ("Personal Data") and ii) Customer's confidential or proprietary information and other data. If removing or deleting Personal Data is not possible, Customer agrees to transform such information (e.g., by making it anonymous) so that it no longer qualifies as Personal Data under applicable law;
  - (2) to remove all funds from Machines returned to IBM. IBM is not responsible for any funds, programs not provided by IBM with the Machine, or data contained in a Machine that Customer returns to IBM; and
  - (3) IBM may ship all or part of the Machine or its software to other IBM or third party locations around the world to perform its responsibilities under this Agreement, and Customer authorizes IBM to do so.

#### **6.4.2 Replacements**

When Service involves the exchange of a part or Machine, the item IBM replaces becomes IBM's property and the replacement becomes Customer's. Customer represents that all removed items are genuine and unaltered. The replacement may not be new, but will be in good working order and at least functionally equivalent to the item replaced. The replacement assumes the warranty or maintenance Service status of the replaced item. Before IBM exchanges a part or Machine, Customer agrees to remove all features, parts, options, alterations, and attachments not under IBM's service. Customer also agrees to i) ensure that the part or Machine is free of any legal obligations or restrictions that prevent its exchange and ii) transfer ownership and possession of removed parts to IBM.

Service for some IBM Machines involves IBM providing Customer with an exchange replacement for installation by Customer. Such exchange replacements may be i) a part of a Machine (called a Customer Replaceable Unit, or "CRU," e.g., keyboard, memory, or hard disk drive), or ii) an entire Machine. Customer may request IBM to install the replacement CRU or Machine, however, Customer may be charged for the installation. IBM provides information and replacement instructions with Customer's Machine and at any time on Customer's request. IBM specifies in the materials shipped with a replacement whether the failing CRU or Machine must be returned to IBM. When return is required, return instructions and a container are shipped with the replacement, and Customer may be charged for the replacement if IBM does not receive the failing CRU or Machine within 15 calendar days of Customer's receipt of the replacement.

#### **6.4.3 Items Not Covered**

Repair and exchange Services do not cover:

- a. accessories, supply items, consumables (such as batteries and printer cartridges), and structural parts (such as frames and covers);
- b. Machines damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by Customer or a third party;
- c. Machines with removed or altered Machine or parts identification labels;
- d. failures caused by a product for which IBM is not responsible;
- e. service of Machine alterations; or
- f. service of a Machine on which Customer is using capacity or capability, other than that authorized by IBM in writing.

## **6.5 Warranty Service Upgrade**

For certain Machines, Customer may select a Service upgrade from the standard type of warranty Service for the Machine. IBM charges for the Service upgrade during the warranty period.

Customer may not terminate the Service upgrade or transfer it to another Machine during the warranty period.

When the warranty period ends, the Machine will convert to maintenance Service at the same type of Service Customer selected for warranty Service upgrade.

## **6.6 Maintenance Coverage**

When Customer orders maintenance Service for Machines, IBM will inform Customer of the date on which maintenance Service will begin. IBM may inspect the Machine within one month following that date. If the Machine is not in an acceptable condition for service, Customer may have IBM restore it for a charge or Customer may withdraw its request for maintenance Service. However, Customer will be charged for any maintenance Service that IBM has performed at Customer's request.

## **6.7 Automatic Service Renewal**

Renewable Services shall renew for a same length contract period upon mutual written agreement of the parties, unless either party provides written notification (at least one month prior to the end of the current contract period) to the other of its decision not to renew.

During an automatic renewal period, Customer may terminate the Service on one month's written notice, and IBM will provide Customer a prorated credit for any unused Services for which Customer has paid in advance.

## **6.8 Termination and Withdrawal of a Service**

Either party may terminate a Service transaction if the other materially fails to meet its obligations concerning the Service.

Customer may terminate a Service, on notice to IBM provided Customer has met all minimum requirements and paid any adjustment charges specified in the applicable Attachments and Transaction Documents.

For a maintenance Service, Customer may terminate without adjustment charge, provided any of the following circumstances occur:

- a. Customer permanently removes the eligible Product, for which the Service is provided, from productive use within Customer's Enterprise;
- b. the eligible location, for which the Service is provided, is no longer controlled by Customer (for example, because of sale or closing of the facility); or
- c. the Machine has been under maintenance Service for at least one year and Customer gives IBM one month's written notice prior to terminating the maintenance Service.

Customer may also terminate this Agreement without cause by providing IBM with thirty (30) days advance written notice. Any Statement of Work that is in progress at the time of such termination will terminate concurrently with the termination of this Agreement.

Customer agrees to pay IBM for i) all charges for Services IBM provides and any Products and Materials IBM delivers through Service termination, and ii) reimbursable expenses IBM incurs through Service termination. If Customer terminates without cause, Customer also agrees to pay any applicable adjustment or termination charges and for expenses IBM incurs as a result of such termination (which IBM will take reasonable steps to mitigate).

IBM may withdraw a Service or support for an eligible Product on three months' written notice to Customer. If IBM withdraws a Service for which Customer has prepaid and IBM has not yet fully provided it to Customer, IBM will give Customer a prorated refund.

Any terms that by their nature extend beyond termination or withdrawal remain in effect until fulfilled and apply to respective successors and assignees.

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This Agreement, including its applicable Attachments and Transaction Documents, is the complete agreement regarding transactions by which Customer purchases Machines, licenses ICA Programs, obtains Program licenses, and acquires Services from IBM, and replaces all prior oral or written communications, representations, understandings, warranties, promises, covenants, and commitments between Customer and IBM. In entering into

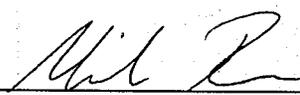
this Agreement, including each Attachment and Transaction Document, neither party is relying on any representation that is not specified in this Agreement. Additional or different terms in any written communication from Customer (such as a purchase order) are void.

Each party accepts, on behalf of its Enterprise, the terms of this Agreement by signing this Agreement (or another document that incorporates it by reference) by hand or electronically. Once signed, i) any reproduction of this Agreement, an Attachment, or Transaction Document made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original and ii) all Products and Services ordered under this Agreement are subject to it.

Agreed to:  
**City of Beverly Hills:**

Agreed to:  
**International Business Machines Corporation**

By \_\_\_\_\_

By  \_\_\_\_\_

Authorized signature

Authorized signature

Title: **Mayor of the City of Beverly Hills, CA**  
Name (type or print): **Lili Bosse**

Title: IBM Client Executive  
Name (type or print): Mike Ross

Date:

Date: 6/20/2014

Customer number:

Agreement number:

Enterprise number:

Customer address:

IBM address:

2710 Gateway Oaks Drive

South Building, Suite 200

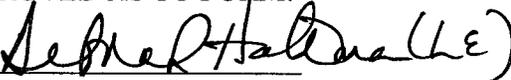
Sacramento, CA 95833

Signature page IBM agreement

ATTEST:

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

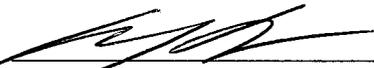
APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

# IBM Schedule for ServiceElite

This Schedule contains a listing of the Eligible Machines at the Specified Locations identified below for which IBM will provide the identified Services as described in the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations. The complete agreement between us about these Services consists of 1) this Schedule 2) the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations, and 3) the IBM Customer Agreement (or any equivalent agreement in effect between us).

**Name and Address of Customer:**

CITY OF BEVERLY HILLS  
IT DEPT  
455 N REXFORD DR  
BEVERLY HILLS CA 90210-4817

**Customer Billing Address:**

**Master Services Attachment Number:** MAG30KN  
**Statement of Work Number:** AS5XGW  
**Change Authorization Number:**  
**Customer Number:** 01782976

**Schedule Number:** AS5XGW  
**Revised Schedule:** No  
**Schedule Effective Date:** 06/06/2014  
**Proposal Reference Date:** 08/01/2014

**Transaction Contract Period:**  
**Start Date:** 08/01/2014  
**End Date:** 07/31/2015  
**Renewal Contract Period:** 1 Year(s)

**\* Charge Period Charges / Payment Plan (Inclusive of MES):**

WSU One Time Charges: 0.00  
SWMA ALF One Time Charges: 0.00  
MMS for CISCO HW One Time Charges: 0.00  
MMS for CISCO SW One Time Charges: 0.00  
MMS for Nortel One Time Charges: 0.00  
One Time Charges: 0.00

**\* Maintenance Charges:** 87,192.54  
**\* Service Charges:** 3,693.38  
**\* TOTAL CHARGE PERIOD CHARGES:** 90,885.92  
Annually

**Charge Period:**

**Start Date:** 08/01/2014  
**End Date:** 07/31/2015

<sup>1</sup>Accumulated Adjustment Invoicing option: N

**Automatic Inventory Increase Option Applies:**  
**Machine Maintenance Services Option #1:** N  
**Software Services Option #2:** N

**Price Protection Option:** Opt#1 Annual Price Protection  
**Pricing Method:** Line Item

\* Charges are based on the current inventory and services identified in this Schedule. Actual charges may vary with any additions, deletions, or changes to the inventory or services. Any applicable taxes are not included in the charge amounts herein but will be added to your invoice.

For a Machine subject to usage charges, in addition to the Service charge identified herein, you will be separately billed for usage in accordance with applicable usage rates and billing cycles.

**The Parties need not sign this Schedule, unless either of us requests it.**

Agreed to:

CITY OF BEVERLY HILLS

By: \_\_\_\_\_

Authorized signature

Name (type or print): David Schirmer, CIO

Date: \_\_\_\_\_

Agreed to:

International Business Machines Corporation

By: \_\_\_\_\_

Authorized signature

Name (type or print): MIKE ROSS

Date: 6/20/14

# IBM Schedule for ServiceElite

**Enterprise Total for Charge Period by Customer Number Inclusive of MES:**

Customer No.	Customer Name	Customer Location	Charges <sup>4</sup>
00985895	CITY OF BEVERLY HILLS	333 N FOOTHILL RD, PS MAINTENCE SERVICE, BEVERLY HILLS CA 90210-3609	2,683.88
01221877	ARROW ENTERPRISE COMPUTING SO	9355 CIVIC CENTER DR, INFORMATION TECHNOLOGY, BEVERLY HILLS CA 90210-3427	9,544.00
01782748	CITY OF BEVERLY HILLS	455 N REXFORD DR, INFORMATION TECHNOLOGY, BEVERLY HILLS CA 90210-4817	522.00
01782812	CITY OF BEVERLY HILLS	9355 CIVIC CENTER DR, COMPUTER ROOM, BEVERLY HILLS CA 90210-3427	10,050.32
01782976	CITY OF BEVERLY HILLS	455 N REXFORD DR, IT DEPT, BEVERLY HILLS CA 90210-4817	31,007.74
01783202	CITY OF BEVERLY HILLS	9355 CIVIC CENTER DR, SUPPORT GROUP, BEVERLY HILLS CA 90210-3427	994.67
05435656	MAINLINE INFORMATION SYSTEMSIN	455 N REXFORD DR, INFORMATION TECHNOLOGY, BEVERLY HILLS CA 90210-4817	315.00
05464909	ARROW ENTERPRISE COMPUTING SO	9355 CIVIC CENTER DR, CITY OF BEVERLY HILLS, BEVERLY HILLS CA 90210-3427	4,825.70
05464910	MAINLINE INFORMATION SYSTEMSIN	9355 CIVIC CENTER DR, CITY OF BEVERLY HILLS, BEVERLY HILLS CA 90210-3427	30,942.61
<b>Total</b>			<b>90,885.92</b>

**Note: One Time Charges are not included in the Total**

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc <sup>2</sup>	Maint. Svc	Charges <sup>1</sup>	Charges Start	Charges Stop
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Specified Location: 00985895

City, State: BEVERLY HILLS CA 90210-3609

IBM	4251	AC1		00KQ45BTF	4251 AC1		1	B	1	242.00 H		
IBM	7870	AC1		0006AA453		BLADECENTER HS22	1	B	1	20.00 PH	07/07/2015	
IBM	7915	AC1		0006ATZD9		7915 AC1	1	B	1	136.88 WPH	05/18/2015	
IBM	7944	AC1		00KQ45G19		XSER X3550 M3	1	B	1	0.00 PH	04/02/2016	
IBM	7944	AC1		00KQ45K13		XSER X3550 M3	1	B	1	0.00 PH	04/02/2016	
IBM	7945	AC1		00KQ09B7N		SYSTEM X3650 M3	1	B	1	0.00 PH	04/15/2016	
IBM	7945	AC1		00KQ128BT		SYSTEM X3650 M3	1	B	1	709.00 H		
IBM	7945	AC1		00KQ60T46		SYSTEM X3650 M3	1	B	1	0.00 PH	04/21/2016	
IBM	8852	HC1		0099C8794		BLADECENTER H	1	B	1	788.00 H		
IBM	8852	HC1		0099C9478		BLADECENTER H	1	B	1	788.00 H		

Subtotal Without MES

2,683.88

Subtotal With MES

2,683.88

Specified Location: 01221877

City, State: BEVERLY HILLS CA 90210-3427

IBM	1814	52A		0078K16DC		EXP520 EXPANSION UNIT	1	B	1	2,386.00		
IBM	1814	52A		0078K16DD		EXP520 EXPANSION UNIT	1	B	1	2,386.00		
IBM	1814	52A		0078K16DF		EXP520 EXPANSION UNIT	1	B	1	2,386.00		
IBM	1814	52A		0078K16DG		EXP520 EXPANSION UNIT	1	B	1	2,386.00		

Subtotal Without MES

9,544.00

Subtotal With MES

9,544.00

Specified Location: 01782748

City, State: BEVERLY HILLS CA 90210-4817

IBM	1723	HC1		0023P5779		1U FLAT PNL MONITOR CONS KIT	1	B	1	174.00 H		
IBM	1723	HC1		0023P5781		1U FLAT PNL MONITOR CONS KIT	1	B	1	174.00 H		
IBM	1723	HC1		0023P5783		1U FLAT PNL MONITOR CONS KIT	1	B	1	174.00 H		

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/ Feat	Add/ Rem	Order/ Serial Number	Related Order/ Serial Number	Product Description	Qty	Type of Svc <sup>2</sup>	Maint Svc <sup>3</sup>	Charges <sup>1</sup>	Charges Start	Charges Stop
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Subtotal Without MES 522.00

Subtotal With MES 522.00

Specified Location: 01782812

City, State: BEVERLY HILLS CA 90210-3427

IBM	1746	E2A		0013D00Z8		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	E2A		0013D00ZA		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	E2A		0013D00ZD		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	E2A		0013D00ZF		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	E2A		0013D010W		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	C2A		0013D01WY		SYSTEM STORAGE DS3512	1	B	1	0.00 WP	06/23/2017	
IBM	1746	E2A		0013D020K		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	04/04/2017	
IBM	1746	E2A		0013D03CP		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/25/2017	
IBM	1746	E2A		0013D03DM		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/25/2017	
IBM	1746	E2A		0013D03KX		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/25/2017	
IBM	1746	E2A		0013D04NH		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D04P1		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D04P7		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D04PB		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D04PG		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D04PL		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	06/01/2017	
IBM	1746	E2A		0013D0BWH		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	08/09/2017	
IBM	1746	C2A		0013K0YYM		SYSTEM STORAGE DS3512	1	B	1	0.00 WP	11/28/2016	
IBM	1746	E2A		0013K0Z5H		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	11/28/2016	
IBM	1746	E2A		0013K0Z62		SYSTEM STORAGE EXP3512	1	B	1	0.00 WP	11/28/2016	
IBM	3573	L4U		0078P1470		TS3200 TAPE LIBRARY	1	A	1	0.00 P	06/23/2016	
IBM	7026	6H1		00006753F		7026 6H1 PSERIES 660 MODEL 6H1	1	A	1	3,075.84 H		
		5212				RS64 IV 2W,600MHZ,4MB L2 CACHE	1					
IBM	7870	AC1		0006F3940		BLADECENTER HS22	1	B	1	165.00 PH	01/13/2015	

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc <sup>2</sup>	Maint Svc	Charges <sup>1</sup>	Charges Start	Charges Stop
IBM	7870	AC1		0006YD995		BLADECENTER HS22	1	B	1	0.00 PH	06/16/2016	
IBM	7870	AC1		0006YD998		BLADECENTER HS22	1	B	1	0.00 PH	06/14/2016	
IBM	7870	AC1		0006YD999		BLADECENTER HS22	1	B	1	0.00 PH	06/16/2016	
IBM	7870	AC1		0006YE000		BLADECENTER HS22	1	B	1	0.00 PH	06/16/2016	
IBM	7870	AC1		0006YE003		BLADECENTER HS22	1	B	1	0.00 PH	06/15/2016	
IBM	7870	AC1		0006YE005		BLADECENTER HS22	1	B	1	0.00 PH	06/15/2016	
IBM	7870	AC1		0006YE007		BLADECENTER HS22	1	B	1	0.00 PH	06/15/2016	
IBM	7870	AC1		0006YE010		BLADECENTER HS22	1	B	1	0.00 PH	06/14/2016	
IBM	7870	AC1		0006YE012		BLADECENTER HS22	1	B	1	0.00 PH	06/15/2016	
IBM	7870	AC1		0006YE013		BLADECENTER HS22	1	B	1	0.00 PH	06/16/2016	
IBM	7870	AC1		0006YE018		BLADECENTER HS22	1	B	1	0.00 PH	06/16/2016	
IBM	7870	AC1		0006YE019		BLADECENTER HS22	1	B	1	0.00 PH	06/15/2016	
IBM	7875	AC1		0006CLRR0		BLADECENTER HS23	1	B	1	0.00 WPH	08/08/2017	
IBM	7875	AC1		0006CLRR9		BLADECENTER HS23	1	B	1	0.00 WPH	08/08/2017	
IBM	7875	AC1		0006CLYY9		BLADECENTER HS23	1	B	1	0.00 WPH	08/08/2017	
IBM	7875	AC1		0006CLYZ6		BLADECENTER HS23	1	B	1	0.00 WPH	08/08/2017	
IBM	7875	AC1		0006CLZA6		BLADECENTER HS23	1	B	1	0.00 WPH	08/08/2017	
IBM	7914	AC1		00KQ2CV10		SYSTEM X3550 M4	1	B	1	0.00 WP	09/10/2016	
IBM	7914	AC1		00KQ3P7Y4		SYSTEM X3550 M4	1	B	1	0.00 WPH	10/18/2017	
IBM	7914	AC1		00KQ3P7Z1		SYSTEM X3550 M4	1	B	1	0.00 WPH	10/18/2017	
IBM	7914	AC1		00KQ6TR45		SYSTEM X3550 M4	1	B	1	0.00 WP	10/08/2016	
IBM	7915	AC1		00KQ0C1C4		7915 AC1	1	B	1	0.00 WPH	10/18/2017	
IBM	7915	AC1		00KQ3X4DM		7915 AC1	1	B	1	0.00 WPH	03/11/2018	
IBM	7915	AC1		00KQ4B4CD		7915 AC1	1	B	1	0.00 WPH	03/11/2018	
IBM	7915	AC1		00KQ4B4CF		7915 AC1	1	B	1	0.00 WPH	03/11/2018	
IBM	7915	AC1		00KQ4L9XM		7915 AC1	1	B	1	0.00 WPH	03/11/2018	
IBM	7915	AC1		00KQ8XH41		7915 AC1	1	B	1	0.00 WP	10/04/2018	
IBM	7915	AC1		00KQ9C7N7		7915 AC1	1	B	1	0.00 WPH	02/08/2018	
IBM	7915	AC1		00KQ9C7P1		7915 AC1	1	B	1	0.00 WPH	02/08/2018	
IBM	7915	AC1		00KQ9C7X0		7915 AC1	1	B	1	0.00 WPH	02/08/2018	
IBM	7915	AC1		00KQ9C8K4		7915 AC1	1	B	1	0.00 WPH	02/08/2018	

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty.	Type of Svc <sup>2</sup>	Maint. Svc	Charges <sup>4</sup>	Charges Start <sup>5</sup>	Charges Stop
IBM	7915	AC1		00KQ9C8K9	7915 AC1		1	B	1	0.00 WPH	02/08/2018	
IBM	7915	AC1		00KQ9C8L2	7915 AC1		1	B	1	0.00 WPH	02/13/2018	
IBM	7915	AC1		00KQ9C8L7	7915 AC1		1	B	1	0.00 WPH	02/13/2018	
IBM	7915	AC1		00KQ9C8Z8	7915 AC1		1	B	1	0.00 WPH	01/18/2018	
IBM	7944	AC1		00KQ88L5G	XSER X3550 M3		1	B	1	0.00 PH	07/06/2016	
IBM	7944	AC1		00KQ88L5L	XSER X3550 M3		1	B	1	0.00 PH	07/06/2016	
IBM	7944	AC1		00KQ88L5T	XSER X3550 M3		1	B	1	0.00 PH	07/06/2016	
IBM	7944	AC1		00KQ88L5W	XSER X3550 M3		1	B	1	0.00 PH	07/06/2016	
IBM	7945	AC1		00KQ04B4W	SYSTEM X3650 M3		1	B	1	709.00 H		
IBM	7945	AC1		00KQ14RBM	SYSTEM X3650 M3		1	B	1	0.00 WPH	11/15/2016	
IBM	7945	AC1		00KQ14TGW	SYSTEM X3650 M3		1	B	1	0.00 WPH	11/15/2016	
IBM	7945	AC1		00KQ7F923	SYSTEM X3650 M3		1	B	1	0.00 WPH	06/30/2017	
IBM	7945	AC1		00KQ86H7C	SYSTEM X3650 M3		1	B	1	0.00 PH	06/30/2016	
IBM	7978	AC1		0099N1781	SYSTEM X3550 SERVER		1	B	1	525.00 H		
IBM	7978	AC1		0099N1782	SYSTEM X3550 SERVER		1	B	1	525.00 H		
IBM	7978	AC1		0099N1787	SYSTEM X3550 SERVER		1	B	1	525.00 H		
IBM	7978	AC1		0099N1789	SYSTEM X3550 SERVER		1	B	1	525.00 H		
IBM	7978	AC1		0099N1793	SYSTEM X3550 SERVER		1	B	1	525.00 H		
IBM	8852	HC1		0099B8861	BLADECENTER H		1	B	1	788.00 H		
IBM	8853	AC1		0099BL520	BLADECENTER HS21		1	B	1	441.00 H		
IBM	8853	AC1		0099BL545	BLADECENTER HS21		1	B	1	441.00 H		
IBM	8864	AC1		0099A9627	IBM SYSTEM X3850		1	B	1	926.00 H		
<b>Subtotal Without MES</b>										<b>9,170.84</b>		
<b>Subtotal With MES</b>										<b>9,170.84</b>		
<b>Specified Location: 01782976</b>					<b>City, State: BEVERLY HILLS CA 90210-4817</b>							
IBM	1723	1NX		0023B4796		FLAT PANEL MONITOR WO/KEYB	1	B	1	174.00 H		
IBM	1735	L04		002367062		NETBAY LOCAL CONSOLE MANAGER	1	B	1	140.00 H		

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc <sup>2</sup>	Maint. Svc	Charges <sup>4</sup>	Charges Start <sup>5</sup>	Charges Stop <sup>5</sup>
IBM	3584	L32		000011655		ULTRASCALABLE TAPE LIBRARY	1	A	1	13,962.24 H		
		1456				LTO ULTRIUM FC-AL DRIVE SLED	4					
IBM	7014	T42		0000728AF		RS/6000 SYSTEM RACK	1	A	1	334.32 H		
IBM	7026	6H1		0000672AF		7026 6H1 P SERIES 660 MODEL 6H1	1	A	1	3,075.84 H		
		5212				RS64 IV 2W,600MHZ,4MB L2 CACHE	1					
IBM	7870	AC1		0006E9120		BLADECENTER HS22	1	B	1	224.17 PH	11/02/2014	
IBM	7870	AC1		0006E9127		BLADECENTER HS22	1	B	1	224.17 PH	11/02/2014	
IBM	7870	AC1		0006F3881		BLADECENTER HS22	1	B	1	165.00 PH	01/13/2015	
IBM	7870	AC1		0006F8831		BLADECENTER HS22	1	B	1	200.83 PH	11/30/2014	
IBM	7944	AC1		00KQ33XTZ		XSER X3550 M3	1	B	1	290.21 WH	01/12/2015	
IBM	7945	AC1		00KQXKGM		SYSTEM X3650 M3	1	B	1	709.00 H		
IBM	7947	AC1		0099C5367		SYSTEM X3650 M2	1	B	1	523.84 PH	11/05/2014	
IBM	7978	AC1		0099V1044		SYSTEM X3550 SERVER	1	B	1	525.00 H		
IBM	7978	MC1		00KQLDZ72		SYSTEM X3550 SERVER	1	B	1	525.00 H		
IBM	7979	71U		00KDKWNBH		XSER3650 3.0GHZ 4MB 1G 0HD	1	B	1	709.00 H		
IBM	7979	71U		00KDKWNCB		XSER3650 3.0GHZ 4MB 1G 0HD	1	B	1	709.00 H		
IBM	7979	71U		00KDKWPKM		XSER3650 3.0GHZ 4MB 1G 0HD	1	B	1	709.00 H		
IBM	7979	71U		00KQMKYC9		XSER3650 3.0GHZ 4MB 1G 0HD	1	B	1	709.00 H		
IBM	7979	AC1		00KQXCZC9		SYSTEM X3650	1	B	1	709.00 H		
IBM	8654	51Y		0078TN263		XSER330 1.0G 256 256/0HD S	1	A	1	350.00 H		
IBM	8676	M1X		00KPPCRG1		XSER335 3.06G 512 512/0HDD S	1	B	1	525.00 H		
IBM	8676	M1X		00KPPCRH2		XSER335 3.06G 512 512/0HDD S	1	B	1	525.00 H		
IBM	8837	11U		00KPZWT02		XSER336 3.0G 1MB 1GB/0HD3.5 S	1	B	1	525.00 H		
IBM	8837	25U		00KQAZC0H		XSER336 3.2G 2MB 1GB/0HDD S	1	A	1	350.00 H		
IBM	8837	25U		00KQAZC5M		XSER336 3.2G 2MB 1GB/0HDD S	1	A	1	350.00 H		
IBM	8837	25U		00KQAZD1V		XSER336 3.2G 2MB 1GB/0HDD S	1	A	1	350.00 H		
IBM	8840	45U		00KQBPY1K		XSER346 3.6G 2MB 1GB/0HDD	1	A	1	472.66 H		
IBM	8863	E5U		00KQCMZ1G		XSER366 2X3.6GHZ 1MB 2GB 0HD	1	A	1	567.99 H		
IBM	8863	E5U		00KQCYR0Z		XSER366 2X3.6GHZ 1MB 2GB 0HD	1	A	1	567.99 H		
IBM	8864	AC1		0099A8951		IBM SYSTEM X3850	1	B	1	926.00 H		
<b>Subtotal Without MES</b>										<b>30,128.26</b>		

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty.	Type of Svc <sup>2</sup>	Maint. Svc <sup>3</sup>	Charges <sup>4</sup>	Charges Start	Charges Stop
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Subtotal  
With  
MES

30,128.26

Specified Location: 01783202

City, State: BEVERLY HILLS CA 90210-3427

IBM	1723	HC1		00MM03649		1U FLAT PNL MONITOR CONS KIT	1	B	1	55.10 WH	04/07/2015	
IBM	1754	HC3		00MM02304		LOCAL CONSOLE MANAGER	1	B	1	57.57 WH	03/03/2015	
IBM	7914	AC1		00KQ0M0DH		SYSTEM X3550 M4	1	B	1	0.00 WPH	12/24/2015	
IBM	7914	AC1		00KQ6YC8Z		SYSTEM X3550 M4	1	B	1	0.00 WP	03/03/2019	
IBM	7914	AC1		00KQ6YD3V		SYSTEM X3550 M4	1	B	1	0.00 WP	03/03/2019	
IBM	7914	AC1		00KQ6YD3Z		SYSTEM X3550 M4	1	B	1	0.00 WP	03/03/2019	
IBM	7914	AC1		00KQ6YD5A		SYSTEM X3550 M4	1	B	1	0.00 WP	03/03/2019	
IBM	7914	AC1		00KQ6YD5C		SYSTEM X3550 M4	1	B	1	0.00 WP	03/03/2019	
IBM	7914	AC1		00KQ7N1KX		SYSTEM X3550 M4	1	B	1	0.00 WP	06/11/2018	
IBM	7914	AC1		00KQ8N7YX		SYSTEM X3550 M4	1	B	1	0.00 WP	06/11/2018	
IBM	7914	AC1		00KQ9RG64		SYSTEM X3550 M4	1	B	1	0.00 WP	12/20/2016	
IBM	7914	AC1		00KQ9RK77		SYSTEM X3550 M4	1	B	1	0.00 WP	12/19/2016	
IBM	7914	AC1		00KQ9RK78		SYSTEM X3550 M4	1	B	1	0.00 WP	11/01/2016	
IBM	7915	AC1		00KQ0WZ5X		7915 AC1	1	B	1	0.00 WP	11/21/2018	
IBM	7915	AC1		00KQ0WZ5Z		7915 AC1	1	B	1	0.00 WP	11/21/2018	
IBM	7915	AC1		00KQ4AV8W		7915 AC1	1	B	1	0.00 WP F	03/29/2017	
IBM	7945	AC1		00KQ904PA		SYSTEM X3650 M3	1	B	1	0.00 PH	02/09/2016	
IBM	7945	AC1		00KQ904PW		SYSTEM X3650 M3	1	B	1	0.00 PH	02/09/2016	
IBM	7945	AC1		00KQ916VZ		SYSTEM X3650 M3	1	B	1	0.00 PH	02/09/2016	
IBM	7945	AC1		00KQ960HD		SYSTEM X3650 M3	1	B	1	0.00 PH	02/09/2016	
IBM	7945	AC1		00KQ960WY		SYSTEM X3650 M3	1	B	1	0.00 PH	02/09/2016	
IBM	8853	AC1		000674569		BLADECENTER HS21	1	B	1	441.00 H		
IBM	8853	AC1		000674575		BLADECENTER HS21	1	B	1	441.00 H		

Subtotal  
Without  
MES

994.67

Subtotal  
With  
MES

994.67

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty.	Type of Svc <sup>2</sup>	Maint Svc <sup>3</sup>	Charges <sup>4</sup>	Charges Start	Charges Stop <sup>5</sup>
				<b>Specified Location: 05435656</b>		<b>City, State: BEVERLY HILLS CA 90210-4817</b>						
IBM	7998	60X		00064DC0A		7998 60X JS12 EXPRESS	1	B	1	315.00		
<b>Subtotal Without MES</b>										<b>315.00</b>		
<b>Subtotal With MES</b>										<b>315.00</b>		
				<b>Specified Location: 05464909</b>		<b>City, State: BEVERLY HILLS CA 90210-3427</b>						
IBM	3584	D53		000044897		TS3500 EXPANSION FRAME	1	B	1	590.20 H	12/14/2014	
IBM	3588	F4A		000091669		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	847.10 H	03/22/2015	
IBM	3588	F4A		000091742		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	847.10 H	03/22/2015	
IBM	3588	F4A		000091781		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	847.10 H	03/22/2015	
IBM	3588	F4A		000091793		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	847.10 H	03/22/2015	
IBM	3588	F4A		000091794		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	847.10 H	03/22/2015	
<b>Subtotal Without MES</b>										<b>4,825.70</b>		
<b>Subtotal With MES</b>										<b>4,825.70</b>		
				<b>Specified Location: 05464910</b>		<b>City, State: BEVERLY HILLS CA 90210-3427</b>						
IBM	1814	52A		0078K0WD5		EXP520 EXPANSION UNIT	1	B	1	2,386.00 H		
IBM	1814	20A		0078K0WD6		DS5020 MIDRANGE DISK	1	B	1	5,010.00 H		
IBM	1818	RS2		007800632		DS RSM MODEL RS2	1	B	1	197.20 H	04/05/2015	
IBM	1818	D1A		0078K10BN		EXP5000 EXPANSION UNIT	1	B	1	680.53 H	04/05/2015	
IBM	1818	D1A		0078K10BR		EXP5000 EXPANSION UNIT	1	B	1	680.53 H	04/05/2015	
IBM	1818	D1A		0078K10BT		EXP5000 EXPANSION UNIT	1	B	1	680.53 H	04/05/2015	
IBM	1818	D1A		0078K10BV		EXP5000 EXPANSION UNIT	1	B	1	680.53 H	04/05/2015	
IBM	1818	D1A		0078K10BW		EXP5000 EXPANSION UNIT	1	B	1	680.53 H	04/05/2015	
IBM	1818	51A		0078K10C6		DS5100 MIDRANGE DISK	1	B	1	2,030.00 H	04/05/2015	
IBM	2101	N00		00001027W		STORAGE SOLUTIONS RACK	1	B	1	492.00 H		

See Legend for Details

# IBM Schedule for ServiceElite

## Maintenance Machine List

--Eligible Machine Description-- A Machine is only considered "Eligible" if it is operational and in conformance with its official published specifications on the contract start date.

Mfg	Type	Mod/Feat	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc <sup>2</sup>	Maint. Svc <sup>3</sup>	Charges <sup>4</sup>	Charges Start <sup>5</sup>	Charges Stop <sup>6</sup>
IBM	3584	D53		000042452		TS3500 EXPANSION FRAME	1	B	1	936.00 H		
IBM	3588	F4A		000060296		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	2,364.00 H		
IBM	3588	F4A		000060307		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	2,364.00 H		
IBM	3588	F4A		000085560		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	2,364.00 H		
IBM	3588	F4A		000085571		TS1040 ULTRIUM 4 TAPE DRIVE	1	B	1	2,364.00 H		
IBM	7998	60X		000655E5A		7998 60X JS12 EXPRESS	1	B	1	315.00		
IBM	7998	60X		000655E6A		7998 60X JS12 EXPRESS	1	B	1	315.00		
IBM	7998	60X		000655E7A		7998 60X JS12 EXPRESS	1	B	1	315.00		
IBM	7998	60X		0010192CA		7998 60X JS12 EXPRESS	1	B	1	315.00 H		
IBM	7998	60X		0010192DA		7998 60X JS12 EXPRESS	1	B	1	315.00 H		
IBM	7998	60X		0010192EA		7998 60X JS12 EXPRESS	1	B	1	315.00 H		
IBM	8203	E4A		0000717F4		POWER SYSTEM 520	1	B	1	1,500.00		
		5634				2 CORE 4.2 GHZ POWER6	1					
IBM	8203	E4A		00007B9C5		POWER SYSTEM 520	1	B	1	854.17 H	01/06/2015	
		5634				2 CORE 4.2 GHZ POWER6	1				01/06/2015	
IBM	8203	E4A		00007B9E5		POWER SYSTEM 520	1	B	1	854.17 H	01/06/2015	
		5634				2 CORE 4.2 GHZ POWER6	1				01/06/2015	
<b>Subtotal Without MES</b>										<b>29,008.19</b>		
<b>Subtotal With MES</b>										<b>29,008.19</b>		
<b>Total Charge Period Charges for Maintenance Machine List Without MES</b>										<b>\$87,192.54</b>		
<b>Total Charge Period Charges for Maintenance Machine List With MES</b>										<b>\$87,192.54</b>		

See Legend for Details

# IBM Schedule for ServiceElite

## Services List

Customer Technical Contact Name (if applicable):  
 Customer Primary Technical Contact name :  
 Customer Primary Technical Contact phone number :

-----Eligible Machine Description-----

Type	Model	Serial/ Order Number	Support Service	Product Group / Service Option	Qty.	Charges <sup>4</sup>	Services Start	Charges Start	Charges Stop
			<b>Specified Location: 01782812</b>	<b>City, State: BEVERLY HILLS CA 90210-3427</b>					
			SWMA FOR AIX STD EDITION			879.48			
				SOFTWARE MAINTENANCE E5					
				CHARGEABLE PROCESSORS FULL SHIFT	2				
7026	6H1	00006753F			1				
<b>Subtotal</b>						<b>879.48</b>			
			<b>Specified Location: 01782976</b>	<b>City, State: BEVERLY HILLS CA 90210-4817</b>					
			SWMA FOR AIX STD EDITION			879.48			
				SOFTWARE MAINTENANCE E5					
				CHARGEABLE PROCESSORS FULL SHIFT	2				
7026	6H1	0000672AF			1				
<b>Subtotal</b>						<b>879.48</b>			
			<b>Specified Location: 05464910</b>	<b>City, State: BEVERLY HILLS CA 90210-3427</b>					
			SWMA FOR AIX STD EDITION			879.48			
				SOFTWARE MAINTENANCE D5					
				CHARGEABLE PROCESSORS FULL SHIFT	2				
8203	E4A	0000717F4			1				
			SWMA FOR AIX STD EDITION			500.82	01/06/2015		
				SOFTWARE MAINTENANCE D5				01/06/2015	

See Legend for Details

# IBM Schedule for ServiceElite

## Services List

-----Eligible Machine Description-----

Type	Model	Serial/ Order Number	Support Service	Product Group / Service Option	Qty.	Charges <sup>4</sup>	Services Start	Charges Start <sup>5</sup>	Charges Stop <sup>6</sup>
				CHARGEABLE PROCESSORS FULL SHIFT	2				
8203	E4A	00007B9E5	SWMA FOR AIX STD EDITION		1	500.82	01/06/2015		
				SOFTWARE MAINTENANCE D5 CHARGEABLE PROCESSORS FULL SHIFT	2			01/06/2015	
8203	E4A	00007B9C5	SWMA FOR POWERVM EXPRESS ED		1	26.65	01/06/2015		
				SOFTWARE MAINTENANCE CHARGEABLE PROCESSORS FULL SHIFT	2			01/06/2015	
8203	E4A	00007B9E5	SWMA FOR POWERVM EXPRESS ED		1	26.65	01/06/2015		
				SOFTWARE MAINTENANCE CHARGEABLE PROCESSORS FULL SHIFT	2			01/06/2015	
8203	E4A	00007B9C5			1				
<b>Subtotal</b>						<b>1,934.42</b>			
<b>Total Charge Period Charges for Services List</b>						<b>\$ 3,693.38</b>			

Note: One Time Charges are not included in these totals.  
See Legend for Details

# IBM Schedule for ServiceElite

**Legends:** <sup>1</sup> Charge adjustments related to inventory and Service changes will be accumulated and invoiced with your next standard invoicing cycle (may be sooner for annual or semiannual payment plans)

## TYPE OF SERVICE

- A) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, next business day
- B) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day.
- C) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, 4 hour response objective  
This type of repair Service includes a response objective and is not a guarantee.
- D) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day, 2 hour response objective.  
This type of repair Service includes a response objective and is not a guarantee.
- X) EasyServe (remotely delivered services) MAINTENANCE SERVICES

- 1) Maintenance of IBM Machines
- 2) Maintenance of Non-IBM Machines
- 3) Warranty Service Upgrade
- 4) Maintenance of Non-IBM Machines - Cisco Products
- 5) Maintenance of IBM Machines - Enhanced Service Response
- 6) Service for Machines Withdrawn from IBM Maintenance
- 7) Non-IBM Service for Machines Withdrawn from IBM Maintenance
- 8) Maintenance of IBM Machines (Labor Only)
- 9) Non-IBM Memory Exchange
- 10) Enhanced Parts Inventory
- 11) Spare Machine
- 12) Key Operator Support
- 13) Maintenance of non-IBM Machines during the Manufacturer's Warranty Period
- 16) IBM Maintenance Services - First Line Maintenance for Wincor Nixdorf ATMs
- 17) IBM Maintenance Services - Applications Maintenance Services for Wincor Nixdorf ATMs
- 18) Post Installation Coverage (PIC) Service Upgrade, for selected Non-IBM Machines

## Charges shown are for the Charge Period

- A (C) indicates a Machine that will have usage charges billed separately.
- An (E) indicates a Machine that has been announced as withdrawn from generally available Maintenance Service.
- An (F) indicates an assumptive Product included in the total Charge Period Price that has a manually inserted serial number and configuration provided by the customer.
- An (H) identifies a Machine on an existing ServiceElite/ServiceSuite/ ServiceElect CHIS contract with duplicate Maintenance Services coverage.
- An (M) indicates a Miscellaneous Equipment Specification (MES) on order is not installed and applicable pricing not included.
- A (K) indicates assumptive Products included in the total Charge Period Price that are based on the customer provided configuration.
- An (N) indicates that the Product is a non-GSA Schedule item .
- An (O) indicates a one time charge.
- A (P) indicates a Machine or Service with coverage on a non-CHIS contract.
- An (S) indicates a manual order installation date change.
- An (R) indicates the usage charge rate (feet, hours, or impressions) for a Machine under a usage plan.
- A (U) indicates usage charges which are measured in either feet, hours, or impressions.
- A (W) indicates a Machine under warranty.
- An (X) indicates On-order Products which are shown for planning purposes only.
- A (Y) indicates On-order MES Products which are shown for planning purposes only. These charges are included in the related Machine. <sup>5</sup>Charges Start/Stop dates shown are those that differ from the Contract Period Start/End Dates

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# A SERVICES PROPOSAL FOR

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## City of Beverly Hills

to provide:

## Hourly Technical Consulting Services

April 4, 2014

submitted by

**IBM**

600 Anton Boulevard

Costa Mesa, CA 92626

Service dates

July 1, 2014 – June 30, 2015

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## **Executive Summary**

IBM Global Services is pleased to present this Statement of Work for hourly consulting assistance at City of Beverly Hills (City).

Based on the successful deployment of IBM xSeries and pSeries Systems and Storage Area Management (SAN), along with Tivoli Storage Manager (TSM), IBM shall now support changes and additional services for the City's fiscal year 2014 - 2015 with a pool of 200 consulting hours.

The benefits that City will gain from this proposal include:

- Easy access to consulting resources
- Rapid resource allocation based on specific needs
- If available, the IT Specialist that knows your account will be the first to assist with needed services.

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# Statement of Work

This Statement of Work defines the scope of work to be accomplished by IBM under the terms and conditions of the IBM Customer Agreement (*Agreement*) or equivalent. The tasks to be performed by IBM are defined and an Estimated Schedule is provided. In addition, the responsibilities of City of Beverly Hills (City) are listed.

The Statement of Work includes the following subsections:

- Scope of Services
- Key Assumptions
- IBM Responsibilities
- City of Beverly Hills Responsibilities
- Other Terms and Conditions
- Estimated Schedule
- Deliverable Materials
- Completion Criteria
- Charges

No cost changes to this Statement of Work will be processed in accordance with the procedure described in Appendix B, "Project Change Control Procedure". The investigation and the implementation of changes may result in modifications to the Estimated Schedule, Charges, or other terms of this Statement of Work. Any change to this Statement of Work that would exceed the amount in section 1.7 of this Statement of Work requires a new Statement of Work to be executed by IBM and City.

For purposes of this Statement of Work and any subsequent no cost changes to this Statement of Work, "project" shall be defined as any project management and technical services authorized by City to be performed by IBM, as described in Section 1.0, Scope of Services.

The following are incorporated in and made part of this Statement of Work:

- Appendix A, "Deliverable Guidelines"
- Appendix B, "Project Change Control Procedure"

## 1.0 Scope of Services

IBM will provide up to two hundred (200) hours of project management and technical consulting services to City through June 30, 2015 in the following areas:

- IBM xSeries and pSeries servers
- Storage Area Network (SAN)
- Tivoli Storage Manager (TSM)

The allocation of these hours to specific engagements will be determined by City and agreed to by IBM.

## 1.1 Key Assumptions

This Statement of Work and IBM's estimates to perform are based on the following key assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix B, "Project Change Control Procedure".

1. This Statement of Work addresses only City location at Beverly Hills, CA.
2. Some IBM activities on this project may be performed on IBM premises. The time spent on these contract-related IBM activities will be billable to City.
3. Some of the Services may be performed by an IBM subcontractor.

4. IBM will provide Services under this Statement of Work during normal business hours, 8:00 a.m. to 5:00 p.m. (local time) Monday through Friday, except IBM holidays, unless otherwise specified.

## 1.2 IBM Responsibilities

The specific Services to be provided by IBM under this Statement of Work are described in this section.

### 1.2.1 Project Management

**Description:** The objective of this task is to provide an individual ("IBM Project Manager") to provide direction to and control of IBM project personnel, and to establish a framework for project communications, reporting, procedural and contractual activity. The major sub tasks are:

1. Maintain project communications through the City Project Manager.
2. Establish documentation and procedural standards for the development of this project.
3. Prepare a project plan at the onset of this project for performance of this Statement of Work. The project plan will define tasks, schedule and responsible person(s) or organization for each milestone.
4. Conduct project status meetings.
5. Prepare and submit monthly Status Reports.
6. Review and administer Project Change Control with the City Project Manager.

**Completion Criteria:** This activity will be complete when the other activities described as IBM Responsibilities have been completed, according to their completion criteria, or IBM has met the criteria defined in the Completion Criteria section of this Statement of Work.

**Deliverables:** Monthly Status Reports

### 1.2.2 Engagement Kickoff and Project Planning Meeting

**Description:** An engagement kickoff and project planning meeting between IBM and City will occur as soon as possible after a specific request from an authorized City representative. This meeting may be held via telephone conference call. The purpose of this meeting is to give the IBM team member(s) a high level understanding of City's objectives and system environment, to develop an engagement plan, and to complete a project plan for a specific engagement when required. The typical engagement agenda might include:

1. Expectations for this engagement
2. Development of an engagement plan and schedule
3. Confirmation of the engagement schedule

**Completion Criteria:** This task will be complete when the requested engagement is kicked off.

**Deliverable:** None.

### 1.2.3 Document Findings and Recommendations for each Engagement

**Description:** IBM will summarize key findings and conclusions and provide recommendations to assist City in understanding how specific changes will impact the future of equipment and applications. These changes will be related to fine tuning the City's current environment with respect to the systems indicated in Section 1.0 of this Scope of Services.

**Completion Criteria:** This task is complete when IBM has reported its findings to the City Project Manager.

**Deliverable:** Summary of Findings and Recommendations.

## **1.3 City of Beverly Hills Responsibilities**

The responsibilities listed in this section are in addition to those responsibilities specified in the *Agreement* and are to be provided by City at no charge to IBM.

### **1.3.1 City of Beverly Hills Project Manager**

Prior to the start of this Statement of Work under the *Agreement*, City will designate a person, called the City Project Manager, to whom IBM communications will be addressed and who has the authority to act for City in all aspects of the contract.

The City Project Manager shall:

1. Serve as the interface between IBM and all City departments, organizations and sites participating in this project.
2. With the IBM Project Manager, develop the project plan prior to implementation for each engagement.
3. With the IBM Project Manager, administer the Project Change Control Procedures.
4. Attend project status meetings.
5. Obtain and provide information, data, decisions and approvals, within five (5) working days of IBM's request, unless both IBM and City agree to an extended response time.
6. Help resolve project issues and escalate issues within City's organization, as necessary.

### **1.3.2 Office Space and Other Facilities**

City shall:

1. Provide suitable office space, office supplies, furniture, telephone and other facilities equivalent to those provided to City employees for the IBM project team while working on City premises.
2. Provide necessary clerical and reproduction services for project staff while working on City premises.
3. Provide necessary machine time, related services, and supplies for project planning, tracking, documentation, and reporting activities.
4. Ensure access to the site for IBM personnel. Most of the work involved in this project will be performed during normal working hours (8:00am to 5:00pm). However, on some occasions, City may need to provide access to facilities outside of these hours.

## **1.4 Other Terms and Conditions**

1. City is solely responsible for the actual content of any data file, selection and implementation of controls on its access and use, and security of the stored data.
2. City agrees to allow IBM and its entities to store and use City contact information, including names, phone numbers, and e-mail addresses, anywhere IBM does business. Such information will be processed and used in connection with the IBM and City business relationship, and may be provided to contractors, Business Partners, and assignees of IBM and its entities for uses consistent with their collective business activities, including communicating with City (for example, for processing orders, for promotions, and for market research).
3. City will identify and make the interpretation of any applicable federal, state and local laws, regulations and statutes and ensure that deliverables of the project meet those requirements.
4. Required Approvals. Where agreement, approval, acceptance, or consent by either party is required by any provision of this Statement of Work or the Agreement, such action shall not be unreasonably delayed or withheld, which, unless otherwise specified herein, shall mean not withheld or denied for more than ten (10) business days.
5. Indemnification. IBM shall indemnify, hold harmless and defend City, City Council and each member thereof, and every officer, employee and agent of City (collectively "City"), while acting within the scope of their duties as such, from and against any and all claims, demands or causes of action of any kind or character (including reasonable attorney's

fees and any amounts paid in settlement agreed to by IBM) in an amount finally awarded by a court, to the extent resulting from violation of laws, rules or regulations, bodily injury, death, or damage to real and tangible personal property caused by IBM under this Statement of Work and the Agreement. The foregoing indemnity applies provided that City promptly notifies IBM in writing following receipt of notice of any such claim, suit or proceeding and shall give IBM such information and cooperation as is reasonable under the circumstances. IBM shall have the duty to keep City informed of the progress of each such matter but shall have sole authority to defend or settle the same at IBM's sole cost and expense.

6. Intellectual Property Indemnification. IBM shall indemnify, hold harmless and defend City, City Council and each member thereof, and every officer, employee and agent of City (collectively "City"), from and against any and all claims, demands or causes of action of any kind or character (including reasonable attorney's fees and any amounts paid in settlement agreed to by IBM) in an amount finally awarded by a court; resulting from, arising out of or in any way related to any claim that the Deliverables or Services, in part or in whole and solely to the extent caused by IBM pursuant to the terms of this Scope of Work and the Agreement, infringe any rights of any third party in or to any U.S. patent, trademark, copyright, service mark, trade name, trade secret or similar proprietary rights conferred by contract or by common law or by any law of the United States or any state therein. The foregoing indemnity applies provided City promptly notifies IBM in writing following its receipt of notice of any such claim, suit or proceeding and shall give IBM such information and cooperation as is reasonable under the circumstances. IBM shall have the duty to keep City informed of the progress of each such matter but shall have the sole authority to defend or settle the claim at IBM's sole cost and expense. IBM's obligation to indemnify City under this Section shall only apply if: (a) City has made all payments to IBM required by this Statement of Work and the Agreement and complied with all applicable provisions of this Section and the Agreement; and (b) the infringement alleged in any such claim, suit or proceeding does not result from any of the following: (i) any modification of the Deliverables provided under this SOW or the equipment and/or software specified in Section 1.0 of this Statement of Work by City, or use of the specified equipment and/or software in other than its specified operating environment; (ii) incorporation into the Deliverables or the specified equipment and/or software of anything City provides or IBM's compliance with any designs, specifications, or instructions provided by City or by a third-party on behalf of City; (iii) infringement by non-Consultant product(s) alone; or (iv) the combination, operation, or use of the Deliverables or the specified equipment and/or software with other Products not provided by IBM as part of the Deliverables provided under this SOW or the equipment and/or software specified in Section 1.0 of this Scope of Services, or the combination, operation, or use of the Deliverables or the specified equipment and/or software with any product, data, or apparatus that IBM did not provide.

7. Limitation of Liability. Circumstances may arise where, because of a default on IBM's part or other liability, City is entitled to recover damages from IBM. In each such instance, regardless of the basis on which City is entitled to claim damages from IBM (including fundamental breach, negligence, or other contract or tort claim), IBM is liable for no more than:

- a) The payments referred to in subsection 6 above regarding Intellectual Property Indemnification;
- b) Damages for bodily injury (including death) and damage to real property and tangible personal property; and
- c) The amount of any other actual direct damages, up to the greater of \$100,000 or the compensation IBM received under this Statement of Work and the Agreement.

IBM shall not be liable for any of the following, even if informed of their possibility: (a) loss of, or damages to, records or data; (b) special, incidental, or indirect damages; (c) any economic consequential damages; or (d) lost profits, business, revenue, goodwill, or anticipated savings. The limitations set forth in this Section shall also apply to any of IBM's subcontractors and Program Developers and represent the maximum for which IBM and its subcontractors and Program developers are collectively responsible.

## **1.5 Estimated Schedule**

Estimated Start Date = July 1, 2014

Estimated End Date = June 30, 2015

Reasonable effort shall be made to keep the schedule dates intact.

IBM shall not be responsible for delays or additional requirements imposed by any government agencies, labor disputes, fire, unavoidable casualties, or unforeseen conditions.

## **1.6 Deliverable Materials**

The following items will be delivered to City under this Statement of Work. See Appendix A, "Deliverables Guidelines", for a description of each deliverable.

- Status Report
- Summary of Findings and Recommendations

## **1.7 Completion Criteria**

IBM shall have fulfilled its obligations under this Statement of Work when any one of the following first occurs:

1. IBM accomplishes the IBM tasks described under "IBM Responsibilities" in accordance with the mutually agreed to requirements.
2. IBM provides the number of hours of Services specified under "Charges" or any subsequent Change Authorization.
3. Either IBM or City terminates this Statement of Work under the terms of the Agreement.
4. The Estimated End Date is reached.

## **1.8 Charges**

The charges for the Services described in this Statement of Work are estimated as follows:

IBM will provide the Services described in this Statement of Work for up to two hundred (200) hours at an hourly rate of \$235.00. The total estimated funding requirements for these tasks are \$47,000, plus an estimated travel budget of \$8,000, for a grand total of \$55,000. The hours authorized by City and specified here do not imply or commit a fixed-price contract. If IBM determines that it is necessary to exceed the hours or the Estimated End Date, the parties may revise this Statement of Work in accordance with the procedures set forth in Appendix B. If City alternatively chooses to terminate IBM's Services, City agrees to pay IBM for actual hours expended and any travel and living expenses incurred by IBM up to the date of written notification by City.

The Total Charge for the services provided under this Statement of Work is an amount that will not exceed \$55,000, including a travel budget in an amount that will not exceed \$8,000, unless otherwise authorized and mutually agreed to in writing through the Project Change Control Procedure described in Appendix B.

City will be invoiced monthly for actual hours and travel and living expenses incurred during the previous month. Travel and living expenses are included in the above estimates.

Amounts are due upon receipt of invoice and are payable within thirty (30) days.

IBM agrees to provide the Services described in this SOW provided City accepts this SOW, without modification, by signing in the space below on or before June 30, 2014.

Each party agrees that the complete agreement between IBM and City about these Services consists of 1) this Statement of Work and 2) the IBM Customer Agreement (or any equivalent agreement signed by both parties).

**Please Provide Hard Copy of Purchase Order:** \_\_\_\_\_

**Agreed to:**

City of Beverly Hills

By: \_\_\_\_\_

Authorized signature

Name (type or print): **David Schirmer, CIO**

Date:

Customer number: 1782976

Customer address:

455 North Rexford Drive  
Beverly Hills, CA 90210

**Agreed to:**

International Business Machines Corporation

By: \_\_\_\_\_

Authorized signature

Name (type or print): **MIKE ROSS**

Date: **6/20/14**

Agreement Number: HQ12291

Statement of Work number: PRBL44270401

IBM Office address:

IBM Corporation  
600 Anton Boulevard  
Costa Mesa, CA 92626

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## Appendix A. Deliverable Guidelines

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### Appendix A. Deliverable Guidelines

#### Status Report

**Purpose:** IBM will provide a Status Report during the project to describe the activities which took place during that period. Significant accomplishments, milestones, and problems will be described.

**Delivery:** One hard copy will be delivered to the City Project Manager within five working days following the reporting period.

**Content:** The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control activity
- Problems, concerns, and recommendations
- Hours summary

#### Summary of Findings and Recommendations

**Purpose:** IBM will provide a summary of key findings and conclusions and provide recommendations to assist City in understanding how specific changes will impact the future of City's equipment and applications.

**Delivery:** One hard copy will be delivered to the City Project Manager.

**Content:** The report will consist of the following, as appropriate:

- Key findings and conclusions
- Recommendations

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## **Appendix B. Project Change Control Procedure**

When both parties agree to a change in this Statement of Work, a written description of the agreed change (called a "Change Authorization") will be prepared, which both parties must sign. The Change Authorization will describe the change, the rationale for the change, and specify any change in the charges, estimated schedule, or other terms, and will take the form attached hereto. Depending on the extent and complexity of the requested changes, IBM may charge for the effort required to analyze it. When charges are necessary in order to analyze a change, IBM will provide a written estimate and begin the analysis on written authorization. The terms of a mutually agreed upon Change Authorization will prevail over those of this Statement of Work or any previous Change Authorization.

# Sample PCR Document



## Change Authorization for Project Management and Technical Consulting Services

This Change Authorization ("PCR") is to modify the existing Statement of Work dated July 1, 2014 between the City of Beverly Hills ("City") and International Business Machines Corporation ("IBM").

The Scope of Services is amended as follows: See Attached Pages

Except as set out herein, all other terms & conditions remain unchanged and in full force and effect.

IBM agrees to provide the Services described in this PCR, provided City accepts this PCR, without modification, on or before MM/DD/YY by signing in the space provided below.

Each of us agrees that the complete agreement between us about these Services consists of

- 1) this Change Authorization,
- 2) the referenced Statement of Work, and
- 3) the IBM Customer Agreement or IBM Agreement for Services, as applicable.

Agreed to:

Agreed to:

City of Beverly Hills

International Business Machines Corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Authorized signature

Authorized signature

Name (type or print):

Name (type or print):

Date:

Date:

Customer Number:

Reference Agreement Number:

Customer Address: 455 North Rexford Dr.

Reference Statement of Work Number:

Beverly Hills, CA 90210

Change Authorization Number:

Project Name or Identifier:

IBM Office Number:

IBM Office Address:

# International Business Machines Corporation

International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600



## IBM Software Subscription and Support Renewal Quote

Note: If you will be placing your renewal order with an authorized Business Partner, please provide your partner with a copy of this Software Subscription and Support Renewal Quote to obtain final pricing and for fulfillment.

The prices quoted are only applicable if the total specified quantity of each and every designated part number is ordered. The prices are only effective up to the specified start date of the renewal part number.

Renewal Contact  
 Attn: Nicole McClinton  
 CA City of Beverly Hills  
 455 North Rexford Drive  
 BEVERLY HILLS CA 90210  
 UNITED STATES

Passport Advantage Contact  
 Attn: Mark Hobson  
 CA City of Beverly Hills  
 455 North Rexford Drive  
 BEVERLY HILLS CA 90210  
 UNITED STATES

Technical Contact  
 Attn: David Schirmer  
 CA City of Beverly Hills  
 455 North Rexford Drive  
 BEVERLY HILLS CA 90210  
 UNITED STATES

### Passport Advantage Customer Information

Quotation Number: 26536831  
 Passport Advantage Agreement Number: 130144  
 Passport Advantage Site Number: 7199797  
 IBM Customer Number: 0985895  
 Anniversary Date: 01-Aug-2014  
 Relationship SVP Level: GV  
 Quotation SVP Level: GV

### IBM Renewal Contact Information

IBM Renewal Representative: Darren Libman  
 Phone Number: 1-888-771-7705 x333487  
 eMail Address: dlibman@ca.ibm.com

### Product Information

Unit SVP Price: Is the IBM Suggest Volume Price for 12 months of coverage.

Unit Price: Is the price established for a full renewal, completed prior to the quote expiration date. This price may be lower than the Unit SVP price and is only effective up to the specified start date of the renewal part number.

Item No.	Part Number	Quantity	Total Points	Coverage Starts	Coverage Ends	Months	Unit SVP Price	Unit Price	Extended Amount
IBM Cognos Impromptu Administrator Authorized User Annual SW Subscription & Support Renewal									
001	E063PLL	1	1.34	01-Aug-2014	31-Jul-2015	12	249.90	249.90	249.90
IBM Cognos Impromptu Web Reports Authorized User Annual SW Subscription & Support Renewal									
002	E063RLL	30	32.40	01-Aug-2014	31-Jul-2015	12	198.90	45.23	1,356.90
IBM Cognos Impromptu Web Reports Limited Use Processor Value Unit (PVU) Annual SW Subscription & Support Renewal									
003	E063SLL	200	304.00	01-Aug-2014	31-Jul-2015	12	282.20	63.89	12,778.00
IBM Rational Application Developer for WebSphere Software Authorized User Annual SW Subscription & Support Renewal									
004	E01MJLL	1	4.59	01-Aug-2014	31-Jul-2015	12	850.00	850.00	850.00

# International Business Machines Corporation

International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600



Item No.	Part Number	Quantity	Total Points	Coverage Starts	Coverage Ends	Months	Unit SVP Price	Unit Price	Extended Amount
IBM DB2 Enterprise Server Edition Processor Value Unit (PVU) Annual SW Subscription & Support Renewal									
005	E020CLL	260	106.60	01-Aug-2014	31-Jul-2015	12	74.38	74.38	19,338.80
IBM WebSphere Application Server Network Deployment Processor Value Unit (PVU) Annual SW Subscription & Support Renewal 12 Months									
006	E025SLL	300	54.00	01-Aug-2014	31-Jul-2015	12	33.36	33.36	10,008.00
IBM Tivoli Storage Manager Extended Edition 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal									
007	E029ELL	600	42.00	01-Aug-2014	31-Jul-2015	12	12.84	12.84	7,704.00
IBM Tivoli Storage Manager 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal									
008	E029KLL	10	0.40	01-Aug-2014	31-Jul-2015	12	7.14	7.14	71.40
IBM Tivoli Storage Manager for Mail 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal									
009	E02B6LL	80	10.40	01-Aug-2014	31-Jul-2015	12	24.65	24.65	1,972.00
IBM Integration Designer per Authorized User Annual SW Subscription & Support Renewal									
010	E0BRLLL	1	4.03	01-Aug-2014	31-Jul-2015	12	748.00	748.00	748.00
Total Points & SVP Amount (USD)			559.76						55,077.00

Pricing not inclusive of applicable sales taxes.

# International Business Machines Corporation

International Business Machines Corporation, PO Box 643600, Pittsburgh, PA 15264-3600



We recommend that you renew IBM Software Subscription and Support for all of the in service authorized use of all IBM programs installed at your site to ensure continued access to new software versions and releases and 24x7 technical support.

Please follow the steps below to renew your IBM Software Subscription and Support.

1. Review your IBM Software Subscription and Support renewal quote and IBM Software Subscription and Support Renewal Quote Information Details. If you have questions, please contact either an authorized IBM Business Partner or your IBM renewal representative referenced above.
2. Choose one of the following options to renew before your anniversary date:
  - Contact an authorized IBM Business Partner for final pricing and fulfillment
  - Contact me at 1-888-771-7705 x333487 or [dlibman@ca.ibm.com](mailto:dlibman@ca.ibm.com)
  - Sign in to <https://www.ibm.com/software/howtobuy/passportadvantage/paocustomer/eorder/eRenewal?rquotenum=0026536831> and renew.
3. If you do not renew your IBM Software Subscription and Support by 08/01/2014, it will expire. If at a later date, you wish to reinstate your IBM Software Subscription and Support, you may do so, however, the cost of reinstatement will be as much as three times greater than your annual renewal rate.

**Note:**

Your renewal order will be governed by and is subject to the terms of your IBM International Passport Advantage Agreement or the IBM International Passport Advantage Express Agreement, as applicable, against which this transaction will be placed.

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
INDEPENDENT TECHNOLOGY GROUP TO PROVIDE PROFESSIONAL  
SERVICES RELATED TO THE SECURITY OF THE CITY'S NETWORK

NAME OF CONSULTANT: Independent Technology Group

RESPONSIBLE PRINCIPAL  
OF CONSULTANT: Doug Marlin, Managing Partner

CONSULTANT'S ADDRESS: 638 Lindero Canyon Road, Suite 39  
Oak Park, CA 91377

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$ 100,000 based on the rates set  
forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
INDEPENDENT TECHNOLOGY GROUP TO PROVIDE PROFESSIONAL  
SERVICES RELATED TO THE SECURITY OF THE CITY'S NETWORK

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Independent Technology Group (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "CONSULTANT's Statement of Work"), attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT shall perform the Scope of Work 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. Term of Agreement. This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

Section 3. Time of Performance. CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY in the manner described in Exhibit A. CONSULTANT shall complete the services in conformance with the project timeline established by the City Manager or his designee.

Section 4. Compensation.

If services are requested by the CITY, CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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). In no event shall the CONSULTANT be paid more than the maximum Consideration set forth above.

Section 5. Method of Payment. CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

Section 6. Independent CONSULTANT. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent CONSULTANT. Neither CITY nor any of its agents

shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 7. 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 8. 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 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. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 11. 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-contractors 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 on a form acceptable to the CITY's Risk Manager, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

Section 12. 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 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar 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 14. 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 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work

submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the Scope of Work or the services to be performed. Any changes in the Scope of Work requested by CONSULTANT must be made in writing and approved by both parties.

Section 17. 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 18. 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 19. 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 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

[Signatures continue]

ATTEST:

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

CONSULTANT: INDEPENDENT  
TECHNOLOGY GROUP

  
\_\_\_\_\_  
KEVIN BARKER  
Managing Partner

  
\_\_\_\_\_  
DOUG MARLIN  
Managing Partner

[Signatures continue]

APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

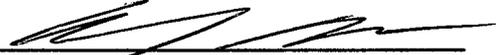
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JEFFREY C. KOLIN  
City Manager



---

DAVID SCHIRMER  
Chief Information Officer



---

KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall perform consulting services relating to CITY's network security systems, including hardware, software, equipment and services as requested by CITY.

Upon CITY's written request, CONSULTANT shall perform the following services with respect to the relevant network security systems:

Network design and professional services, including:

- Capture of current and future requirements as it relates to Firewall, SSL/VPN and Router configurations and best practices.
- Draft of documentation detailing recommendations / guidelines for configuration and/or implementation.
- Create and validate detailed High and Low Level Solution Designs.
- Configure and reconfigure network security equipment change management requirements including, but not limited to, design review and audit.

Provide support assistance, including:

- Design/audit assistance including, but not limited to, for rollout of new software versions, review of any change of management requirements, design review and audit.
- General audit and health check services, including: Firewall policy creation, firewall policy object creation and consolidation, Network Address Translation (NAT) configuration, internal and external routing of IP traffic and Virtual System (V Sys) creation and management.
- Audit of existing network topology to ensure conformance with configuration policies

(collectively "Services").

The above Services shall be provided to the CITY on an as-needed basis as directed by the CITY in the manner set forth herein.

For each engagement requested by CITY, CONSULTANT shall provide CITY with a written proposal which shall include (at a minimum) a detailed scope of work, deliverables, warranties and payment milestones ("Proposal"). Such Proposal is subject to CITY's review and approval in writing prior to the commencement of work. Upon CITY's written approval, such Proposal shall be incorporated herein as if set forth in full and such services shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

#### **Assumptions:**

Services shall be performed, during normal working hours which are 8 hours per day; 9:00 am to 5:00 pm or a mutually agreed time schedule; during the local working week and excluding public holidays.

Services shall be performed at the work location specified in the individual proposals. Any work within the performance of Services deemed by either party to be appropriate for remote delivery by CONSULTANT, will be performed and delivered as mutually agreed upon.

Any CONSULTANT employee who performs services on CITY property ("onsite employee") shall provide his/her own laptop computer for internal and Internet access, CONSULTANT email access, and his/her own mobile phone.

CITY is responsible for providing the onsite employee external access to the Internet, internal access to its Intranet and access to any network equipment, applications and databases that are essential for the onsite employee to perform the Services successfully.

Any additional equipment, such as network analyzers, test equipment and/or laboratory equipment, is not provided by CONSULTANT. CITY will supply such tools if the onsite employee requires them to perform the Services successfully.

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

For the term of this Agreement, CONSULTANT shall be paid for the services provided herein at the hourly rate of One Hundred Fifty Dollars (\$150.00). In no event shall the total compensation under this Agreement exceed One Hundred Thousand Dollars (\$100,000).

CONSULTANT shall submit a detailed and itemized invoice(s) for the services rendered, which invoice shall include for each fee entry the following information: (i) the date each task is performed; (ii) the identifier of the timekeeper that performed each task (i.e. initials or timekeeper number); (iii) the hours or portion thereof, billed for the task that reflects the actual time spent on each activity; (iv) a clear description of the activity performed (each task must be billed as a separate entry and time should not be embedded); and (v) total fees billed for each entry.

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 : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND INTEGRATED  
MEDIA TECHNOLOGIES, INC. TO PROVIDE PROFESSIONAL SERVICES  
AND EQUIPMENT RELATED TO THE CITY'S NETWORK INCLUDING LAN,  
WAN AND MAN NETWORK ENGINEERING SERVICES**

**NAME OF CONSULTANT:** Integrated Media Technologies, Inc.

**RESPONSIBLE PRINCIPAL  
OF CONSULTANT:** Chris Drynan, Vice President of Operations

**CONSULTANT'S ADDRESS:** 5200 N. Lankershim Blvd., Suite 700  
North Hollywood, CA 91601

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

**COMMENCEMENT DATE:** July 1, 2014

**TERMINATION DATE:** June 30, 2015

**CONSIDERATION:** Not to exceed \$ 225,000 based on the rates set  
forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND INTEGRATED MEDIA TECHNOLOGIES, INC. TO PROVIDE PROFESSIONAL SERVICES AND EQUIPMENT RELATED TO THE CITY'S NETWORK INCLUDING LAN, WAN AND MAN NETWORK ENGINEERING SERVICES

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

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A, the Scope of Work, attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT shall perform the Scope of Work 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. Term of Agreement. This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2015.

Section 3. Time of Performance. CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY in the manner described in Exhibit A. CONSULTANT shall complete the services in conformance with the project timeline established by the City Manager or his designee.

Section 4. Compensation.

If services are requested by the CITY, CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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). In no event shall the CONSULTANT be paid more than the yearly maximum Consideration set forth above.

Section 5. Method of Payment. CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Within thirty (30) days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

Section 6. Independent CONSULTANT. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent CONSULTANT. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 7. 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 8. 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 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. Interests of CONSULTANT. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 11. 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.

3) 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 Scope of Work required by this Agreement.

(b) CONSULTANT shall require each of its sub-contractors 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 on a form acceptable to the CITY's Risk Manager, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

Section 12. 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 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar 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 14. CITY's Responsibilities.

(a) 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.

(b) CITY shall provide CONSULTANT's Extreme System Engineer with:

- i. Building security access, including any badge, access codes and or parking passes if applicable
- ii. A workspace for each CONSULTANT engineer
- iii. A network connection and internet access for each
- iv. All hardware, software and materials required for the completion of the expected tasks prior to start.
- v. Remote access to the network

(c) CITY shall provide one contact person to CONSULTANT. This individual will coordinate all required CONSULTANT and CITY resources, and will coordinate review and acceptance of services and deliverables.

(d) CITY shall be responsible for all changes to non-Extreme equipment

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the Scope of Work or the services to be performed. Any changes in the Scope of Work requested by CONSULTANT must be made in writing and approved by both parties.

Section 17. 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 18. 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 19. 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 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.

Section 23. Nonsolicitation of Employees or Sub-contractors. For the period of this Agreement, and for one (1) year after the cessation of the Agreement, CITY agrees to use the services of any employee or subcontractor previously engaged in the scope of this Agreement only through CONSULTANT. CITY shall not directly or indirectly, either alone or in concert with others, solicit or entice any employee or subcontractor previously engaged in the scope of this Agreement to perform services for CITY, either as an employee or independent contractor. CITY agrees that restrictions on CONSULTANT's employees or subcontractor's conduct in this Agreement are reasonable in nature, scope and duration, and that none of them inhibit CONSULTANT's employees or sub-contractors ability to make a living or conduct business.

Section 24. Limited Warranties. Any and all warranties for products are provided by the original manufacturer. CONSULTANT provides or implies no warranty for any product.

Section 25. Limitation of Liability. Except for all third party claims which are covered by insurance as addressed in Section 11: (i) each party's aggregate liability to the other for claims relating to the Agreement, whether for breach or in tort, will be limited to the amount paid to CONSULTANT product, service, or materials which are the subject matter of the claims; (ii) neither party will be liable for any indirect, punitive, special, incidental or consequential damage in connection with or arising out of the Agreement (including loss of business, revenue, profits, use, data or other economic advantage) however it arises, whether for breach or in tort, even if that party has been previously advised of the possibility of such damage. Liability for damages will be limited and excluded even if any exclusive remedy provided for in the Agreement fails of its essential purpose.

Section 26. Indemnity and Insurance. CITY will indemnify CONSULTANT and its suppliers from and against all claims, liabilities, damages and costs (including legal fees and costs), relating to (i) CITY's use or distribution of Product and Service under this Agreement or (ii) any acts or omissions of CITY as it relates to the software and the equipment CITY provides CONSULTANT to use in the course and scope of completing this Agreement. CITY will use only legally owned or licensed software and hardware in the system to be maintained, and will not require CONSULTANT to use any unlicensed or prohibited software or hardware. This is limited and applicable only to the systems CONSULTANT is assigned responsibility to in its course of work.

Section 27. Limitations of Coverage

(a) CONSULTANT support is not intended as a replacement for manufacture support contracts.

(b) CITY must furnish CONSULTANT with all known manufacturer support contracts for validation and support.

(c) CONSULTANT shall provide a written estimate to CITY for any Hardware that is necessary to implement approved fixes.

(d) CONSULTANT has the right to refuse support for technology outside of its expertise

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: INTEGRATED MEDIA  
TECHNOLOGIES, INC.

\_\_\_\_\_  
BRUCE LYON  
Chief Executive Officer

\_\_\_\_\_  
JACKSON FLUOR  
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

\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall provide support of continuous operations at the CITY on an "as requested" basis. Scope of work shall include on-site network engineering support and other services mutually agreed to in writing between CONSULTANT and City Manager or his designee. This Agreement is designed to provide supplemental support in maintaining the CITY network and support operations, equipment and personnel that operate and use the network.

CONSULTANT shall provide a network consultant experienced with Extreme hardware design, configurations and best practices to assist in typical tasks to support CITY network with respect to support, maintenance and administration of CITY's network.

#### **Levels of Service:**

##### 1) Phone Support

CONSULTANT offers centralized First-Call support for all technology services needs from simple technical support questions to detailed consultations and troubleshooting. CONSULTANT'S technical staff shall act as advocate when dealing with hardware/software manufactures for any active manufacture support contracts freeing up CITY resources and providing a single point-of-contact for all technology support issues.

##### 2) Remote Log-In Support

Using a variety of remote desktop, VPN, and secure connection technologies CONSULTANT technicians shall perform preventative maintenance or emergency service without the need to travel to CITY's location. This provides a highly efficient bridge between troubleshooting systems over the phone and sending a technician on-site.

##### 3) On-Site Support

CITY can pre-schedule or request to dispatch a CONSULTANT technician to manage CITY's needs to diagnose problems or execute repairs based on phone/remote diagnostics. CONSULTANT shall work with CITY to schedule an appropriate time to work with CITY's team. On-site support requests will be scheduled by CONSULTANT as quickly as possible.

#### **Expected Services:**

CONSULTANT's engineers shall assist with any network related issues as directed by the CONSULTANT's CIO or network staff. CONSULTANT's staff may provide any other technical assistance as requested/required by CITY, including but not limited to;

- Configure and assist in the installation of Extreme Networks switches
- Review CITY configurations and Extreme XOS® software interface
- Review switch features and commands with CITY technical staff
- Review and monitor infrastructure
- Provide support to CITY IT staff and other CITY employees as required
- Review and monitor EPICenter or other network management system (NMS) when requested by CITY

**Miscellaneous:**

- This Scope of Work does not include any electrical work.
- Scope of work is based upon normal work hours of Mon-Fri 9 A.M to 6 P.M. or other time agreeable to the local CONSULTANT resources.
- CITY shall provide CONSULTANT with access to CITY designated systems.
- In the event that the scope of this project or time requirements changes significantly, the City Manager and/or his designee on behalf of CITY, and CONSULTANT may mutually agree upon a written change order or a separate written scope of work identifying additional scope or charges as long as the increase in compensation does not exceed the amount set forth on the cover page of the Agreement.
- Scheduling of resources will be based on the mutual agreement of CITY and CONSULTANT, and local resource availability and confirmation at least five-business days prior to the commencement of the Services under this Agreement.

## EXHIBIT B

### SCHEDULE OF PAYMENT AND RATES

CITY shall pay CONSULTANT for the Services provided under the Agreement at the following rate:

\$225.00 Per hour.

The total sum shall not exceed the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) as set forth in the authorized purchase orders issued by CITY for all services and equipment to be provided pursuant to this Agreement. Said compensation shall constitute reimbursement of CONSULTANT's fee for the services and equipment.

Pricing is based on non-union labor, pre-defined local resource living within 100 miles of engagement location.

Requests for any time for support above and beyond this plan is an option CITY can execute with 7 days advanced notice using a CONSULTANT Engineer on a time and materials basis.

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

EXHIBIT C

CERTIFICATE OF INSURANCE

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

**NAMED INSURED**

**COMPANIES AFFORDING COVERAGE**

**ADDRESS**

- A.
- B.
- C.

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

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

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

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

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

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

DATE : \_\_\_\_\_

BY : \_\_\_\_\_  
 Authorized Insurance Representative

TITLE : \_\_\_\_\_

AGENCY : \_\_\_\_\_

Address : \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
MAINLINE INFORMATION SYSTEMS, INC. FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES

NAME OF CONSULTANT: Mainline Information Systems, Inc.

RESPONSIBLE PRINCIPAL  
OF CONSULTANT: Joseph P. Elebash, Chief Financial

CONSULTANT'S ADDRESS: 1700 Summit Lake Drive  
Tallahassee, FL 32317

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$600,000 based on the rates set  
forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
MAINLINE INFORMATION SYSTEMS, INC. FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Mainline Information Systems, Inc. (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONSULTANT represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

**Section 1. Scope of Work.** CONSULTANT shall perform the Scope of Work 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. Term of Agreement.** This Agreement shall remain in full force and effect from July 1, 2014 until June 30, 2015.

**Section 3. Time of Performance.** CONSULTANT shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY in the manner described in Exhibit A. CONSULTANT shall complete the services in conformance with the project timeline established by the City Manager or his designee.

**Section 4. Compensation.**

(a) If services are requested by CITY, CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B, 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). In no event shall the CONSULTANT be paid more than the yearly maximum Consideration set forth above.

(b) CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

**Section 5. Method of Payment.** CONSULTANT shall submit to CITY a detailed invoice (as is further described in Exhibit B), on a monthly basis or less frequently, for the

services performed pursuant to this Agreement. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice.

**Section 6. 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 7. 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 8. 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 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

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

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

(b) CONSULTANT shall require each of its sub-contractors 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 acceptable to the CITY's Risk Manager showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming 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 and 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 calendar 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 done in accordance with the terms of this Agreement 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. Information and Documents.** All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

**Section 17. Changes in the Scope of Work.** CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

**Section 18. 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 19. 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 20. 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 21. Governing Law.** The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

**Section 22. CITY Not Obligated to Third Parties.** CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

**Section 23. 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

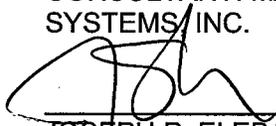
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

CONSULTANT: MAINLINE INFORMATION  
SYSTEMS, INC.

  
\_\_\_\_\_  
JOSEPH P. ELEBASH  
Chief Financial Officer

[Signatures continue]

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

EXHIBIT A  
SCOPE OF WORK

CONSULTANT shall provide CITY with information technology ("IT") consulting services related to CITY's client applications such as CITY's Enterprise storage system, LTO tape system, Axis camera system and IBM systems collectively (the "Services"). The Services shall include the following:

(i) Analyze CITY business requirements in connection with CITY's client applications. Create high-level technical design documents and detailed technical specifications, in accordance with CITY architecture standards.

(ii) Provide unit and system testing as well as execution of implementation activities.

(iii) Draft individual scopes or work for projects of varying sizes and levels of complexity which details the tasks and provide estimates.

(iv) Analyze and identify technical areas of improvement within existing systems.

(v) Work with CITY's internal IT teams to complete project activities, such as infrastructure, architecture and design.

(vi) Provide systems testing, training and application support.

(vii) If CITY identifies an issue or problem that requires consulting services, CONSULTANT shall conduct research, propose one or more solutions, document and present the solutions to CITY so CITY can determine how to proceed

(viii) Provide written reports to CITY as required by CITY.

The above Services shall be provided to CITY on an as-needed basis as directed by CITY in the manner set forth herein.

For each requested engagement, CONSULTANT shall provide CITY with a written proposal which shall include (at a minimum) a detailed scope of work, deliverables and payment milestones ("Proposal"). Each Proposal is subject to the written approval of CITY prior to the commencement of work. Upon CITY approval, such Proposal shall be incorporated herein as if set forth in full and the services provided thereunder such Proposal shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

## EXHIBIT B

### COMPENSATION AND PAYMENT

For the term of this Agreement, CONSULTANT shall be paid for the Services provided herein at the hourly rate of \$183.75. In no event shall the total compensation for the term of this Agreement exceed \$600,000.00, which includes a travel budget in an amount not to exceed \$25,000 unless otherwise agreed to in writing by CITY's Chief Information Officer.

CONSULTANT shall submit a detailed and itemized invoice(s) for the Services rendered, which invoice shall include for each fee entry the following information: (i) the date each task is performed; (ii) the identifier of the timekeeper that performed each task (i.e. initials or timekeeper number); (iii) the hours or portion thereof, billed for the task that reflects the actual time spent on each activity; (iv) a clear description of the activity performed (each task must be billed as a separate entry with specificity with no block billing); and (v) total fees billed for each entry.

Unless provided for in a CONSULTANT Proposal, this Agreement provides for no reimbursement of expenses. There will be no travel reimbursement for any local resource. A local resource is defined as CONSULTANT personnel residing within a 100 mile radius from CITY. Eligible reimbursable travel expenses shall be estimated in the Proposal per engagement and are subject to CITY's prior written approval. Additionally, the maximum reimbursement shall not exceed that allowable under CITY's Travel and Meeting Expense Policy for CITY employees (Administrative Regulation Policy No. 3A.1) attached hereto as Attachment 1.



Administrative Regulations  
Policy No. 3A.1  
Revised: March 29, 2012  
Approved: 3/29/2012

**SUBJECT: TRAVEL AND MEETING EXPENSE POLICY**

**PURPOSE: To establish a uniform policy and procedure for reimbursing City employees for travel, meeting, and out-of-pocket expenses incurred while on official business.**

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**I. GENERAL POLICY:**

To establish policies and a basis for subsequent procedures regarding travel outside City limits for authorized activities. It is the City's policy to provide for the normal costs associated with travel for City business. Department Heads, or designees, are expected to use discretion, common sense and good business judgment when approving travel reimbursement for employees. This policy shall be administered, interpreted and implemented by the Administrative Services Director / CFO.

**II. DEFINITIONS:**

**A. City-Authorized Travel:** Authorized activity which causes a City Employee to travel outside the City limits on approved City business.

**B. Authorized Activities:** City-related business which has been approved by the City Manager, or his/her designee (for international travel); the Department Head, or his/her designee, or by action of the City Council.

**C. Categories of Travel:** For purposes of determining reimbursable expenses and record-keeping, City-Authorized Travel shall be comprised of the following three categories:

1. **Category 1 – Local or All Day Travel** – Local Travel shall be any activity which requires a commute that can be made in one business day and does not require overnight accommodations. Local travel must be approved by the Department Head, or designee, for City business only, and only when adequate funds have been budgeted and are available for this activity.
2. **Category 2 – Overnight Travel** – Overnight Travel shall be any travel activity which requires overnight accommodations. Overnight travel may be approved only by the Department Head, or designee (or the City Manager, or designee, for international travel); only for City business and only when adequate funds have been budgeted for the activity requested. For purposes of maximizing training, it is recognized that there may be instances where it is in the City's best interest to have an employee stay overnight even though all training can be accomplished in one day.
3. **Category 3 – Emergency/Disaster Travel** – Emergency/Disaster Travel shall be any travel that has resulted from a declared emergency. During such travel, an employee may experience out-of-pocket expenses. Such expenses will be reimbursed to the employee by the City, whether or not the City has been reimbursed from another governmental agency. In such cases, receipts must be submitted, and authorization for travel must be obtained from the Department Head. Please see the Emergency Management Policy for more information.

D. **Travel Forms/Procedures** – The Administrative Services Department will make travel forms available in the BEVY that must be used by all City Departments in connection with this Travel and Meeting Expense Policy.

III. **REIMBURSABLE EXPENSES:**

A. **Category 1 - Local Travel:** When local travel is approved, the following expenses will be reimbursed:

1. **Mileage** – When using a personal vehicle, calculate mileage reimbursement based on Administrative Regulation 3A.4, SECT. VI.
2. **Fuel** – When using a City-provided vehicle, the employee will ensure that the vehicle is adequately fueled prior to leaving the City.
3. **Lunch or Dinner Per-Diem** – When a meal is not provided as a part of the activity the City employee is attending, a lunch per-diem of \$15.00 and a dinner per-diem of \$25.00 shall be authorized when approved by the Department Head, or designee.
4. **Registration Fees** – The City will pay the employee's costs of the program, or activity, and all required or approved fees for program materials.

B. **Category 2 - Overnight Travel:** When overnight travel is approved, the following expenses will be reimbursed:

1. **Transportation** – Overnight travel shall be by commercial air at the lowest published airfare available for economy class. If an employee requests the use of a personal vehicle for his or her convenience, reimbursement will be for the lesser of (i) miles driven in excess of normal commute round-trip mileage between home and the primary workplace at the current IRS mileage rate or (ii) at the lowest economy-class airfare to the destination. Travel by personal vehicle requires approval from the Department Head. For more information please refer to Administrative Regulation 3A.4.
2. **Airport Parking** – The City will reimburse an employee for the actual cost of standard parking at parking lots for long-term travelers. At certain airports, the City may contract with certain parking lots for discounted rates. If so, employees are encouraged to use those lots when parking at the airport. If the employee chooses not to use the contracted parking lot, the employee will be reimbursed up to the actual contracted price for parking elsewhere. In all other instances, employees who choose to use short-term or valet parking will be reimbursed at the long-term rate. When a stay of an extended duration is anticipated, the employee should commute to the airport via a shuttle service rather than park at the airport.
3. **Ground Transportation** – The City will reimburse the employee for the cost of taxi or shuttle service between the airport to their hotel, and other taxi rides to the airport. In circumstances where lodging or restaurants are at a location different than the training or meeting facility, the City will reimburse the employee for shuttle or taxi-cab costs from their place of lodging to these other locations.

4. Rental Cars – The City will provide a rental vehicle only when alternative transportation at the travel destination is not available, or the costs are excessive, and it is pre-approved by the Department Head. The City authorizes each employee renting a vehicle to purchase the full daily rental car insurance coverage for both liability and collision offered by the rental agency. Vehicles should be refueled prior to return to the rental agency to avoid excessive charges.
  
5. Per-Diem – For each travel day requiring overnight stay, the City will reimburse the employee a daily per-diem based on the current IRS M&IE (Meals, Incidentals & Entertainment) per-diem rate for the respective county of the travel destination. Please refer to IRS Publication 1542 at [www.irs.gov](http://www.irs.gov) for the current Per Diem Locality Rates. **Please note, the IRS web page printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement** (see Addendum A). A particular locality's per diem rates can be looked up by city or zip code on the U.S. General Services Administration website at <http://www.gsa.gov/perdiem> (see addendum B- GSA per diem rates lookup page and addendum C- per diem rate sample page for 90210). Please note, the IRS or GSA website printout must be submitted as back-up with the OFFICIAL TRAVEL REQUEST FOR WARRANT to get reimbursement. Employees may request up to one additional day of per-diem when travel is required on the day before, or after, the training or meeting. Circumstances resulting in additional cost factors will be considered on a case-by-case basis and will require expense receipts if reimbursement is approved.  
  
Reimbursement will not be made for items identified as being covered by the per-diem allowance. Per-diem expenses include, but are not limited to, the following items:
  - i. Meals/Food
  - ii. Tips and gratuities for meals.
  - iii. Any incidental personal expenses.
  
6. Lodging – The City will provide hotel accommodations for each scheduled day of the activity or event requiring an overnight stay. Unless approved by the City Manager, overnight lodging will only be approved when the activity or event is greater than 50 miles (one-way) from both City Hall and the employee's residence. When appropriate, an additional day of accommodations may be approved by the Department Head, or designee, prior to, or following, an event or activity. Additional days will also be considered to accommodate reduced airfares.
  
7. Registration Fee – The City will pay the employee's costs of the event or activity and all approved fees for program materials. Books and publications received as part of the activity are considered City property.
  
8. Family Members – Family members may share City-paid accommodations, but the employee must pay for all other costs. The City will not pay for any travel, meal, lodging, or personal costs of family members.

**IV. Per-Diem and Actual Cost Reimbursement:**

Upon approval of their respective Department Head, or designee for approved travel, all employees will receive either a per-diem or a reimbursement of actual costs. Per-diem will be paid per the prescribed IRS rates based on the county of the travel destination. The IRS or GSA website printout

must be submitted listing the applicable per-diem rate. Receipts are required to obtain reimbursement for actual costs unless a City purchase card is used.

**Procedures:**

**A. Planning Travel:**

1. **General Guidelines and Rules:**

- a. Use the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls, or the BEVY.
- b. Identify the funding source (program and account) and obtain approval prior to departure. (i.e.: Make sure there is enough money in your budget.)
- c. You must obtain approval from your Department Head before being reimbursed for other costs for which you would like reimbursement that may not be mentioned in this policy.
- d. You should use the City Purchase Card or City Check for expenses whenever possible, including expenses for registration fees, air travel, and lodging. If you want to pay for these types of items with your own credit card (or other means), and then expect to be reimbursed, you must first obtain approval from your Department Head (or designee) in addition to all other necessary approvals.

2. **Guidelines on Travel Costs for Local Travel:**

- a. Meals: If a meal is not provided as part of the authorized activity, then obtain approval from your Department Head for a lunch per-diem of \$15.00 and if required, a dinner per-diem of \$25.00.
- b. Personal Car: Please refer to Administrative Regulation 3A.4. In general, reimbursement for mileage will be calculated at the current IRS mileage rate based on the actual miles traveled.

3. **Guidelines on Travel Costs for Overnight Travel:**

- a. Air: Book your reservations in advance to take advantage of reduced airfares. You will be reimbursed for commercial air travel at the lowest published fare available for economy class. Use Government and group rates when available. Non-commercial flying (including rented aircraft) may not be used by, nor reimbursed to employees at any time.
- b. Personal Car: First, get approval from the Department Head. You will be reimbursed for the amount of round-trip airfare, or the appropriate mileage, whichever is less, only if you are not receiving an "auto-allowance" as defined in Administrative Regulation 3A.4. Proof of the required auto insurance must be submitted to Risk Management before departure. Please read Administrative Regulation 3A.4 for a detailed explanation.

- c. **City Vehicle:** If you plan on traveling in a City Vehicle, you need approval from your Department Head.
- d. **Conference Registration Fees:** Use the OFFICIAL TRAVEL REQUEST FOR WARRANT so conference registration fees, or other meeting fees, can be paid in advance.

4. Guidelines on Methods of Pre-Payment:

- a. *Methods of payment are the following:*
  - i. City Credit Card
  - ii. Advance Check
  - iii. Regular Check
  - iv. Actual Cost Reimbursement
- b. *City Credit Cards:* You may not use the City credit/program cards for personal expenses.
- c. *Advance Check:* An advance check is a check requested before departure to take with you to pay a vendor. While on your trip, you must keep your receipts. You can request an advanced check by completing a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your advance check for the time you need it.
- d. *Regular Check:* A regular check processed to pay a vendor for trip expenses before departure or after your return. This check gets mailed to the vendor or can be requested for pick-up. To request a regular check for travel, you must complete a Request for Warrant Form located at H:\Finance\AP Forms\Request for Warrant.xls. Plan on submitting this form with enough time to process your regular check for the time you need it.
- e. *Actual Cost Reimbursement:* During planning, if you choose to receive actual cost reimbursement, and it's approved by your Department Head, or designee, keep track of your costs. You will need to complete the OFFICIAL TRAVEL REQUEST FOR WARRANT located at H:\Finance\AP Forms\OFFICIAL TRAVEL REQUEST FOR WARRANT.xls when you return and submit it to Accounts Payable in order to process the reimbursement. You must include your actual receipts and indicate the nature of the expense.

B. **While Traveling:**

1. Finances during travel:

- a. *Maintaining an Understanding:* By completing the OFFICIAL TRAVEL REQUEST FOR WARRANT, you should understand which expenses have already been paid, and which ones are eligible for reimbursement. You are expected to exercise good judgment in the type of expenses incurred while traveling. Expenses for the employee's spouse, or family members, are the employee's responsibility and will not be reimbursed by the City.
- b. *Unexpected Costs:*

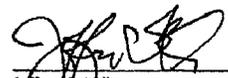
- i. *Incidental:* These types of expenses include the same expenses described in Section IV.B.5 of this policy. Incidentals are covered under per-diem.
- ii. *Purchase of Materials related to the conference:* During a conference, you may decide to purchase materials related to the conference for future reference and education. You need to get approval first, and then submit your receipts for reimbursement with the OFFICIAL TRAVEL REQUEST FOR WARRANT.
- c. *Planning for Reimbursement:* Reimbursement is based on proof of payment. Receipts, invoices and other types of documentation will be required for obtaining reimbursement. Therefore, plan accordingly.

**C. After Traveling:**

1. Wrapping up:

a. General Guidelines and Rules:

- i. *Getting Reimbursed:* To be reimbursed for expenses, complete the "OFFICIAL TRAVEL REQUEST FOR WARRANT" and submit the form to Accounts Payable within 14 days of the last day of the travel. Attach a signed copy of the OFFICIAL TRAVEL REQUEST FOR WARRANT and include all receipts. Failure to attach a complete package will delay any reimbursement and could possibly void any reimbursement claims.
- ii. If an "OFFICIAL TRAVEL REQUEST FOR WARRANT" is not completed after six (6) months from traveling, reimbursements will not be given.
- iii. *Deviations:* The Administrative Services Director / CFO is responsible, in his/her judgment, to report any significant differences between the estimated and actual costs of travel to the appropriate Department Head, and/or the City Manager, and shall have the authority to disapprove any reimbursement claim.
- iv. *Advances:* If your advance check was for an amount greater than the costs of your trip, then you must refund the difference to the City within seven (7) days of your return. If the amount advanced did not meet the costs of the travel, a reimbursement check shall be issued to you by submitting the OFFICIAL TRAVEL REQUEST FOR WARRANT.
- v. *Conference Materials:* City employees, who attend conferences or seminars, are encouraged to bring back all relevant materials from these events and share experiences, materials, procedures, etc., with fellow staff.

	3/29/12		3-29-12
Scott G. Miller Chief Financial Officer Director of Administrative Services	Date	Jeffrey D. Kolm City Manager	Date

ADDENDUM A

Table 3. Maximum Federal Per Diem Rates (Effective October 1, 2010 – September 30, 2011)<sup>1</sup>

Note: The standard rate of \$123 (\$77 for lodging and \$46 for M&IE) applies to all locations within the continental United States (CONUS) not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation allowances. (See parts 302-2, 302-4, and 302-5 of 41 CFR.)

Table 4 lists all per diem rates alphabetically by state abbreviation. Click on a link below to find rates for your state: [Alabama](#), [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [District of Columbia](#), [Florida](#), [Georgia](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Mississippi](#), [Missouri](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [New York](#), [North Carolina](#), [North Dakota](#), [Ohio](#), [Oklahoma](#), [Oregon](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#), [Wyoming](#)

State	Per Diem Locality			Computing Maximum Rate		
	Key City <sup>2</sup>	County and/or Other Defined Location <sup>1A</sup>	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
AL	Birmingham	Jefferson, Shelby	All year	\$ 88	\$56	\$144
	Gulf Shores	Baldwin	1/1 - 5/31	101	51	152
			6/1 - 7/31	128	51	177
			8/1 - 12/31	101	51	152
	Huntsville	Madison, Limestone	All year	86	51	137
Mobile	Mobile	1/1 - 2/28 3/1 - 12/31	98 90	51	149 141	
AR	Hot Springs	Garland	All year	101	46	147
	Little Rock	Pulaski	All year	89	61	149
AZ	Grand Canyon, Flagstaff	Coconino (except city limits of Sedona), Yavapai	1/1 - 2/28	77	66	143
			3/1 - 10/31	95	66	161
			11/1 - 12/31	77	66	143
	Kayenta	Navajo	1/1 - 4/30	77	46	123
			5/1 - 9/30	89	46	135
			10/1 - 12/31	77	46	123
	Phoenix, Scottsdale	Maricopa	1/1 - 5/31	126	71	197
			6/1 - 8/31	81	71	152
			9/1 - 12/31	106	71	177
	Sedona	City limits of Sedona	1/1 - 2/28	129	66	195
3/1 - 4/30			145	66	211	
5/1 - 12/31			129	66	195	
Starra Vista	Cochise	All year	81	46	127	
Tucson	Pima	1/1 - 1/31	93	56	149	
		2/1 - 5/31	111	56	167	
		6/1 - 8/31	77	56	133	
		9/1 - 12/31	93	56	149	
Yuma	Yuma	All year	81	46	127	
CA	Antioch, Brentwood, Concord	Contra Costa	All year	101	66	167
	Barstow, Ontario, Victorville	San Bernardino	Before 4/01/11	83	56	139
			After 3/31/11	99	56	155
	Banica, Dixon, Fairfield	Solano	All year	84	56	140
	Death Valley	Inyo	All year	92	46	138
	Eureka, Arcata, McKinleyville	Humboldt	1/1 - 6/31	82	61	143
			6/1 - 9/31	92	61	153
			9/1 - 12/31	82	61	143
Fresno	Fresno	All year	91	61	152	
Los Angeles	Los Angeles (except the city of Santa Monica), Orange, Ventura, Edwards AFB	All year	123	71	194	
Mammoth Lakes	Mono	All year	116	61	177	

ADDENDUM B

WHAT CSA OFFERS    DOING BUSINESS WITH GSA    LEARN MORE    BLOG

Home > Policy & Resources > Travel Transportation & Reimbursement > Travel Management > Per Diem > Per Diem

## Per Diem Rates

Rates are set by fiscal year, effective October 1. Find current rates in the continental United States ("CONUS Rates") by searching below with city and state (or ZIP code), or by clicking on the map. Find previous rates by selecting year in the pulldown, and clicking on the map.

**SEARCH BY CITY, STATE OR ZIP CODE (current fiscal year)**

Enter your city  OR Enter your ZIP Code  **FIND PER DIEM RATES**

Select a State

**SEARCH BY STATE**

Find Rates for: **Fiscal Year 2012 (Current Year)**

**CONTACTS**

- All Federal Contracting
- Travel Management & Policy

**On the go!**  
Get the mobile app for Government Per Diem Rates.

**TAX QUESTIONS?**

Have a question about per diem and your taxes? Please contact the Internal Revenue Service at 800-829-1040 or visit [www.irs.gov](http://www.irs.gov). GSA cannot answer tax related questions or provide tax advice.

**Per diem rates all in one file!**  
Download the searchable EXCEL file.

### ADDENDUM C

WHAT CSA OFFERS    DOING BUSINESS WITH GSA    LEARN MORE    BLOG

Home > Policy & Resources > Travel Transportation & Reimbursement > Travel Management > Per Diem > Per Diem Rates > Previous Rates Archive

## FY 2012 Per Diem Rates for ZIP 90210

(October 2011 - September 2012)

**SEARCH BY CITY, STATE OR ZIP CODE**

Enter your city  OR Enter your ZIP Code  **FIND PER DIEM RATES**

[Per Diem Map >](#)

**ADDITIONAL PER DIEM TOPICS**

- Meals & Incidental Expenses Breakdown (M&IE)
- FAQS
- State Tax Exemption Forms
- Factors Influencing Lodging Rates
- FY 2012 Per Diem Highlights
- Time Safe Hotels
- Have a Per Diem Question?
- Downloadable Per Diem Files

Cities not appearing below may be located within a county for which rates are listed. To determine what county a city is located in, visit the [National Association of Counties \(NACo\) website \(a non-federal website\)](#).

The following rates apply for 90210

Primary Destination* (1)	County (2, 3)	Max Lodging by Month (excluding taxes)												Meals & Inc. Exp.**
		2011			2012									
		Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	
Los Angeles	Los Angeles, Orange, Ventura, and Edwards AFB, less the city of Santa Monica	125	125	125	125	125	125	125	125	125	125	125	125	71

\*NOTE: Traveler reimbursement is based on the location of the work activities and not the accommodations.  
\*\*Meals and Incidentals Expenses: see Breakdown of M&IE Expenses for important information on first and last days of travel.

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"/> CONTRACTOR'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: 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 : \_\_\_\_\_  
 \_\_\_\_\_

EXHIBIT C

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
NEXLEVEL INFORMATION TECHNOLOGY, INC. TO PROVIDE AS  
NEEDED INFORMATION TECHNOLOGY CONSULTING SERVICES IN  
CONNECTION WITH CITY'S COMPUTING INFRASTRUCTURE

NAME OF CONSULTANT: NexLevel Information Technology, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Terry Hackelmen, CFO / Secretary

CONSULTANT'S ADDRESS: 6829 Fair Oaks Boulevard, Suite 100  
Carmichael, CA 95680

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015, unless sooner terminated

CONSIDERATION: Not to exceed \$55,000.00

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
NEXLEVEL INFORMATION TECHNOLOGY, INC. TO PROVIDE AS  
NEEDED INFORMATION TECHNOLOGY CONSULTING SERVICES IN  
CONNECTION WITH CITY'S COMPUTING INFRASTRUCTURE

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and NexLevel Information Technology, Inc. (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), 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 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). City shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 4. Method of Payment. Unless otherwise provided for herein, CONSULTANT shall submit to City a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in 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. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

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

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

Section 11. Insurance.

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

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

(2) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

(3) 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 and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

Section 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 19. City Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 20. 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

ATTEST

\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

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

CONSULTANT:  
NEXLEVEL INFORMATION TECHNOLOGY,  
INC.

  
\_\_\_\_\_  
FRANK OTTO  
CEO

  
\_\_\_\_\_  
TERRY HACKELMAN  
CFO / Secretary

APPROVED AS TO FORM



---

LAURENCE WEINER  
City Attorney

APPROVED AS TO CONTENT

---

JEFFREY KOLIN  
City Manager



---

DAVID SCHIRMER  
Chief Information Officer



---

KARL KIRKMAN  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF WORK**

CONSULTANT shall provide information technology consulting services (the 'Services') and equipment related to the CITY's computing infrastructure, including hardware, software and related equipment in support of various CITY initiatives. CONSULTANT shall provide the Services as directed by CITY on an as-needed basis including but not limited to:

- i. Project Management
- ii. Assessments
- iii. IT Governance
- iv. Implementation Support

For all work to be completed under this Agreement, CONSULTANT shall provide a detailed scope of work subject to the prior written approval of CITY, including detailed deliverables and payment milestones, which shall be signed by both parties and subject to the terms and conditions of this Agreement.

**EXHIBIT B**

**SCHEDULE AND RATES OF PAYMENT**

CITY shall pay CONSULTANT for scheduled service during normal business hours. The total sum paid to CONSULTANT under this Agreement shall not exceed the amount of Fifty-Five Thousand Dollars (\$55,000.00), as set forth in the purchase order issued by CITY for all services to be provided pursuant to this Agreement and based on the rates set forth below. Said Compensation 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 labor, materials, delivery, tax, assembly and installation, as applicable) unless otherwise approved by the Chief Information Officer.

CONSULTANT 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 and the hours of service. CITY shall pay CONSULTANT all undisputed amounts of such billing within thirty (30) days of receipt of the same.

<b>NexLevel Billing Rates</b>	
<b>Position</b>	<b>Rate</b>
Principal Consultant	\$165/hr
Managing Consultant	\$150/hr
Senior Consultant	\$135/hr
Consultant	\$125/hr
Analyst	\$100/hr

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 : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
QUARTIC SOLUTIONS, LLC FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES RELATED TO THE  
CITY'S ENTERPRISE GIS SYSTEM

NAME OF CONTRACTOR: Quartic Solutions, LLC.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Jodi Luostarinen, Chief Executive Officer

CONTRACTOR'S ADDRESS: 1380 Garnet Ave. Ste E-402  
San Diego, CA 92109

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015

CONSIDERATION: Not to exceed \$70,000.00 based on the rates set forth in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
QUARTIC SOLUTIONS, LLC FOR INFORMATION  
TECHNOLOGY CONSULTING SERVICES RELATED TO THE  
CITY'S ENTERPRISE GIS SYSTEM

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Quartic Solutions LLC. (hereinafter called "CONTRACTOR").

RECITALS

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

B. CONTRACTOR represents that it is qualified and able to perform the Services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Services. CONTRACTOR shall perform the Services 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. Time of Performance. CONTRACTOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation.

(a) Compensation. CITY agrees to compensate CONTRACTOR for the Services provided under this Agreement, and CONTRACTOR 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 ("Compensation and Payment"), attached hereto and incorporated herein.

(b) Expenses. The amount set forth in paragraph (a) 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 4. Method of Payment. Unless otherwise provided for herein, CONTRACTOR 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 CONTRACTOR said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONTRACTOR 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 CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR 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 CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR 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) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR shall not be made without prior written consent of CITY.

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

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

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

Section 10. Interests of CONTRACTOR. CONTRACTOR 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 CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR 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 CONTRACTOR.

(2) 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.

(3) Workers Compensation insurance as required by the State of California.

(4) A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate for the Services to be performed pursuant to this Agreement.

(b) Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONTRACTOR agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(c) CONTRACTOR shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(d) 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.

(e) CONTRACTOR 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 CONTRACTOR's expense, the premium thereon.

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

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

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

Section 12. Indemnification. CONTRACTOR 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 CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 13. Termination.

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

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. 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 CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Changes in the Services. The CITY shall have the right to order, in writing, changes in the Services to be performed. Any changes requested by CONTRACTOR must be made in writing and approved by both parties.

Section 17. 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 18. 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 19. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR with respect to the Services identified herein, 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 CONTRACTOR.

Section 20. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 23. 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 (SEAL)  
City Clerk

[Signatures continue]

CONSULTANT: QUARTIC SOLUTIONS,  
LLC.



JODI LUOSTARINEN  
Chief Executive Officer



TIMO LUOSTARINEN  
Corporate Secretary

[Signatures Continue]

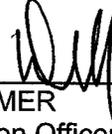
APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN  
City Manager



DAVID SCHIRMER  
Chief Information Officer



KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF SERVICES

CONTRACTOR shall provide information technology consulting services (the "Services") related to CITY'S Enterprise GIS System. CONTRACTOR shall provide the Services as directed by CITY on an as-needed basis. The Services may include, but are not limited to, the following:

- GIS programming support.
- Geospatial data maintenance support.
- Assist CITY staff with regular CITY GIS operations.
- Assist CITY staff with GIS-related special projects.

For all work to be completed under this Agreement, CONTRACTOR shall provide a detailed scope of work subject to the prior written approval of CITY, which includes, at a minimum, detailed deliverables and payment milestones.

EXHIBIT B

COMPENSATION AND PAYMENT

CONTRACTOR shall be paid for the Services provided herein at the hourly rates set forth in CONTRACTOR's Rate Schedule set forth below. In no event shall the total compensation exceed \$70,000. CONTRACTOR anticipates using staff from the GIS Architect/Manager, GIS Analyst, GIS Technician and Senior GIS Programmer/Analyst labor categories. Depending on the level of expertise required to perform certain activities during this engagement, CONTRACTOR may be required to utilize other CONSULTANT staff members with a different skill-set and labor category.

CONTRACTOR shall submit detailed and itemized invoices for the services rendered, which shall include for each fee entry the following information: (i) the number of hours performed during the previous calendar month; (ii) a clear description of the activity performed (each activity must be billed as a separate entry and time should not be embedded); and (iii) total fees billed for each activity.

<b>Quartic Solutions Billing Rates</b>	
<b>Position</b>	<b>Rate</b>
GIS Architect/Manager	\$120
Senior GIS Programmer/Analyst	\$95
GIS Analyst	\$65
GIS Technician	\$50
Travel Expenses	Cost

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"/> CONTRACTOR'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: 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.

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 : \_\_\_\_\_  
 \_\_\_\_\_

**AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND VIDEO TO IP CONSULTING SERVICES, INC RELATED TO THE CITY'S IP VIDEO SYSTEMS**

**NAME OF CONSULTANT:** Video to IP Consulting Services, Inc.

**RESPONSIBLE PRINCIPAL OF CONSULTANT:** Timothy Conwell, President/Principal Consultant

**CONSULTANT'S ADDRESS:** 12813 129<sup>th</sup> Avenue N  
Largo, FL 33774

**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 To Proceed

**TERMINATION DATE:** June 30, 2015, unless sooner terminated pursuant to Section 13

**CONSIDERATION:** An amount not to exceed \$150,000, as detailed in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND VIDEO  
TO IP CONSULTING SERVICES, INC RELATED TO THE CITY'S IP  
VIDEO SYSTEMS

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Video to IP Consulting Services, Inc. (hereinafter called "CONSULTANT").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), 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 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). CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B. There shall be no reimbursement for travel related expenses.

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

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

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

Section 11. 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) Commercial automobile liability insurance covering comprehensive vehicle liability including bodily injury, personal injury, and property damage in compliance with California law.

(3) 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 and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

Section 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 20. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 21. 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.

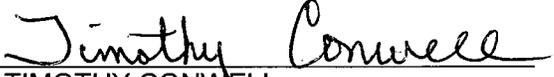
CITY OF BEVERLY HILLS,  
A Municipal Corporation

\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills,  
California

ATTEST:

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

CONSULTANT: VIDEO TO IP  
CONSULTING SERVICES, INC.

  
\_\_\_\_\_  
TIMOTHY CONWELL  
President and Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WEINER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK

CONSULTANT shall provide information technology consulting services related to the CITY's computing infrastructure, including hardware, software and related equipment in support of the CITY's IP video systems. CONSULTANT shall provide the Services as directed by CITY on an as-needed basis. The Services shall include the following:

- (i) Consult and review of best practices for IP video convergence;
- (ii) Plan and implement IP video based network infrastructure;
- (iii) Provide best practices guidelines for video evidence storage and retrieval;
- (iv) Provide short term and long term project coordination;
- (v) Draft individual scopes of work for projects of varying sizes and levels of complexity which details the tasks and provide cost estimates;
- (vi) Analyze and identify technical areas of improvement within existing systems;
- (vii) Provide systems testing, training and application support.
- (viii) If CITY identifies an issue or problem that requires consulting services, CONSULTANT shall conduct research, propose one or more solutions, document and present the solutions to CITY in writing so CITY can determine how to proceed.
- (ix) Provide written reports to CITY as required by CITY.

The Services shall be provided to CITY on an as-needed basis as directed by CITY in the manner set forth herein. For each requested engagement, CONSULTANT shall provide CITY with a written proposal which shall include (at a minimum) a detailed scope of work, deliverables, compensation and payment milestones ("Proposal"). Each Proposal is subject to the prior written approval of CITY. Upon approval, such Proposal shall be incorporated herein as if set forth in full and the services provided thereunder such Proposal shall be subject to the terms and conditions of this Agreement. CITY shall issue a written authorization to proceed for each accepted Proposal.

## **EXHIBIT B**

### **SCHEDULE AND RATES OF PAYMENT**

CITY shall pay CONSULTANT compensation at a blended rate of One Hundred and Five Dollars (\$105.00) per hour for scheduled service during normal business hours. The total sum paid to CONSULTANT under this Agreement shall not exceed the amount of One Hundred Fifty Thousand Dollars (\$150,000.00), as set forth in the purchase order issued by CITY for all services to be provided pursuant to this Agreement. Said Compensation 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 labor, materials, tax, assembly and installation as applicable.) There shall be no reimbursement for travel related expenses.

CONSULTANT 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 and the hours of service. CITY shall pay CONSULTANT all undisputed amounts of such billing within thirty (30) days of receipt of the same.

EXHIBIT C

CERTIFICATE OF INSURANCE

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

**NAMED INSURED**

**COMPANIES AFFORDING COVERAGE**

**ADDRESS**

- A.
- B.
- C.

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

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

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

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

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

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

DATE : \_\_\_\_\_ BY : \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized Insurance Representative

AGENCY : \_\_\_\_\_ TITLE : \_\_\_\_\_  
 \_\_\_\_\_ Address : \_\_\_\_\_  
 \_\_\_\_\_



**SMALL  
ENTERPRISE LICENSE AGREEMENT  
COUNTY AND MUNICIPALITY**

**Authorized Distributor/Esri Use Only:**  
Cust. Name \_\_\_\_\_  
Cust. # 100435  
PO # \_\_\_\_\_  
Esri Agreement # 2014SGE3053

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

This Small Enterprise License Agreement ("ELA") is by and between the organization listed on the signature page ("Licensee"); **Environmental Systems Research Institute, Inc. ("Esri")**; and, if Licensee is located outside the United States of America (USA), the Authorized Distributor listed on the signature page ("**Authorized Distributor**"). Authorized Distributor is authorized by Esri to provide access to Online Services and provide ELA Maintenance for Enterprise Products and other benefits, as described herein, to Licensee located outside the USA.

This ELA sets forth the terms for Licensee's use of Enterprise Products and incorporates by reference (i) the ELA Quotation and (ii) the License Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this ELA, the order of precedence for the documents shall be as follows: (i) the ELA Quotation, (ii) Small Enterprise License Agreement, and (iii) the License Agreement. This ELA shall be governed by and construed in accordance with the laws of the state in which Licensee is located without reference to conflict of laws principles, and the USA federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this ELA apply only to the Enterprise Products listed in Table A.

**Table A  
List of Enterprise Products**

**Unlimited Quantities**

**Desktop Software and Extensions**

ArcGIS for Desktop Advanced  
ArcGIS for Desktop Standard  
ArcGIS for Desktop Basic  
ArcGIS for Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager for Desktop, ArcGIS Data Reviewer

**Server Software and Extensions**

ArcGIS for Server Workgroup and Enterprise (Advanced, Standard, and Basic)  
ArcGIS for Server Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager for Server, ArcGIS Image Extension for Server

**Developer Tools**

ArcGIS Engine  
ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Engine  
Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics  
ArcGIS Runtime Standard  
ArcGIS Runtime Standard Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Network Analyst

**Limited Quantities**

One (1) Annual Subscription to Esri Developer Network (EDN) Standard\*  
One (1) Esri CityEngine Advanced Single Use License  
One (1) Esri CityEngine Advanced Concurrent Use License  
One (1) ArcGIS Online Subscription\*

**Other Benefits**

One (1) ArcGIS Online subscription with specified named users and credits as determined in the program description	<b>Level 3</b>
Number of Esri International User Conference registrations provided annually	<b>3</b>
Number of Tier 1 Help Desk individuals authorized to call Esri	<b>3</b>
Maximum number of sets of backup media, if requested**	<b>2</b>
Virtual Campus Annual User License allowance	<b>7,500</b>
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement (Discount does not apply to Small Enterprise Training Package.)	

\*ELA Maintenance is not provided for these items.

\*\*Additional sets of backup media may be purchased for a fee.

Licensee may accept this ELA by signing and returning it with an Ordering Document that matches the ELA Quotation and references this ELA. **ADDITIONAL OR CONFLICTING TERMS IN LICENSEE'S ORDERING DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS ELA WILL GOVERN.** Unless otherwise mutually agreed to, this ELA is effective as of the date of the last signature on the signature page ("Effective Date"), or if no date is provided with the signature, the date of Esri's receipt of Licensee's Ordering Document incorporating this ELA by reference.

This ELA supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Enterprise Products. Except as provided in Article 4—Enterprise Product Updates, no modifications can be made to this ELA.

This ELA may be executed in duplicate by the parties. An executed separate signature page transmitted through electronic means, such as fax or e-mail, is valid and binding even if an original paper document bearing each party's original signature is not delivered.

Accepted and Agreed:

CITY OF BEVERLY HILLS  
(Licensee)

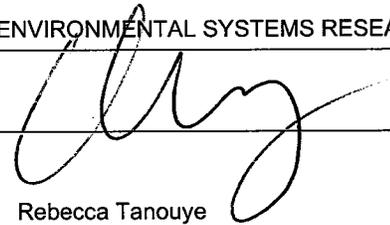
By: \_\_\_\_\_  
Authorized Signature

Printed Name: Lili Bosse

Title: Mayor of the City of Beverly Hills

Date: \_\_\_\_\_

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC

  
\_\_\_\_\_  
Rebecca Tanouye

Customer Service Manager

5/7/2014

LICENSEE CONTACT INFORMATION

Contact: David Schirmer, CIO

Telephone: 310-285-2590

Address: 455 N. Rexford Drive

Fax: 310-246-1567

City, State, Postal Code: Beverly Hills, CA 90210

E-mail: dschirmer@beverlyhills.org

Country: United States

ELA Quotation Number (if applicable): 20446000

City of Beverly Hills signatures continued for ESRI Small Municipal and County Enterprise License Agreement

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

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

  
\_\_\_\_\_  
KARL KIRKMAN  
Risk Manager

## 1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the License Agreement, the following definitions apply to this ELA:

**"Deploy"** means to redistribute and install the Enterprise Products and related Authorization Codes within Licensee's organization(s).

**"ELA Maintenance"** means Tier 2 Support, updates, and patches provided by Esri or its Authorized Distributor to Licensee for the Enterprise Products.

**"ELA Quotation"** means the Small Enterprise License Agreement offer letter and quotation provided separately by Esri or its Authorized Distributor to Licensee.

**"ELA Fee"** means the fee set forth in the ELA Quotation.

**"Enterprise Products"** means the Products identified in Table A—List of Enterprise Products and any updates to such list provided in writing by Esri or its Authorized Distributor.

**"Incident"** means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

**"License Agreement"** means the applicable license agreement incorporated by this reference that is (i) found at <http://www.esri.com/legal/software-license>; composed of the General License Terms and Conditions (E204) and Exhibit 1, Scope of Use (E300); and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed license agreement between Esri, Distributor (if applicable), and Licensee that supersedes such electronically acknowledged license agreement.

**"Technical Support"** means a process to attempt to resolve reported Incidents through error correction; patches; hot fixes; workarounds; replacement deliveries; or any other type of Enterprise Product corrections or modifications.

**"Tier 1 Help Desk"** means Licensee's point of contact from which all Tier 1 Support will be given to Licensee.

**"Tier 1 Support"** means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in attempted resolution of reported Incidents.

**"Tier 2 Support"** means the Technical Support provided by Esri or its Authorized Distributor to the Tier 1 Help Desk when the Incident cannot be resolved through Tier 1

Support. Licensees located in the USA will receive Tier 2 Support from Esri. Licensees outside the USA will receive Tier 2 Support from an Authorized Distributor located in the Licensee's region.

## 2.0—ADDITIONAL GRANT OF LICENSE

**2.1 Grant of License.** Subject to the terms and conditions of this ELA, Esri grants to Licensee a personal, nonexclusive, nontransferable Term License solely to use, copy, and Deploy quantities of the Enterprise Products listed in Table A for the term provided in Section 3.1—Term (i) for which the applicable license fees have been paid and (ii) in accordance with the License Agreement.

**2.2 Consultant Access.** Esri grants Licensee the right to permit Licensee's consultants or contractors to use the Enterprise Products exclusively for Licensee's benefit. Licensee shall be solely responsible for compliance by consultants and contractors with this ELA and shall ensure that the consultant or contractor discontinues Product use upon completion of work for Licensee. Access to or use of Products by consultants or contractors not exclusively for Licensee's benefit is prohibited. Licensee may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor Servers for the benefit of Licensee.

## 3.0—TERM, TERMINATION, AND EXPIRATION

**3.1 Term.** The term of this ELA and all licenses hereunder shall commence on the Effective Date and continue for three (3) years, unless this ELA is terminated earlier as provided herein. Licensee is only authorized to use Deployed Enterprise Products during the term of this ELA. No indefinite term or perpetual license grants are provided with this ELA.

**3.2 No Use upon Expiration or Termination.** All Deployed Enterprise Product licenses and all ELA Maintenance, Virtual Campus access, and User Conference Registrations terminate on expiration or termination of this ELA.

**3.3 Termination for a Material Breach.** Either party may terminate this ELA for a material breach by the other party. The breaching party shall be given a period of ten (10) days from the date of written notice to cure any material breach.

**3.4 Termination for Lack of Funds.** For government or government-owned entities only, either party may terminate this ELA for Lack of Funds. Lack of Funds is the inability of Licensee to secure appropriation of funds through the legislative or governing body's approval process for annual payments due.

#### **4.0—ENTERPRISE PRODUCT UPDATES**

**4.1 Future Updates.** Esri and its Authorized Distributor reserve the right to update the list of Enterprise Products in Table A by providing written notice to Licensee. Licensee may continue to use all Enterprise Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Enterprise Products are incorporated into the standard program, they will be offered to Licensee via written notice for incorporation into the Enterprise Products schedule at no additional charge. Licensee's use of new or updated Enterprise Products requires Licensee to adhere to applicable additional or revised terms and conditions of the License Agreement.

**4.2 Product Life Cycle.** During the term of this ELA, some Enterprise Products may be retired or may no longer be available for unlimited quantity Deployment. ELA Maintenance shall be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <http://resources.arcgis.com/content/product-life-cycles>. Updates for Enterprise Products in the mature and retired phases may not be available; however, Licensee may continue to use Deployed Enterprise Products for the term of this ELA, but Licensee will not be able to Deploy retired Enterprise Products.

#### **5.0—ELA MAINTENANCE**

ELA Maintenance is included with the ELA Fee. ELA Maintenance includes standard maintenance benefits specified in either (i) the most current applicable Esri USA Software Maintenance Program document (found at <http://www.esri.com/legal>) for USA-based Licensees or (ii) the applicable Authorized Distributor software maintenance policy as modified by this Article 5.0—ELA Maintenance. At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Enterprise Products will receive maintenance under this ELA. Licensee may acquire maintenance for other Software (non-Enterprise Products) outside this ELA.

##### **a. Tier 1 Support Provided by Licensee**

1. Licensee shall provide Tier 1 Support through the Tier 1 Help Desk to all Licensee's authorized users.
2. The Tier 1 Help Desk will use analysts fully trained in the Software they are supporting.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. Tier 1 Support analysts will be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Incident. The analyst may also use any other information and databases that may be developed to satisfactorily resolve Incidents.
5. If the Tier 1 Help Desk cannot resolve the Incident, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
6. Tier 1 Help Desk individuals identified by Licensee are the only individuals authorized to contact Tier 2 Support. Licensee may revise named individuals by written notice.

##### **b. Tier 2 Support Provided by Esri or Its Authorized Distributor**

1. Tier 2 Support shall log the calls received from Tier 1 Help Desk individuals.
2. Tier 2 Support shall review all information collected by and received from Tier 1 Help Desk individuals including preliminary documented troubleshooting provided by Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support shall attempt to resolve the Incidents submitted by Tier 1 Help Desk by assisting Tier 1 Help Desk individuals.
5. When the Incident is resolved, Tier 2 Support shall communicate the information to Tier 1 Help Desk individuals, and Tier 1 Help Desk shall disseminate the resolution to the user.

## 6.0—ENDORSEMENT AND PUBLICITY

This ELA shall not be construed or interpreted as an exclusive dealings agreement or Licensee's endorsement of Esri or its Authorized Distributor. Licensee agrees that Esri and its Authorized Distributor may publicize the existence of this ELA upon execution.

## 7.0—ADMINISTRATIVE REQUIREMENTS

- 7.1 **OEM Licenses.** Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri Products and Services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this ELA. Licensee shall not seek any discount from the OEM partner or Esri based on the availability of Enterprise Products under this ELA. Licensee shall not decouple Esri Products or Services from the OEM partners' application or service.
- 7.2 **Annual Report of Deployments.** At each anniversary date and ninety (90) calendar days prior to the expiration date of this ELA, Licensee shall provide a written report detailing all Deployments to either (a) Esri if Licensee is located in the USA or (b) Authorized Distributor if Licensee is located outside the USA. The report will be subject to audit.
- 7.3 **Renewal.** Any follow-on ELA will be offered in accordance with then-current ELA pricing and license terms and conditions.

## 8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

### 8.1 Orders, Delivery, and Deployment

- a. Licensee shall issue an Ordering Document upon execution of this ELA and annually thereafter in accordance with the ELA Quotation. Payment shall

be due and payable within thirty (30) calendar days of the anniversary date of the Effective Date, with the initial payment due within thirty (30) calendar days of execution of this ELA. Esri's Federal ID Number is 95-2775-732.

- b. Upon receipt of the initial Ordering Document from Licensee, Esri shall authorize download of the Enterprise Products to Licensees for its Deployment activities. If requested, Esri will ship backup media to the ship-to address identified on the Order, the FOB Destination, with shipping charges prepaid. For those entities that avoid sales tax by downloading deliverables, request for delivery or receipt of tangible media may cause license fees to be subject to taxes. Licensee acknowledges that should such taxes become due, Esri has a right to invoice and Licensee agrees to pay any such sales or use tax associated with its receipt of tangible media.
- c. Esri shall provide Authorization Codes to activate the nondestructive copy protection program that enables the Enterprise Products to operate.
- d. Licensee shall Deploy, install, configure, and track the Deployment status of the Enterprise Products.

### 8.2 Order Requirements

- a. All orders pertaining to this ELA shall be processed through Licensee's centralized point of contact.
- b. The following information shall be included in each Order (or Ordering Document):
  - (1) Licensee name; Esri customer number, if known; and bill-to and ship-to addresses
  - (2) Order number
  - (3) Applicable annual payment due
  - (4) On the first page of an Ordering Document, a reference to this ELA and the following statement:

"THIS ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL ENTERPRISE LICENSE AGREEMENT, AND ADDITIONAL TERMS AND CONDITIONS IN THE ORDER WILL NOT APPLY."

## 9.0—TRAINING

- 9.1 **Training Description.** Esri offers instructor-led training related to the use of its proprietary GIS software. Esri will provide to Licensee a fixed number of training days to use for Instructor-Led Training, as defined in this Small Enterprise Training Package, if purchased. Instructor-Led Training events occur at an Esri Learning Center or via the web in a

cloud environment. The Esri software training course(s) to be conducted, location, schedule dates, and registration requirements are set forth in the *Esri Training* catalog located on Esri's Training website (<http://training.esri.com>). All courses are conducted in substantial conformity with course descriptions outlined on the Esri Training website. Esri reserves the right to modify course content when necessary due to software technical capabilities or limitations.

## **9.2 Unique Terms for the Small Enterprise Training Package**

- a. To order training, Licensee must include training in the Ordering Document for the ELA or provide an Ordering Document as required and specified within the ELA that matches the Esri quotation.
- b. Where Licensee submits an additional Ordering Document to purchase training days for additional year(s), any unused training days will automatically roll over.
- c. An Ordering Document is required annually for each three (3)-year term. Failure to submit an annual Ordering Document will result in the forfeit of unused training days.
- d. Licensee must assign an individual within its organization to the role of Training Administrator to serve as liaison between Licensee's organization and Esri as well as internally manage and authorize allocated training days.
- e. The training days are available for a period of twelve (12) months, commencing on the Effective Date, and ending when all training days are consumed, whichever is sooner.
- f. Esri will invoice for outstanding training expenses where applicable.
- g. Training days are not transferable and not refundable for any other Esri Products or services.



**Quotation # 20446000**

Date: April 1, 2014

**ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.**  
380 New York St  
Redlands, CA 92373-8100  
Phone: (909) 793-2853 Fax: (909) 307-3025  
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

**Customer # 100435 Contract #**

City of Beverly Hills  
Information Technology Dept  
9355 Civic Center Dr Ste B  
Beverly Hills, CA 90210

*To expedite your order, please attach a copy of this quotation to your purchase order.*  
*Quote is valid from: 04/01/2014 To: 06/30/2014*

ATTENTION: Lema Kebede  
PHONE: (310) 288-2884  
FAX: 310-246-1567

Material	Qty	Description	Unit Price	Total
110036	1	Populations of 25,001 to 50,000 Small Government Term Enterprise License Agreement - Year One	35,000.00	35,000.00
110036	1	Populations of 25,001 to 50,000 Small Government Term Enterprise License Agreement - Year Two	35,000.00	35,000.00
110036	1	Populations of 25,001 to 50,000 Small Government Term Enterprise License Agreement - Year Three	35,000.00	35,000.00
			Item Total:	105,000.00
			Subtotal:	105,000.00
			Sales Tax:	9,450.00
			Estimated Shipping & Handling(Surface Delivery) :	0.00
			Contract Pricing Adjust:	0.00
			<b>Total:</b>	<b>\$114,450.00</b>

\* Please indicate on your purchase order if this purchase is funded through the American Recovery and Reinvestment Act, and whether Esri is a Prime Recipient, Sub-recipient, or Vendor for reporting purposes. Esri may charge a fee to cover expenses related to any customer requirement to use a specific vendor management, procurement, or invoice program.

<p><b>For questions contact:</b> Tammy Hook      <b>Email:</b> <a href="mailto:thook@esri.com">thook@esri.com</a>      <b>Phone:</b> (909) 793-2853 x3949</p> <p>Acceptance of this quotation is limited to the Esri License Agreement and the Quotation Terms and Conditions This Quotation is made in confidence for your review. It may not be disclosed to third parties, except as required by law.</p> <p><b><i>If sending remittance, please address to: Esri, File No. 54630, Los Angeles, Ca 90074-4630</i></b></p>
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HOOKT

**This offer is limited to the terms and conditions incorporated and attached herein.**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND EVERBRIDGE,  
INC. FOR LICENSING OF THE CITY'S MASS NOTIFICATION SYSTEM AND  
RELATED SERVICES

NAME OF CONSULTANT: Everbridge, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Ellen Rollins, Senior Account Manager

CONSULTANT'S ADDRESS: 505 North Brand Boulevard, Suite 700  
Glendale, CA 91203

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

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2017

CONSIDERATION: \$32,538.45 per year, for a total amount of  
\$97,615.35 for the term of the Agreement  
as further described in Exhibit B-1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
EVERBRIDGE, INC. FOR LICENSING OF THE CITY'S MASS  
NOTIFICATION SYSTEM AND RELATED SERVICES

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

RECITALS

A. CITY desires to have certain services provided as set forth in the Scope of Work related to the CITY's mass notification system including all technology, software and services provided therewith, as more particularly described in Exhibit A-1, and Exhibit A-2, attached hereto and incorporated herein, CONSULTANT's "Service Agreement" (collectively, the "Services").

B. CONSULTANT represents that it is qualified and able to perform the Services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT shall perform the Services described in Exhibits A-1 and 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. Term of Agreement. This Agreement shall commence on July 1, 2014 and shall terminate on June 30, 2017.

Section 3. Compensation. CITY agrees to compensate CONSULTANT, and CONSULTANT agrees to accept in full satisfaction for the services required by this Agreement the Consideration more particularly described in Exhibit B-1 and Exhibit B-2 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). In no event shall the CONSULTANT be paid more than the yearly maximum Consideration set forth above.

Section 4. Method of Payment. CONSULTANT shall submit to CITY a detailed invoice, on an annual basis on or before September 1<sup>st</sup> each year the Agreement remains in effect, for the services performed pursuant to this Agreement. Within 30 days of receipt of each invoice, CITY shall pay all amounts included on the invoice.

Section 5. 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 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONSULTANT without the prior written approval of CITY, except to a successor in interest to all or substantially all of the assets or other equity interest in CONSULTANT. 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 by CONSULTANT shall not be made without prior written consent of CITY.

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

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

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

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

Section 11. 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) 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 CONSULTANT in performing the Scope of Work required by this Agreement.

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

(b) CONSULTANT shall require each of its sub-contractors 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, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

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

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

#### Section 12. 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 with respect to: (a) CONSULTANT's obligations under Section 17 (Non-Disclosure) of this Agreement, or (b) physical injury or property damage caused by CONSULTANT or any person employed by CONSULTANT while on-site at CITY facilities. In no event shall CONSULTANT or any person employed by CONSULTANT be liable under any theory of liability for, or be required to indemnify CITY for, damages or injuries arising in whole or in part from a failure to receive a notification from the System, or for content or data provided by CITY. In no event shall CONSULTANT have any liability to the CITY for any loss of use, interruption of business, or any lost profits, costs of procurement of substitute goods or services, or for any indirect, special, incidental, punitive, or consequential damages however caused and, whether in contract, tort or under any other theory of liability.

Section 13. License, Intellectual Property Warranty and Indemnification.

(a) CONSULTANT hereby grants to CITY a non-exclusive license to use the System 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 System 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) CONSULTANT agrees to indemnify, hold harmless and defend CITY, the City Council and each member thereof, every officer, employee and agent of CITY, from any liability or financial loss (including, without limitation, attorneys fees and costs) arising from or related to any claim that use of the System provided by CONSULTANT infringes upon any copyright, trade secret, trademark, patent or other proprietary or intellectual property right of any third party. CONSULTANT shall, at its sole expense, defend and settle all suits or proceedings arising out of the foregoing, provided that CITY gives CONSULTANT prompt notice of such claim of which it learns. In all events, CITY shall have the right, but not the obligation, to participate at its own expense in the defense of any such suit or proceeding through counsel of its own choosing.

(c) CONSULTANT's indemnification obligations hereunder shall not apply to the extent that any warranty claim or demand for indemnification arises as a result of or is caused by (i) any unauthorized use, reproduction, or distribution of the System; (ii) any use of the System in combination with other products, equipment, software, or data not supplied by CONSULTANT; (iii) any use, reproduction, or distribution of any release of the System other than the most current release made available to CITY, or (iv) any modification of the System by any person other than CONSULTANT.

(d) This indemnity provision shall survive termination of this Agreement.

Section 14. Termination.

(a) CITY and CONSULTANT shall have the right to terminate this Agreement for any reason or for no reason upon thirty (30) calendar 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 without fault or failure of performance by CONSULTANT, the CITY will not receive any refunds for the remaining term.

(c) In the event of termination or cancellation of this Agreement by CITY due to the fault or failure of performance by CONSULTANT, the CITY will send written notice to CONSULTANT describing the breach in reasonable detail. If the CONSULTANT does not cure the breach within thirty (30) days following its receipt of such notice (the "Notice Period"), then following the expiration of the Notice Period, CITY may send written notice to CONSULTANT electing to terminate this Agreement for failure of performance and shall be entitled to receive a prorated refund of amounts paid for the period from the last day of the Notice Period to the end of the then current year of the term.

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

Section 17. Non-Disclosure.

(a) Pursuant to the terms of this Agreement, CITY has provided, 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,

(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, except as required by law or court order. This provision survives termination of this Agreement.

Section 18. Changes in the Scope of Work. The CITY shall have the right to request, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work or the services to be performed must be made in writing and approved by both parties.

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

Section 20. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees and costs, in addition to such other relief as may be sought and awarded. (match section 17 of old agreement)

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

Section 22. Exhibits; Precedence. The provision of the services under the Scope of Work shall be provided to CITY pursuant to the terms and conditions of this Agreement and the terms set forth in Exhibit A-1. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of Exhibit A-2, the provisions of this Agreement shall prevail.

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

Section 24. No Third Party Beneficiaries. This Agreement and the obligations hereunder are not intended to benefit any party other than CITY and CONSULTANT. No entity or person 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.

Section 25. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

Section 26. Force Majeure. CONSULTANT's performance of its obligations under this Agreement shall be excused for the duration of any circumstances set forth in Section 3.1 of Exhibit A-1 to this Agreement.

EXECUTED the \_\_\_\_ day of \_\_\_\_\_, 2014, at Beverly Hills, California.

CITY OF BEVERLY HILLS  
A Municipal Corporation

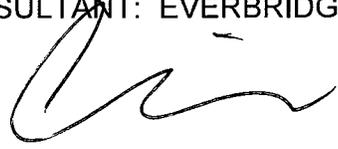
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

CONSULTANT: EVERBRIDGE, INC.



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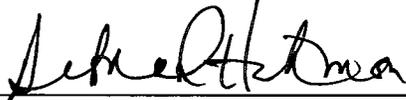
CINTA PUTRA  
Chief Executive Officer



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MARIE-LAURE LEGLISE  
Vice President of Finance

APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY KOLIN  
City Manager



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DAVID SCHIRMER  
Chief Information Officer



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KARL KIRKMAN  
Risk Manager

## EXHIBIT A-1

### SCOPE OF WORK

CONSULTANT shall grant the CITY access to the CONSULTANT's (for purposes of this Exhibit, CONSULTANT shall also mean Everbridge) Everbridge public notification system, as more fully described in page 4 of this Exhibit, "System Inclusion". The Everbridge system may best be described as a web-based, mass notification application that allows CITY staff to quickly communicate telephone, email, and text messages to residents and businesses throughout the CITY (sometimes referred to as "members"). The primary purpose of the system is to broadcast important public-safety related messages during emergency situations, such as evacuation orders in the event of a wild fire. However, the system may also be used for different scenarios, such as street closures, upcoming events and so on.

Service Level Agreement (SLA's):

- The Service shall have a monthly broadcast availability 1 of 99.99% or greater, allowing for real-time call prioritization.
- For any given 60 minute period, CONSULTANT shall make a minimum number of notification attempts to the 1st contact path for customer broadcasts using the standard configuration (30 second call or 500 character message) per the table below:
  - Minimum number of notification attempts in 60 minutes

Notification Type	Notification Attempts
Voice	40,000
Text	100,000

- CONSULTANT may periodically conduct routine maintenance or implement upgrades to the Service as needed to maintain availability and performance within our agreed upon SLA's.
- CONSULTANT shall assist the CITY with answering questions about the Service, customer usage, and to address specific issues. CONSULTANT will also provide an emergency hotline for assisting the CITY, and includes the following:
  - Customer Service- Everbridge Client Success is available 7 days a week, 365 days a year by dialing the Everbridge toll-free number (866-436-4911). Normal business hours for Everbridge Client Success are from 6:00 am to 6:00 pm Pacific Time, with live Emergency Support available outside of these hours.
  - Email Support-Email support is available at [support@everbridge.com](mailto:support@everbridge.com) between the hours of 6:00 am and 6:00 pm Pacific Time. E-mails are responded to within one business day in the order received.
  - On-line Help- Everbridge has a repository of information about the Service and its usage, available on the CITY Services Self Service Portal. This repository includes:

- Comprehensive user documentation
  - Comprehensive system documentation
  - Frequently Asked Questions
  - Live Operator Access – CITY will have access to an Everbridge Live Operator to send notifications 24 hours a day, 7 days a week, 365 days a year.
- CONSULTANT shall provide operator assistance when needed, including setting up emergency notification calls for CITY and web based training.
  - CONSULTANT shall upload 911 numbers from CITY's Police Department.
  - Other components provides as part of the service level include:

(a) Ongoing: Throughout the term of this Agreement, CONSULTANT shall configure the Mass Notifications Systems ("System") as appropriate. Requests for customization from CITY shall be considered immediately and placed in the development cycle based on the relative criticality of the requested change to CONSULTANT's customers as a group as well as the requesting entity. CONSULTANT shall respond to all requests from the CITY for changes to the System and work with the CITY on a case by case basis to determine the best business approach to satisfy the request.

(b) Support: At all times while this Agreement is in effect, CONSULTANT shall provide routine technical support, and whatever routine maintenance, trouble shooting and repairs as are necessary to ensure CITY's access to the System, and to all data related to CITY users, customers, and any related information input into the System ("CITY's Data"). Bug fixes, maintenance of the database and other repairs of the System are included in the annual license and/or service fee.

(c) Scheduled and Unscheduled Outages: CONSULTANT shall notify CITY of all scheduled outages within a reasonable time, but not less than twenty-four (24) hours prior to the scheduled outage. CONSULTANT shall make reasonable efforts to assure that scheduled outages during normal business hours shall not exceed two (2) hours during any calendar month. In cases of unscheduled outages, CONSULTANT shall use its best efforts to notify CITY as soon as CONSULTANT learns of the unscheduled outage and CITY's access to the System and CITY's Data shall be restored within a reasonable time, but not more than forty-eight (48) hours.

(d) Hosting: CONSULTANT acknowledges that it will "host" the System and agrees that it will backup data and take appropriate measures to protect and store CITY's Data. All backup, security and storage shall be approved by CITY's Security Administrator for purposes of complying with CITY's policies as follows:

(i) Retention Schedule: CONSULTANT shall retain data during the term of this Agreement. CITY may download and retain data supplied by the CITY at any time during this period.

(ii) Retrieval Format: CITY and CONSULTANT agree that for purposes of all backups, storage and retrieval of CITY's Data, CONSULTANT shall use MySQL database export format.

(e) Backup and Recovery: CONSULTANT shall provide CITY with incremental backups of CITY's Data via electronic file transfer in MySQL database export format. Such incremental backups shall be delivered at least biweekly, unless otherwise

mutually agreed upon by CONSULTANT and CITY in writing. During any period in which CONSULTANT is obligated to provide the CITY with incremental backups of CITY's Data, CITY agrees that it shall retain and store such backups for a period of at least the last two consecutive years following receipt of such CITY Data and, upon the written request of CONSULTANT, deliver to CONSULTANT at no cost to CONSULTANT, all such backups via electronic file transfer in mySQL data base export format, within fourteen (14) calendar days of receipt of such request.

(f) CONSULTANT shall uphold the following performance standards to be considered in compliance with this Agreement:

(i) CONSULTANT shall maintain separate storage files for, and access rights to CITY's Data, and shall secure such data.

(ii) CONSULTANT warrants the System can be accessed by Microsoft Internet Explorer 3.0 and above.

(iii) CONSULTANT shall make all available arrangements for the System to be accessible by the CITY's staff 99.8% of the time, which shall be calculated within each calendar month, not counting scheduled maintenance. Notification by CONSULTANT to CITY of outages shall be governed by the terms in paragraph (c) above.

(iv) CONSULTANT shall install security protocols which meet the minimum reasonable "best practices" standards and provide CITY's Security Administrator with information about such protocols. CONSULTANT shall update its "best practices" from time to time as necessary to meet changing industry standards.

(v) CONSULTANT shall maintain multiple geo-dispersed data centers in an Active-Active configuration to ensure total System redundancy and automatic and complete failover.

(vi) CONSULTANT warrants that the System shall perform in accordance with the published specifications.

## Everbridge Mass Notification

Everbridge Mass Notification allows users to send notifications to individuals or groups using lists, locations, and visual intelligence. Everbridge Mass Notification is supported by state-of-the-art security protocols, an elastic infrastructure, advanced mobility, interactive reporting and analytics, adaptive people and resource mapping to mirror your organization, and true enterprise class data management capabilities to provide a wide array of data management options. Below is a list of key system inclusions with your new Everbridge Mass Notification system.

### Usage

- Unlimited Domestic Emergency Alerts and Testing Messages
- Unlimited Domestic Non-Emergency Alerts Messaging

### Core Platform Access

- Unlimited Administrators for web-based portal to initiate messages, reporting, and administration
- Unlimited Administrators for Mobile Manager Application (iOS, Android) and Mobile Optimized Notification Site (for Blackberry, Windows 10, etc.)
- Two (2) Organization with unlimited nested static and dynamic groups
- Access to Everbridge Elastic Infrastructure for message delivery
- Custom branded community opt-in portal with custom fields and opt-in subscriptions
- Flexible role-based access controls to manage user permissions
- Access to Real-Time Dashboard, Notifications Library, Everbridge Universe, and Custom Reporting

### Key Notification Features

- Integrated GIS/Map-based, rule-based, group-based, or individual contact selection
- Ability to send standard, polling, or on-the-fly 'One-Touch' Conference Call messages
- One-screen broadcast creation workflow to speed message creation and reduce human error
- Everbridge Network to access situational intelligence & notifications shared by other public and private groups
- Publish notifications directly to Websites and services that support API access via HTTPS using 'Web Posting'
- Contact filtering based on custom criteria
- Map-based drawing and selection tools and imported shape files (e.g. Google Maps, Bing Maps, ESRI)
- Automatic address geo-coding for contacts
- Organization specific customizable caller ID, greetings, and broadcast settings
- SMPP based SMS text messaging
- Multi-language Text to Speech Engine and Custom Voice Recording
- Real-time reporting for improved situational awareness and easier after action analysis
- 5 Live Operator Message Initiations per year
- Interactive Dashboard for Organizational Activity Summary
- Unlimited Notification Templates
- Self-service Single Contact Record Adjustments
- Self-service Contact Import via CSV Upload
- Bulk Contact Management Automation via Secure FTP

### Set-up, Implementation & Support

- Up to 10 total hours of a dedicated Implementation Specialist during a Standard Implementation
- Self Service Administrative Set-up, Configuration and Default Preferences
- Initial Member Data Upload and Test Broadcast Support
- Unlimited Access to Everbridge University classes
- 24x7 Customer Support (phone, web, email)
- Global Support/Operations Centers for Redundant Live Support
- Dedicated Account Manager

## EXHIBIT A-2

### SERVICE AGREEMENT



This Core Platform Service Agreement (“**Agreement**”) is entered into by and between Everbridge, Inc. (“**Everbridge**”), and \_\_\_\_\_ (“**Customer**”), effective on the date of Customer’s signature below (“**Effective Date**”). Everbridge and Customer are each hereinafter sometimes referred to as a “**Party**” and collectively, the “**Parties**”.

**1. SERVICE.** Everbridge shall provide Customer access to its proprietary interactive communication service(s) (the “**Service(s)**”) subject to the terms and conditions set forth in this Agreement and the description of services and pricing provided in the applicable quote (the “**Quote**”). If applicable, Everbridge shall provide the training and professional services set forth in the Quote. Everbridge shall provide Customer with login and password information for each User (as defined below) and will configure the Service to contact the maximum number of households (each a “**Contact**”) set forth on the Quote.

**2. PAYMENT TERMS.** Customer shall pay the fees set forth in the Quote (“**Pricing**”). If Customer exceeds the usage levels specified in the Quote, then Everbridge may invoice Customer for any overages at then current rates. Everbridge shall invoice Customer annually in advance. All payments shall be made within thirty (30) days from date of invoice, after which interest shall accrue at a rate of one and one-half percent (1.5%) per month or the highest rate allowed by applicable law, whichever is lower. Such interest shall be in addition to any other rights and remedies of Everbridge. Pricing does not include any local, state, federal or foreign taxes, levies or duties of any nature, all of which Customer is responsible for paying, except for those relating to Everbridge’s income.

### **3. CUSTOMER RESPONSIBILITIES.**

**3.1 Users.** If Customer has purchased Mass Notification, Customer shall in its discretion authorize certain of its employees and contractors to access that Service. If Customer has purchased Incident Management, Customer shall authorize only those employees or contractors who are Incident Operators (as defined on Exhibit A) or Incident Administrators (as defined on Exhibit A) to access that Service. Collectively, Customer’s employees and contractors who are authorized to access any Service as provided above are referred to as “**User(s)**”. Each User must be bound in writing to confidentiality obligations sufficient to permit Customer to fully perform its obligations under this Agreement. Customer shall undergo the initial setup and training as set forth in the Implementation – Standard inclusion sheet provided with the Quote. The Implementation sheet provides a detailed list of the services included as part of the implementation purchased and the corresponding timelines. If Customer fails to complete the Implementation process within the sixty (60) day timeframe, Customer must purchase any additional implementation services. Customer shall be responsible for: (i) ensuring that Users maintain the confidentiality of all User login and password information; (ii) ensuring that Users use the Service in accordance with all applicable laws and regulations,

including those relating to use of personal information; (iii) any breach of the terms of this Agreement by any User; and (iv) all communications by Users using the Service. Customer shall promptly notify Everbridge if it becomes aware of any User action or omission that would constitute a breach or violation of this Agreement.

**3.2 Customer Data.** “**Customer Data**” is all electronic data Customer transmits to Everbridge in connection with the use of the Service. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. By purchasing the Service, Customer represents that it has the right to authorize and hereby does authorize Everbridge and its “**Service Providers**” to collect, store and process Customer Data subject to the terms of this Agreement. “**Service Providers**” shall mean communications carriers, data centers, collocation and hosting services providers, and content and data management providers that Everbridge uses in providing the Service. Customer shall maintain a copy of all Customer Contact data that it provides to Everbridge. Customer acknowledges that the Service is a passive conduit for the transmission of Customer Data and any data submitted by Contacts, and Everbridge shall have no liability for any errors or omissions or for any defamatory, libelous, offensive or otherwise objectionable or unlawful content in any Customer Data or data submitted by Contacts, or for any losses, damages, claims, suits or other actions arising out of or in connection with any data sent, accessed, posted or otherwise transmitted via the Service by Customer or Contacts.

**4. TERM.** This Agreement will commence on the Effective Date and will continue in full force and effect until all executed Quotes have terminated, unless otherwise terminated in accordance with the termination rights set forth in this Agreement. If at the end of the applicable Quote, Customer intends to renew the Agreement, but has not provided a timely executed written renewal prior to the end of such term, then Everbridge, in its sole discretion, shall continue the Service(s) hereunder for thirty (30) days (the “**Grace Period**”) in order to secure an executed renewal by Customer, provided that Customer shall pay to Everbridge the annual fee then in effect divided by twelve (12) (the “**Monthly Holdover Fee**”). The Grace Period is provided to Customer as a courtesy so that Services will not be terminated prior to the execution of a renewal. Due to insurance and liability reasons Everbridge can only provide one Grace Period and will charge the Monthly Holdover Fee. The Monthly Holdover Fees are instituted in order to protect Customer from termination or suspension of the Services, but to insure that timely renewals are entered into. Monthly Holdover Fees shall not be returned or refunded to the Customer as a credit towards any renewal

### **5. TERMINATION; SUSPENSION.**

**5.1 Termination by Either Party.** Either Party may terminate this Agreement upon the other Party’s material breach of this Agreement, provided that (i) the non-breaching Party sends written notice to the breaching Party describing

the breach in reasonable detail; (ii) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice (the "**Notice Period**"); and (iii) following the expiration of the Notice Period, the non-breaching Party sends a second written notice to the breaching Party indicating its election to terminate this Agreement.

**5.2 Termination by Everbridge.** If Customer fails to pay any amounts due within thirty (30) days of their due date, Everbridge may terminate this Agreement or suspend the Service in Everbridge's sole discretion pursuant to the notice provisions above. Termination for non-payment shall not relieve Customer of its outstanding obligations (including payment) under this Agreement. If Everbridge suspends the Service, Customer's account shall not be reactivated until Customer is in compliance with this Agreement and has paid all past due amounts plus a reconnection fee of \$1,000.

**5.3 Suspension.** Everbridge may suspend, with or without notice, the Service or any portion for (i) emergency network repairs, threats to, or actual breach of network security; (ii) any violation by Customer of Section 3.2 or 6.2; or (iii) any legal, regulatory, or governmental prohibition affecting the Service. In the event of a suspension under (i) or (iii), Everbridge shall use its best efforts to notify Customer and reactivate any affected portion of the Service as soon as possible.

## 6. PROPRIETARY RIGHTS.

**6.1 Grant of License.** Everbridge hereby grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable right to use the Service subject to the terms and conditions of this Agreement. Upon suspension of the Service or termination of this Agreement for any reason, the foregoing license shall terminate automatically and Customer shall discontinue all further use of the Service.

**6.2 Restrictions.** Customer shall use the Service solely for its internal business purposes and shall not make the Service available to, or use the Service for the benefit of, any third party except as expressly contemplated by this Agreement. Customer shall not: (i) copy, modify, reverse engineer, de-compile, disassemble or otherwise attempt to discover or replicate the computer source code and object code provided or used by Everbridge in connection with delivery of the Service (the "**Software**") or create derivative works based on the Software, the Service or any portion thereof; (ii) merge any of the foregoing with any third party software or services; (iii) use any Everbridge Confidential Information to create a product that competes with the Software; (iv) remove, obscure or alter any proprietary notices or labels on the Software or any portion of the Service; (v) create internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets for its own internal business purposes; (vi) use, post, transmit or introduce any device, software or routine (including viruses, worms or other harmful code) which interferes or attempts to interfere with the operation of the Service; (vii) use the Service in violation of any applicable law or regulation; or (viii) access the Service for purposes of monitoring Service availability, performance or functionality, or for any other benchmarking or competitive purposes.

**6.3 Reservation of Rights.** Other than as expressly set forth in this Agreement, Everbridge grants to Customer no

license or other rights in or to the Service, the Software or any other proprietary technology, material or information made available to Customer through the Service or otherwise in connection with this Agreement (collectively, the "**Everbridge Technology**"), and all such rights are hereby expressly reserved. Everbridge (or its licensors where applicable) owns all rights, title and interest in and to the Service, the Software and any Everbridge Technology, and all patent, copyright, trade secret and other intellectual property rights ("**IP Rights**") therein, as well as (i) all feedback and other information (except for the Customer Data) provided to Everbridge by Users, Customer and Contacts, and (ii) all transactional, performance, derivative data and metadata generated in connection with the Services.

## 7. CONFIDENTIAL INFORMATION.

**7.1 Definition; Protection.** As used herein, "**Confidential Information**" means all information of a Party ("**Disclosing Party**") disclosed to the other Party ("**Receiving Party**"), whether orally, in writing, or by inspection of tangible objects (including, without limitation, documents or prototypes), that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation, any personally identifiable Customer Data, all Everbridge Technology, and either Party's business and marketing plans, technology and technical information, product designs, reports and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose other than performance or enforcement of this Agreement without the Disclosing Party's prior written consent, unless (but only to the extent) otherwise required by a governmental authority. Each Party agrees to protect the Confidential Information of the other Party with the same level of care that it uses to protect its own confidential information, but in no event less than a reasonable level of care. Without limiting the foregoing, this Agreement and all terms hereof shall be Everbridge's Confidential Information.

## 8. WARRANTIES; DISCLAIMER.

**8.1 Everbridge Warranty.** Everbridge shall use commercially reasonable efforts to provide the Services herein contemplated. To the extent professional services are provided, Everbridge shall perform them in a professional manner consistent with industry standards. THE FOREGOING REPRESENT THE ONLY WARRANTIES MADE BY EVERBRIDGE HEREUNDER AND EVERBRIDGE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**8.2 Disclaimer.** THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. NEITHER EVERBRIDGE NOR ITS LICENSORS WARRANT THAT THE SERVICE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL EVERBRIDGE HAVE ANY LIABILITY TO CUSTOMER, USERS, CONTACTS OR ANY THIRD PARTY FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE ARISING FROM FAILURE OF THE SERVICE TO DELIVER AN ELECTRONIC COMMUNICATION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF EVERBRIDGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**8.3 Customer Representations and Warranties.** Customer represents and warrants that during use of the Service, Customer shall (i) clearly and conspicuously notify Contacts of the way in which their personal information shall be used, and (ii) have primary safety and emergency response procedures including, without limitation, notifying 911 or equivalent fire, police, emergency medical and public health officials (collectively, "**First Responders**"). Customer acknowledges and agrees that Everbridge is not a First Responder, and that the Service does not serve as a substitute for Customer's own emergency response plan, which in the event of an actual or potential imminent threat to person or property, shall include contacting a First Responder prior to using the Service. Customer represents and warrants that all notifications sent through the Service shall be sent by authorized Users, and that the collection, storage and processing of Customer Data, and the use of the Service, as provided in this Agreement, will at all times comply with (x) Customer's own policies regarding privacy and protection of personal information; and (y) all applicable laws and regulations, including those related to processing, storage, use, disclosure, security, protection and handling of Customer Data.

## 9. INDEMNIFICATION.

**9.1 By Customer.** Customer shall defend, indemnify and hold Everbridge harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with any claim, suit or proceeding ("**Claim**") arising out of any data sent, accessed, posted or otherwise transmitted via the Service by Customer or Contacts or Customer's breach of the tax provisions in Section 2 or any breach by Customer of Sections 3, 6 or 8.3.

**9.2 By Everbridge.** Everbridge shall defend, indemnify and hold Customer harmless from and against any Claim against Customer, but only to the extent it is based on a Claim that the Service directly infringes an issued patent or other IP Right in a country in which the Service is actually provided to Customer. In the event Everbridge believes any Everbridge Technology is, or is likely to be the subject of an infringement claim, Everbridge shall have the option, at its own expense, to: (i) to procure for Customer the right to continue using the Service; (ii) replace same with a non-infringing service; (iii) modify such Service so that it becomes non-infringing; or (iv) refund any fees paid to Everbridge and terminate this Agreement without further liability. Everbridge shall have no liability for any Claim arising out of (w) Customer Data or other Customer supplied content, (x) use of the Service or Software in combination with other products, equipment, software or data not supplied by Everbridge, (y) any use, reproduction, or distribution of any release of the

Service or Software other than the most current release made available to Customer, or (z) any modification of the Service or Software by any person other than Everbridge.

**10. LIMITATION OF LIABILITY.** Neither Party shall have any liability to the other Party for any loss of use, interruption of business, costs of substitute services, or for any other indirect, special, incidental, punitive, or consequential damages, however caused, under any theory of liability, and whether or not the Party has been advised of the possibility of such damage. Notwithstanding anything in this Agreement to the contrary, in no event shall Everbridge's aggregate liability, regardless of whether any action or claim is based on warranty, contract, tort, indemnification or otherwise, exceed amounts actually paid by Customer to Everbridge hereunder during the 12 month period prior to the event giving rise to such liability. Customer understands and agrees that these liability limits reflect the allocation of risk between the Parties and are essential elements of the basis of the bargain, the absence of which would require substantially different economic terms.

## 11. MISCELLANEOUS.

**11.1 Non-Solicitation.** As additional protection for Everbridge's proprietary information, for so long as this Agreement remains in effect, and for one year thereafter, Customer agrees that it shall not, directly or indirectly, solicit, hire or attempt to solicit any employees of Everbridge; provided, that a general solicitation to the public for employment is not prohibited under this section. In the event that Customer hires any such employee (whether as an employee, consultant or otherwise) in violation of this section, Customer shall pay to Everbridge an amount equal to 100% of the total first-year compensation which Customer pays such individual as a fee, salary, or other compensation.

**11.2 Force Majeure; Limitations.** Everbridge shall not be responsible for performance under this Agreement to the extent precluded by circumstances beyond Everbridge's reasonable control, including without limitation acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, labor problems, computer, telecommunications, Internet service provider or hosting facility failures, or delays involving hardware, software or power systems, and network intrusions or denial of service attacks. The Service delivers information for supported Contact paths to public and private networks and carriers, but cannot guarantee delivery of the information to the recipients. Final delivery of information to recipients is dependent on and is the responsibility of the designated public and private networks or carriers. Customer acknowledges and agrees that territories outside the U.S. and Canada may have territorial restrictions resulting from applicable law, telecommunications or internet infrastructure limitations, telecommunications or internet service provider policies, or communication device customizations that may inhibit or prevent the delivery of certain SMS, text or other notifications, or restrict the ability to place or receive certain calls such as outbound toll free calls. Everbridge shall have no liability to the extent such restrictions impede the Service.

**11.3 Waiver; Severability.** The failure of either Party hereto to enforce at any time any of the provisions or terms of this Agreement shall in no way be considered to be a waiver of such provisions. If any provision of this Agreement is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall, to the

extent required, be deemed deleted and the remaining provisions shall continue in full force and effect.

**11.4 Assignment.** Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned (including an assignment by operation of law), or otherwise transferred, in whole or in part, by Customer, and any such attempted assignment shall be void and of no effect without the advance written consent of Everbridge, which shall not be unreasonably withheld.

**11.5 Governing Law; Attorney's Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws rules. The prevailing party in any action arising out of this Agreement shall be entitled to its reasonable attorneys' fees and costs.

**11.6 Notices.** Either party may give notice at any time by any of the following: letter delivered by (i) nationally recognized overnight delivery service; (ii) first class postage prepaid mail; or (iii) certified or registered mail, (certified and first class mail deemed given following 2 business days after mailing) to the other party at the address set forth below. Either Party may change its address by giving notice as provided herein. Invoices shall be sent to the Customer's contact and address following Customer's signature below.

**11.7 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**11.8 Entire Agreement.** [Intentionally deleted]

**11.9 Marketing.** Customer consents to Everbridge referencing Customer's name and logo as an Everbridge customer in Everbridge publications, its website, and other marketing materials.

**11.10 Survival.** Sections 2, 3.2, 5.2, 6, 7, 9-11 and the applicable provisions of Exhibit A shall survive the expiration or earlier termination of this Agreement.

**11.11 Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall constitute one original document. A facsimile transmission or copy of the original shall be as effective and enforceable as the original.

**11.12 Export Compliant.** Neither Party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

**11.13 Equal Employment Opportunity.** Everbridge, Inc. is a government contractor and is subject to the requirements of Executive Order 11246, the Rehabilitation Assistance Act and VEVRAA. Pursuant to these requirements, the Equal Opportunity Clauses found at 41 Code of Federal Regulations sections 60-1.4(a) (1-7), sections 60-250.4(a-m), sections 60-300.5 (1-11) and sections 60-741.5 (a) (1-6) are incorporated herein by reference as though set forth at length, and made an express part of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth below.

EVERBRIDGE, INC.

By: 

Print Name: Marie-Laure Leglise

Title: v.p. Finance

Date: 6/17/14

Address:

500 N. Brand Blvd., Suite 1000

Glendale, California 91203

**For legal notice:**

Attention: Legal Department

**CUSTOMER:** \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Customer's address for legal notices:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

**Customer's address for billing:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

Email for billing: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Exhibit A to Service Agreement (Exhibit A-2)

Additional Business Terms

The following additional business terms are incorporated by reference into the Agreement as applicable based on the particular products and services described in the Customer's Quote.

**"Data Feed"** means data content licensed or provided by third parties to Everbridge and supplied to Customer through the Service (e.g., real time weather system information and warnings, and third party maps).

**"Incident Administrator"** means an individual who is authorized by Customer as an organizational administrator for the Incident Management Service.

**"Incident Operator"** means an individual who is authorized by Customer as an operator of the Incident Management Service.

**"Premium Features"** means the products and services listed on the Premium Feature List attached to the Quote.

- 1. Data Feeds; Other Data.** Notwithstanding anything to the contrary in this Agreement, to the extent that Customer has purchased or accesses Data Feeds, such feeds are provided solely on an "AS IS" and "AS AVAILABLE" basis and the sole and exclusive remedy for any failure, defect, or inability to access such Data Feed shall be to terminate the Data Feed with no further payments due. No refunds shall be granted with respect to such Data Feed. In addition, to the extent Customer has purchased a feature that allows Customer to monitor, and utilize information and data from other sources not supplied by Everbridge directly (e.g., Twitter or other customers through the Network Effect) (collectively **"Other Data"**), Everbridge disclaims any and all liability of any kind or nature resulting from any inaccuracies or failures with respect to all Other Data.
- 2. Incident Management.** For Customers purchasing the Incident Management Service: (a) Customers may only designate the number of Incident Operators and Incident Administrators set forth on the Quote, and such individuals shall only have the access rights pursuant to such designation and role; (b) Incident Administrators shall have the ability to build incident templates, report on incidents, and launch incident notifications; (c) Incident Operators shall only have the ability to launch or manage incidents; and (d) Customer shall be provided the number of incident templates purchased pursuant to the Quote. If Customer exceeds the number of Incident Operators, Incident Administrators or incident templates purchased, Customer shall be charged the applicable fees then in effect for additional Incident Operators, Incident Administrators or incident templates, as applicable.

## **EXHIBIT B-1**

### **COMPENSATION AND PAYMENT**

CITY shall pay CONSULTANT compensation on an annual basis, due on the anniversary of the commencement of this Agreement, for a total sum not to exceed the amount of Thirty Two Thousand Five Hundred Thirty Eight Dollars and Forty Five Cents (\$32,538.45) annually, as set forth in the purchase order issued by CITY for all services to be provided pursuant to this Agreement.

CONSULTANT shall provide an annual renewal quotation to CITY at least sixty (60) days prior to expiration of the then current year's subscription and support term. Upon notification of renewal by CITY and issuance of a valid purchase order, CONSULTANT shall invoice CITY, and CITY shall pay the amount of such billing within thirty (30) days of receipt of same.

If CITY exceeds the member counts set forth in the Quotation attached hereto as Exhibit B-1, the CITY will be required to either pay additional fees or to reduce the member counts, at CITY's selection.

In addition, The CITY shall be subject to the additional compensation terms set forth in the Quotation attached hereto as Exhibit B-1.

EXHIBIT B-2



500 N Brand Blvd, Suite 1000  
Glendale, CA 91203 USA

tel: 888.366.4911  
fax: 818.484.2299

www.everbridge.com

**QUOTATION**

Quote Number: 00011266

1 of 2

**Prepared for:** Pamela Mottice-Muller  
City of Beverly Hills, CA  
455 N. Rexford Dr.  
Beverly Hills, CA 90210  
(310) 285-1025  
pmottice@beverlyhills.org

**Quotation Date:** April 14, 2014  
**Quote Expiration Date:** August 29, 2014  
**Rep:** Ethel Olague  
(818) 230-9752  
ethel.olague@everbridgemail.com

**Contract Summary Information**

**Contract Period:** 3 Years  
**Contract Start Date:** September 1, 2014  
**Contract End Date:** August 31, 2017  
**MN Contacts up to:** 78,700  
**MN Households up to:** 30,000

**ANNUAL SUBSCRIPTION**

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Everbridge Mass Notification (MN) with Unlimited Domestic Minutes	Recurring	1	\$32,538.45	\$32,538.45

**PREMIUM FEATURES / USAGE**

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Everbridge MN Additional Org	Recurring	1	\$500.00	\$0.00



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"/> CONTRACTOR'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: 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 : \_\_\_\_\_  
 \_\_\_\_\_

AGREEMENT BETWEEN CITY OF BEVERLY HILLS AND  
THE MAPLE COUNSELING CENTER FOR COMMUNITY  
ASSISTANCE FUNDS FOR COMMUNITY MENTAL HEALTH  
SERVICES

THIS AGREEMENT is made and entered into in the City of Beverly Hills by and between the City of Beverly Hills, a municipal corporation ("City"), and The Maple Counseling Center, a non-profit corporation ("Recipient").

R E C I T A L S

WHEREAS it is City's intent to fund programs and services that benefit the residents of the City of Beverly Hills and programs that represent City's commitment to contribute to regional social and human services efforts;

WHEREAS, City desires to provide community assistance funds for fiscal year 2014-2015 to continue to support the operation within the City of a valuable entity which provides community mental health services; and

WHEREAS, Recipient is a non-profit corporation that provides affordable mental health services for individuals, couples, families and groups within City ("Project").

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is agreed as follows:

Section 1. Fund Authorization.

City authorizes the sum of One Hundred Thousand and no/100ths Dollars (\$100,000) to be paid to Recipient for the fiscal year 2014-2015. Payment shall be made to Recipient in the amount of Twenty-Five Thousand and no/100ths Dollars (\$25,000) upon execution of this Agreement. Three additional payments of Twenty-Five Thousand and no/100ths Dollars (\$25,000) each will be paid on October 1, 2014, January 1, 2015 and April 1, 2015, if Recipient complies with the terms of this Agreement.

Section 2. Use of Funds. Recipient shall use the community assistance funds to provide low-cost, individual, group and senior counseling for the Beverly Hills community.

Section 3. Reports. Recipient shall furnish comprehensive quarterly progress reports to the Human Services Administrator (hereinafter "Administrator") on a form provided by City as to the operation of the Project, including the use of funds provided to Recipient by City, specific Project activities and/or changes and the relative benefit of the Project to residents and/or visitors of the City. The first report shall be furnished to the Administrator by October 1, 2014. Additional reports shall be furnished on January 1, April 1, and July 1, 2015.

Section 4. Assignments. This Agreement shall not be assigned by Recipient without the prior written consent of City.

Section 5. Independent Contractor Relationship. At all times during the term of this Agreement, Recipient shall be an independent contractor and Recipient, its officers, employees and agents shall not be employees of City.

Section 6. Termination. The term of this Agreement shall be twelve (12) months commencing July 1, 2014, unless terminated earlier. City may terminate this Agreement, without cause, upon thirty (30) days written notice. If City elects to terminate the Agreement, Recipient shall not be entitled to any payments from City from the date of the notice of termination.

Section 7. Entire Agreement. This Agreement represents the entire integrated agreement between City and Recipient, 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 Recipient.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the City of Beverly Hills, California.

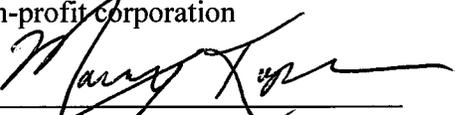
CITY OF BEVERLY HILLS,  
a municipal corporation

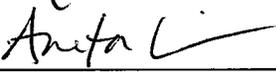
\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

ATTEST:

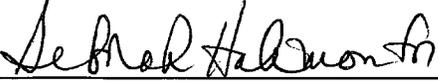
\_\_\_\_\_  
BYRON POPE  
City Clerk

THE MAPLE COUNSELING CENTER,  
a non-profit corporation

By:   
\_\_\_\_\_  
MARCY KAPLAN, MSW  
Chief Executive Officer

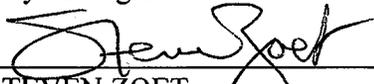
By:   
\_\_\_\_\_  
ANITA FRIEDMAN  
Corporate Secretary

APPROVED AS TO FORM:

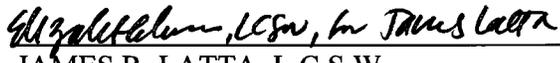
  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY KOLIN  
City Manager

  
\_\_\_\_\_  
STEVEN ZOET  
Director of Community Services

  
\_\_\_\_\_  
DON RHOADS  
Director of Administrative Services/CFO

  
\_\_\_\_\_  
JAMES R. LATTA, L.C.S.W.  
Human Services Administrator

AGREEMENT BETWEEN CITY OF BEVERLY HILLS AND  
PEOPLE ASSISTING THE HOMELESS (P.A.T.H.) FOR  
COMMUNITY ASSISTANCE FUNDS

THIS AGREEMENT is made and entered into in the City of Beverly Hills by and between the City of Beverly Hills, a municipal corporation ("City"), and People Assisting the Homeless (P.A.T.H.), a non-profit corporation ("Recipient").

R E C I T A L S

WHEREAS it is City's intent to fund programs and services that benefit the residents of the City of Beverly Hills and programs that represent City's commitment to contribute to regional social and human services efforts;

WHEREAS, City desires to provide community assistance funds for fiscal year 2014-2015 to continue to support the operation within the City of a valuable entity which provides services to homeless persons on the Westside of Los Angeles; and

WHEREAS, Recipient is a non-profit corporation serving homeless persons on the Westside of Los Angeles ("Project").

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is agreed as follows:

Section 1. Fund Authorization. City authorizes the sum Ninety-Five Thousand and no/100ths Dollars (\$95,000.00) to be paid to Recipient for fiscal year 2014-2015. Payment shall be made to Recipient in the amount of Twenty-Three Thousand Seven Hundred Fifty and no/100ths Dollars (\$23,750) upon execution of this Agreement. Three additional payments of Twenty-Three Thousand Seven Hundred Fifty and no/100ths Dollars (\$23,750) each will be paid on October 1, 2014, January 1, 2015 and April 1, 2015, if Recipient complies with the terms of this Agreement.

Section 2. Use of Funds. Recipient shall use the community assistance funds to aid in its provision of services, including five (5) year-round interim/transitional housing beds (1,825 bed-nights) for homeless individuals referred by the City, comprehensive case management to help secure housing as quickly as possible and five (5) tenant-based Section 8 vouchers to provide affordable and permanent supportive housing in Los Angeles County.

Section 3. Reports. Recipient shall furnish comprehensive quarterly progress reports to the Human Services Administrator (hereinafter "Administrator") on a form provided by City as to the operation of the Project, including the use of funds provided to Recipient by City, specific Project activities and/or changes and the relative benefit of the Project to residents, visitors and/or employees of the City. The first report shall be furnished to the Administrator by October 1, 2014. Additional reports shall be furnished on January 1, April 1, and July 1, 2015.

Section 4. Assignments. This Agreement shall not be assigned by Recipient without the prior written consent of City.

Section 5. Independent Contractor Relationship. At all times during the term of this Agreement, Recipient shall be an independent contractor and Recipient, its officers, employees and agents shall not be employees of City.

Section 6. Termination. The term of this Agreement shall be twelve (12) months commencing July 1, 2014, unless terminated earlier as provided herein. City or Recipient may terminate this Agreement, without cause, upon thirty (30) days written notice.

Section 7. Entire Agreement. This Agreement represents the entire integrated agreement between City and Recipient, 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 Recipient.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, in the City of Beverly Hills, California.

CITY OF BEVERLY HILLS,  
a municipal corporation

\_\_\_\_\_  
LILI BOSSE  
Mayor of the City of Beverly Hills, California

ATTEST:

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

PEOPLE ASSISTING THE HOMELESS  
(P.A.T.H.), a non-profit corporation

By: \_\_\_\_\_  
JOEL JOHN ROBERTS  
Chief Executive Officer

By: \_\_\_\_\_  
HWESU COBB-PHILLIPS  
Chief Financial Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager



STEVEN ZOËT  
Director of Community Services



JAMES R. LATTA, L.C.S.W.  
Human Services Administrator



KARL KIRKMAN  
Risk Manager

AGREEMENT BETWEEN CITY OF BEVERLY HILLS AND  
WESTSIDE FOOD BANK FOR COMMUNITY ASSISTANCE  
FUNDS

THIS AGREEMENT is made and entered into in the City of Beverly Hills by and between the City of Beverly Hills, a municipal corporation ("City"), and Westside Food Bank, a non-profit corporation ("Recipient").

R E C I T A L S

WHEREAS it is City's intent to fund programs and services that benefit the residents of the City of Beverly Hills and programs that represent City's commitment to contribute to regional social and human services efforts;

WHEREAS, City desires to provide community assistance funds for fiscal year 2014-2015 to continue to support the operation within the City of a valuable entity which provides food to agencies on the Westside of Los Angeles; and

WHEREAS, Recipient is a non-profit corporation that acquires and distributes food to agencies and organizations serving homeless and low income persons on the Westside of Los Angeles ("Project").

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is agreed as follows:

Section 1. Fund Authorization. City authorizes the sum of Eighty Five Thousand and no/100ths Dollars (\$85,000) to be paid to Recipient for the fiscal year 2014-2015. Payment shall be made to Recipient in the amount of Twenty One Thousand Two Hundred Fifty and no/100ths Dollars (\$21,250) upon execution of this Agreement. Three additional payments of Twenty One Thousand Two Hundred Fifty and no/100ths Dollars (\$21,250) each will be paid on October 1, 2014, January 1, 2015 and April 1, 2015, if Recipient complies with the terms of this Agreement.

Section 2. Use of Funds. Recipient shall use the community assistance funds to aid in its purchase of bulk food for homeless and low income persons and programs serving them.

Section 3. Reports. Recipient shall furnish comprehensive quarterly progress reports to the Human Services Administrator (hereinafter "Administrator") on a form provided by City as to the operation of the Project, including the use of funds provided to Recipient by City, specific Project activities and/or changes and the relative benefit of the Project to residents, visitors and/or employees of the City. The first report shall be furnished to the Administrator by October 1, 2014. Additional reports shall be furnished on January 1, April 1, and July 1, 2015.

Section 4. Assignments. This Agreement shall not be assigned by Recipient without the prior written consent of City.

Section 5. Independent Contractor Relationship. At all times during the term of this Agreement, Recipient shall be an independent contractor and Recipient, its officers, employees and agents shall not be employees of City.

Section 6. Termination. The term of this Agreement shall be twelve (12) months commencing July 1, 2014, unless terminated earlier. City may terminate this Agreement, without cause, upon thirty (30) days written notice. If City elects to terminate the Agreement, Recipient shall not be entitled to any payments from City from the date of the notice of termination.

Section 7. Entire Agreement. This Agreement represents the entire integrated agreement between City and Recipient, 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 Recipient.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, in the City of 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

WESTSIDE FOOD BANK,  
a non-profit corporation

By: \_\_\_\_\_  
BRUCE RANKIN  
Chief Executive Officer

By: \_\_\_\_\_  
DAVID WISEN  
Chief Financial Officer

[Signatures continue]

APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

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JEFFREY C. KOLIN  
City Manager



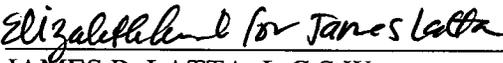
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STEVEN ZOET  
Director of Community Services



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DON RHOADS  
Director of Administrative Services/CFO



---

JAMES R. LATTA, L.C.S.W.  
Human Services Administrator



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KARL KIRKMAN  
Risk Manager

# **Attachment 2**

**City of Beverly Hills**  
**Listing of Annual Blanket Purchase Orders 2014-2015**

**Exhibit - A**

**BUILDING AND FACILITIES**

**Janitorial Maintenance Services & Supplies**

Able Building Maintenance Company \$1,531,820.84  
 Citywide custodial services.

**Buildings - Maintenance, Supplies & Contractors**

DMS Facility Services \$515,000.00  
 Engineering services for mechanical-electrical services, fire and life safety, heating, ventilating & air conditioning systems.

**TOTAL BUILDING AND FACILITIES:**

**\$2,046,820.84**

**EQUIPMENT - Supplies and Maintenance**

3M Library Systems w/ AGREEMENT \$51,000.00  
 Library self-check system, RFID, AMH, media check & detection system, etc.

3 M Company w/ AGREEMENT \$100,000.00  
 Maintenance and support of the City's ALPR (Automated License Plate Recognition) System.

Accuvant w/ AGREEMENT \$325,000.00  
 IT consulting services related to the City's network and wireless systems.

CDW Government, Inc. w/ AGREEMENT \$650,000.00  
 IT consulting services, miscellaneous hardware, software and equipment.

Cloudeeva w/ AGREEMENT \$230,000.00  
 IT consulting services related web and mobile applications.

Commline Inc/Jun's Electronics w/ AGREEMENT \$55,000.00  
 Citywide radio consulting services and related equipment.

Compucom w/ AGREEMENT \$166,961.04  
 Software licensing maintenance and support for citywide Microsoft suite.

Data Specialties Inc w/ AGREEMENT \$55,000.00  
 Maintenance and support related to the IT Departments's electrical systems.

Dell Marketing \$150,000.00  
 Dell computers, hardware, software and equipment and miscellaneous equipment.

ESRI w/ AGREEMENT \$75,000.00  
 GIS professional services related to citywide e-gov initiatives.

Govconnection, Inc \$51,000.00  
 Computer equipment - miscellaneous hardware, software and equipment.

Government Finance Officers Association w/ AGREEMENT \$55,000.00  
 Implementation services related to the City's enterprise resource planning system.

IBM Corporation w/ AGREEMENT \$214,099.58  
 Ongoing maintenance and support services for the City's Data Center includes hardware and software maintenance; Passport Advantage, IGS services.

**City of Beverly Hills**  
**Listing of Annual Blanket Purchase Orders 2014-2015**

**Exhibit - A**

Independent Technology Group w/ <b>AGREEMENT</b>	\$100,000.00
IT consulting services related to network security.	
INFOR Public Sector, INC.	\$76,543.47
Annual maintenance fee for on-going software licenses and system support for the Hansen Asset Management System.	
Integrated Media Technologies, Inc. w/ <b>AGREEMENT</b>	\$225,000.00
Professional services and equipment related to the City's network including LAN, WAN and MAN network engineering services.	
Mainline Information Systems w/ <b>AGREEMENT</b>	\$600,000.00
IT consulting services, as needed, for citywide community security projects and other IT projects.	
Motorola Solutions, Inc.	\$411,794.08
Annual support for public safety's Motorola radio system including infrastructure and subscriber units (\$161,794.08); Radio equipment to include replacement radios, parts, spare and miscellaneous hardware and software (\$250,000).	
New World Systems	\$242,881.00
CAD/RMS year 5 maintenance.	
Nexlevel Information Technology, Inc w/ <b>AGREEMENT</b>	\$55,000.00
IT consulting services related to the City's computing infrastructure.	
Pacific Coast Cabling Inc.	\$100,000.00
Voice and data cabling and related services.	
PCTEL, Inc.	\$75,000.00
Networking equipment as needed.	
Quartic Solutions, LLC w/ <b>AGREEMENT</b>	\$70,000.00
GIS professional services related to citywide initiatives.	
Tyler Technologies, Inc.	\$113,134.00
Annual software and maintenance support of ERP system.	
Video to IP Consulting Services w/ <b>AGREEMENT</b>	\$150,000.00
IP video consulting services.	
Wave Technology Solutions Group	\$100,000.00
Document imaging and records management system services.	

**TOTAL VEHICLES AND EQUIPMENT**

<b>\$4,497,413.17</b>
-----------------------

**Office Supplies**

Office Max, Incorporated	\$134,947.00
Citywide office supplies.	

**Uniforms, Linens, Etc.**

Cintas Corporation #426	\$96,010.00
Rental and cleaning of uniforms and towels. FD/IT/PD/PW	
Galls Retail Ca Lock Box	\$56,500.07
Uniforms and accessories. CS/FD/PD	

**TOTAL POSTAGE, UNIFORMS AND SUPPLIES**

<b>\$287,457.07</b>
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**City of Beverly Hills**  
**Listing of Annual Blanket Purchase Orders 2014-2015**

**Exhibit - A**

**ENTERPRISE FUND OPERATIONS**

**Parking Operations**

IPS Group, Inc.	\$341,000.00
Flexplay single space system for parking meters- includes parts, batteries, credit card transaction fee, management fee; secure gateway fee.	
Montage Beverly Hills	\$115,000.00
Reimbursement for insurance premium & general maintenance for the public gardens parking facility/gardens building.	
Parking Concepts, Inc	\$1,135,000.00
Operation of certain parking facilities.	
Sentry Control Systems	\$277,000.00
Technical support, time & material, replacement parts; PARCS preventive maintenance & annual subscriptions; PARCS POF key management system; PARCS access key cards for monthly parking customers.	
Xerox State & Local Solutions, Inc.	\$650,000.00
Parking citation processing & collection.	

**Solid Waste and Refuse Disposal**

Crown Disposal Co., Inc.	\$6,315,000.00
Commercial and residential solid waste collection.	
Trugreen Landcare	\$144,331.20
Alley tree trimming and weed abatement maintenance services.	

**Water System**

General Pump Company, Inc.	\$300,000.00
Water well & pump related maintenance & repair services.	
Grainger	\$81,100.00
Material and supplies such as small tools, parts, lubricant, cleaning fluids, plumbing, HVAC, construction and hardware, etc., for the various Public Works Department divisions.	
L A County Department of Public Works	\$97,500.00
Maintenance of traffic signals, highway safety lights & illuminated street name signs (\$7,500); Enforcement of wastewater ordinance (#90-0-2092) of the City of BH governing the disposal of industrial wastes to the sanitary sewer & storm drain systems.(\$90,000).	
Truesdail Laboratories Inc	\$78,000.00
Water sampling and analysis.	

**TOTAL ENTERPRISE FUND OPERATIONS:**

<b>\$9,533,931.20</b>
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**City of Beverly Hills**  
**Listing of Annual Blanket Purchase Orders 2014-2015**

**Exhibit - A**

**Library**

Baker and Taylor, Inc. Book purchases.	\$205,263.80
Brodart Company Library books lease program, library materials and supplies.	\$67,405.60
Gale Audio visual online services and library serials.	\$171,693.00

**Recreation & Parks**

Asaf Kolin Youth soccer camps and class instruction.	\$60,000.00
Beverly Hills Unified School District Quarterly payments per joint powers agreement; quarterly crossing guard payments per joint powers agreement.	\$9,825,000.00
Gloria Winer "Parent and Me" music and movement class instruction.	\$54,000.00

**Landscape Maintenance**

Trugreen Landcare Landscape maintenance, weed abatement for Fire Suppression at City reservoirs and holiday program landscape maintenance.	\$430,200.00
West Coast Arborist, Inc. Tree trimming & maintenance of urban forest; tree replacement (Street Tree Master Plan Project).	\$1,390,176.00
Montage Beverly Hills Monthly maintenance of the Beverly Gardens Park	\$138,360.36

**Community Assistance Funds**

Maple Counselling Center w/ AGREEMENT Community mental health services.	\$100,000.00
PATH (People Assisting the Homeless) w/ AGREEMENT Support and assistance to homeless persons on the Westside of Los Angeles.	\$95,000.00
Westside Food Bank w/ AGREEMENT Purchase of bulk food for homeless and low income persons and programs.	\$85,000.00

<b>TOTAL COMMUNITY SERVICES:</b>	<b>\$12,622,098.76</b>
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**Bus and Shuttle Transportation Services**

Mytransitplus Taxi coupon & lift-van voucher for senior and disabled residents.	\$272,232.00
MV Transportation, Inc. Management, operation & maintenance of Beverly Hills transit service	\$751,012.00

<b>TOTAL TRANSPORTATION SERVICES:</b>	<b>\$1,023,244.00</b>
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**Audit Services**

White Nelson Diehl Evans, LLP. Professional auditing services.	\$60,270.00
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**Public Notices**

Beverly Hills Courier	\$85,000.00
Beverly Hills Weekly	\$63,400.00

**City of Beverly Hills**  
**Listing of Annual Blanket Purchase Orders 2014-2015**

**Exhibit - A**

**Consulting Services**

Athens Insurance Service	\$305,299.00
Worker's compensation self-insurance administration services.	
Carl Warren	\$95,000.00
Self-insurance administration services.	
Dapeer, Rosenblit & Litvak, LLP	\$350,000.00
Continuing legal services related to BH Municipal Code enforcement and prosecution of certain criminal cases.	
David N.M. Turch	\$75,000.00
Federal regulatory representation & legislative services.	
Latham & Watkins	\$100,000.00
Special legal counsel services.	
Bryan Cave LLP	\$75,000.00
Special Counsel for intellectual property	
HF&H Consultants, LLC	\$110,000.00
Solid waste analysis including rates and operational audits.	
Richards, Watson & Gershon	\$2,112,200.00
Legal fees for litigation & special services (\$900,000); legal retainer (\$1,212,200).	
Shaw/Yoder/Antwih, Inc.	\$75,000.00
Legislative advocacy services in Sacramento to promote the City's legislative agenda and key initiatives.	
Tegner-Miller Insurance	\$3,500,000.00
Brokerage services related to the City's insurance needs.	
PMAM, INC.	\$85,000.00
To manage and administer the City's False Alarm Ordance	
HDL Companies	\$585,000.00
Revenue enhancement services, which includes discovery of non-compliant business entities, business tax, sales tax, property tax and transient occupancy tax revenue enhancement audits.	

**TOTAL CONSULTANTS AND SERVICES**

**\$7,676,169.00**

**TOTAL:**

**\$ 37,687,134.04**