# AGENDA REPORT

**Meeting Date:** July 21, 2015

**Item Number:** D-20

**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 $41,590,164

**Attachments:**
1. Agreements (16)
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 $41,590,164.

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

ITEM A. ACCUVANT, INC. TO PROVIDE CONSULTING SERVICES RELATED TO THE CITY'S WIRELESS SYSTEM

ITEM B. BERKONE, INC., DBA BERKHEIMER ONESOURCE FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

ITEM C. CDW GOVERNMENT LLC FOR INFORMATION TECHNOLOGY CONSULTING SERVICES

ITEM D. COMMLINE INC. FOR RADIO CONSULTING SERVICES AND RELATED EQUIPMENT

ITEM E. DATA SPECIALTIES, INC. FOR MAINTENANCE AND SUPPORT RELATED TO THE INFORMATION TECHNOLOGY DEPARTMENT'S ELECTRICAL SYSTEMS

ITEM F. ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM

ITEM G. FIRST TEK, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATING TO WEB AND MOBILE APPLICATIONS ON AN AS-NEEDED BASIS

ITEM H. INTERNATIONAL BUSINESS MACHINES (IBM) CORPORATION FOR ONGOING MAINTENANCE AND SUPPORT SERVICES FOR THE CITY'S DATA CENTER

ITEM I. INDEPENDENT TECHNOLOGY GROUP TO PROVIDE PROFESSIONAL SERVICES RELATED TO THE SECURITY OF THE CITY'S NETWORK

ITEM J. MAINLINE INFORMATION SYSTEMS, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES

ITEM K. OROPRISE SOLUTIONS, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES FOR VARIOUS CITY INITIATIVES

ITEM L. QUARTIC SOLUTIONS, LLC FOR INFORMATION TECHNOLOGY CONSULTING SERVICES RELATED TO THE CITY'S ENTERPRISE GIS SYSTEM

ITEM M. VIDEO TO IP CONSULTING SERVICES, INC RELATED TO THE CITY'S IP VIDEO SYSTEMS

ITEM N. WAVE TECHNOLOGY SOLUTIONS GROUP, INC. FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

ITEM O. GLORIA WINER TO PROVIDE "PARENT AND ME" MUSIC AND MOVEMENT CLASS INSTRUCTION THROUGH THE CITY'S COMMUNITY SERVICES DEPARTMENT

ITEM P. TRUGREEN LANDCARE FOR LANDSCAPE MAINTENANCE SERVICES

## 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. 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 2015/2016 budget.

## FISCAL IMPACT

Funds for each of the BPOs requested in Exhibit A have been approved in the Fiscal Year 2015/2016 budget. The total of all requests within this report is $41,590,164 as follows:

| Service | No. Vendors | Amount |
|---|---|---|
| Buildings and Facilities | 3 | $ 2,581,905 |
| Vehicles and Equipment | 33 | 7,769,293 |
| Postage, Uniforms and Supplies | 3 | 205,505 |
| Enterprise Fund Operations: | | |
| Parking Operations | 5 | 2,693,500 |
| Solid Waste Operations | 2 | 7,311,538 |
| Water Operations | 9 | 1,052,550 |
| Community Services | 12 | 12,657,174 |
| Consultants and Services | 12 | 7,318,699 |
| | TOTAL | $41,590,164 |

Noel Marquis
Finance Approval

Don Rhoads
Approved By

# Attachment 1

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<br>El Segundo, CA 90245<br>Attention: Jake Bowman<br>Project Coordinator |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | Not to exceed $250,000 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, 2015 and shall terminate on June 30, 2016.

**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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

CONSULTANT: ACCUVANT, INC.

_____
DAVID M. ROSHAK
Chief Financial Officer

_____
DAN BURNS
Chief Executive Officer
DAT 6-8-15

[Signatures continue]

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

FOR DS

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 Two Hundred Fifty Thousand Dollars ($250,000), 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUT MOBILE LIABILITY | | | | | |
| | ☐ GENERAL L B LITY | | | | | |
| | ☐ PRODUC S/COMPLETED OPERATIONS | | | | | |
| | ☐ BL KET CONTRACTUAL | | | | | |
| | ☐ ONTRACTOR'S PROTECTIVE | | | | | |
| | ☐ PERSONAL INJURY | | | | | |
| | ☐ EXCESS LIABILITY | | | | | |
| | ☐ 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 BERKONE, INC., DBA BERKHEIMER ONESOURCE FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

| | |
|---|---|
| NAME OF CONSULTANT: | BerkOne, Inc., dba Berkheimer OneSource |
| RESPONSIBLE PRINCIPAL OF CONSULTANT: | Victor Flores, Senior Director of Business Development |
| CONSULTANT'S ADDRESS: | 1530 Valley Center Parkway, Suite 200<br>Bethlehem, PA 18017 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2018, unless sooner terminated pursuant to Section 13 of the Agreement |
| CONSIDERATION: | Not to exceed $150,000 annually based on the costs set forth in Exhibit B |

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND BERKONE, INC., DBA BERKHEIMER ONESOURCE FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

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

RECITALS

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

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

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall provide EMC Documentum ApplicationXtender maintenance and support, document conversion services, and related professional services, as more particularly described in Exhibit A, Scope of Work, and in the Request for Proposals (Bid No. 12-25: EMC Documentum ApplicationXtender Support & Services on file in City's Information Technology Division), both incorporated herein by this reference, 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. This Agreement shall commence upon a notice to proceed, and shall terminate on the Termination Date set forth above, unless sooner terminated pursuant to Section 13 of this Agreement. The City Manager or his designee may extend the Agreement in writing for up to two, one year periods.

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 set forth above and 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).

Section 4. 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 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 and Subcontracting. Consultant shall not assign or attempt to assign any portion of this Agreement, or subcontract any required performance hereunder, without the prior written approval of City. Consultant, however, shall at all times be responsible for the services performed by any subcontractors.

Section 7. Party Representatives.

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

(b) Consultant's Onsite Representatives. Consultant shall have at least one competent representative on the project site at all times while work is in progress. At the City's direction and at the sole discretion of the City, Consultant shall immediately replace any individual who fails to perform the duties required by the work with a qualified, competent replacement that is acceptable to City's authorized representative.

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

Section 8. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform Consultant's services under this Agreement.

Section 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 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 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 polices 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 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.

(a) 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 from any claim, liability or financial loss (including without limitation, attorneys fees and costs) arising out of the acts or omissions of Consultant, its employees, agents, representatives, and/or subcontractors, whether intentional, reckless, negligent, or otherwise wrongful, in the performance of this Agreement.

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

Section 13. Termination.

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

Section 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. 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 (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. This provision survives termination of Consultant's duties to the City.

Section 17. Notice. Any notice required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth above or to such other addresses as the parties may designate in writing.

Section 18. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 19. Precedence. In case of conflict between any of the Exhibits attached hereto and the terms of this Agreement, this Agreement shall take precedence over the Exhibits.

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

Section 23. No Third Party Beneficiaries. This Agreement and the obligations hereunder are not intended to benefit any party other than City and Consultant, except as expressly provided otherwise herein. No entity not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

EXECUTED the _____ day of _____, 201__.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

[Signatures continue]

COMPANY NAME: BERKONE, INC., DBA
BERKHEIMER ONESOURCE

TIM FEHR
President

THOMAS J. TRIPODI
Vice President

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

for DS

DAVID SCHIRMER
Chief Information Officer

KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

Consultant shall provide the following services related to the City's Documents and Records Management System (or "system") as set forth in this Exhibit and City's Request for Proposals (Bid No. 12-25) to the City's full satisfaction:

**TASK 1:** **Document Conversion Services:** Consultant shall provide document conversion services, which shall be provided on an as needed basis, as determined by City representatives.

(a) Consultant's duties shall include provision of all necessary discovery, sample testing, image adjustment, labor, hardware, equipment, software, validation, quality control, and release to complete full document conversion services into the City's Document and Records Management system.

(b) Consultant shall provide high quality scanning services at 200 DPI resolution for various document types and sizes, as directed by City staff.

**TASK 2:** **Professional Services:** Consultant shall provide EMC Documentum ApplicationXtender software customizations, engineering, integrations, and application development services to maximize the performance of the records management system.

(a) Consultant shall provide the following professional services as requested by the City:

i. Provide detailed technical specifications, develop code, and other necessary technical tasks to automate and integrate AX applications with various City software applications.

ii. Provide discovery, solutions deployment, application testing, validation and support.

iii. Develop application code and perform the integration necessary for 'public access' applications.

iv. Create departmental AX applications.

v. Provide various application services to optimize City department applications and workflows.

(b) The following tasks shall be provided with respect to all Professional Services requests received from authorized City staff:

i. *Project Management*: Consultant shall present a comprehensive project plan and project budget, detailing time and resources required to accomplish the requested

tasks. Consultant shall employ professional project management software such as Microsoft Project.

ii. *Documentation*: Consultant shall develop documentation to support the City's business processes. At a minimum, Consultant shall provide the City with the following:

1. User documentation
2. Configuration documentation
3. Interface documentation
4. System administration manuals
5. Application software tutorials
6. System documentation

All user documentation, including application and interface documentation, help documentation and software tutorials should be available online and accessible from within the relevant application. Additionally, Consultant shall provide sufficient copies of each type of user documentation.

iii. *Testing*: Consultant shall provide adequate provisions for functional, performance and reliability testing. City requires Consultant involvement in the development and execution of all test plans to ensure that the customizations and integrations deliver the expected results.

iv. *Training*: Consultant shall provide the following as needed types of training programs:

1. Administrator training that includes all knowledge transfer activities necessary to enable City staff to configure, tailor, monitor and administer the technical and functional aspects of system.

2. End user training that includes the use of a "train-the-trainer" approach accompanied by computer-based training, both web-based and onsite.

All training materials shall be provided in both electronic and hard copy formats for unlimited duplication by City. Training materials shall reflect the specific functionality of the system in City and all training sessions shall include specific skills required to support the functionality of the City's system.

EXHIBIT B

COMPENSATION AND PAYMENT

## Rate Sheet for City of Beverly Hills

6/5/2015

| Description | Price per Unit |
|---|---|
| Letter size scanning at 300dpi/B&W | $0.07 per image |
| Letter size scanning at 300dpi/ Color | $0.12 per image |
| Large format scanning at 400dpi/ B&W | $2.50 per drawing |
| Large format scanning at 300dpi/ Color | $1.75 per drawing |
| Document Preparation | $23.50 per hour |
| Profile Drawings scanning at 400dpi/ B&W | $2.50 per 24x36 snippet |
| Data Entry/Indexing Services | $0.0117 per keystroke |
| DVD/CD Charge | $15.00 per unit |
| Pickup and Delivery | $130.00 per run |
| Professional Services/Setting up and testing data import into AX | $1,480.00 per project |
| *Microfilm conversion | TBD |
| *Microfiche conversion | TBD |
| *Aperture Card conversion | TBD |

*Upon mutual written agreement of the City Manager or his designee and Consultant.

Payment

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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**
**A.**
**B.**
**C.**

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐**AUTOMOBILE LIABILITY**<br>☐**GENERAL LIABILITY**<br>☐PRODUCTS/COMPLETED OPERATIONS<br>☐BLANKET CONTRACTUAL<br>☐CONTRACTOR'S PROTECTIVE<br>☐PERSONAL INJURY<br>☐EXCESS LIABILITY<br>☐**WORKERS' COMPENSATION**<br>☐ | | | | | |

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: _____

_____ _____

Exhibit C

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<br>Vernon Hills, IL 60061 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | Not to exceed $750,000.00, 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, 2015 and shall terminate on June 30, 2016.

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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

[Signatures continue]

CONSULTANT: CDW GOVERNMENT, LLC

AMANDA EWERTOWSKI
Senior Program Manager

[Signatures Continue]

REVIEWED BY
PROGRAM SALES

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

for DS

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 Seven Hundred Fifty Thousand Dollars ($750,000.00), as set forth in the purchase orders 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY | | | | | |
| | ☐ GENERAL LIABILITY | | | | | |
| | ☐ PRODUCTS/COMPLETED OPERATIONS | | | | | |
| | ☐ BLANKET CONTRACTUAL | | | | | |
| | ☐ Consultant's PROTECTIVE | | | | | |
| | ☐ PERSONAL INJURY | | | | | |
| | ☐ EXCESS LIABILITY | | | | | |
| | ☐ 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 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<br>Culver City, CA 90230 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016, unless sooner terminated pursuant to Section 13 |
| CONSIDERATION: | An amount not to exceed $250,000.00 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 Commline, 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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills

ATTEST

_____ (SEAL)
BYRON POPE
City Clerk

CONTRACTOR:
COMMLINE INC.

_____
JEFF FUKASAWA
Vice President

_____
JAMES JUN
CEO & Secretary

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
MAHDI ALUZRI
Interim 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 Two Hundred Fifty Thousand Dollars ($250,000.00) 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 Emergency Response | $300.00 |
| RF Technician | $150.00 | 2 | | $300.00 |
| RF Technician | $250.00 | 2 | Off Hours/same day Emergency Response | $500.00 |
| Radio Console/IT Technician Hardware or Software base | $195.00 | 2 | | $390.00 |
| Radio Console/IT Technician Hardware or Software base | $295.00 | 2 | Off Hours/same day Emergency Response | $590.00 |

EXHIBIT C

CERTIFICATE OF INSURANCE

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

**NAMED INSURED**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY | | | | | |
| | ☐ GENE AL LIABILITY | | | | | |
| | ☐ PROD CTS/COM LETED OPERATIONS | | | | | |
| | ☐ BLANKET CONTRACTUAL | | | | | |
| | ☐ CONTRACTOR'S PROTEC IVE | | | | | |
| | ☐ PERSONAL INJURY | | | | | |
| | ☐ EXCESS LIABILITY | | | | | |
| | ☐ WORKER'S COMPENSATI N | | | | | |

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 indirectlyfrom 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 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<br>Buena Park, CA 90621 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| 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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST

_____ (SEAL)
BYRON POPE
City Clerk

CONSULTANT:
DATA SPECIALTIES, INC.

_____
PHIL RAFFERTY
President

_____
RIC MAXSON
Vice President / Financial Officer

[Signatures Continue]

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

For DS

DAVID SCHIRMER
Chief Information Officer

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, 2015 through June 30, 2016

| 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. |
| **Preventative Maintenance** | | | |
| 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY<br>☐ GENERAL LIABILITY<br>☐ PRODUCTS/COMPLETED OPERATIONS<br>☐ BLANKET CONTRACTUAL<br>☐ Consultant'S PROTECTIVE<br>☐ PERSONAL INJURY<br>☐ EXCESS LIABILITY<br>☐ 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<br>Redlands, CA 92373-8100<br>Attention: Bruce Rowland |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | Not to exceed $125,000 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, 2015 and shall terminate on June 30, 2016.

**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

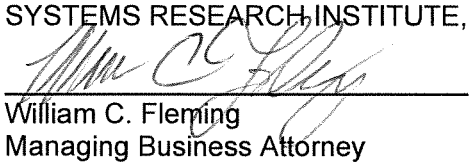
_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

[Signatures continue]

CONSULTANT: ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.



William C. Fleming
Managing Business Attorney

[Signatures continue]

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI KK
Interim City Manager

DAVID SCHIRMER
Chief Information Officer

KARL KIRKMAN
Risk Manager

## EXHIBIT A

## SCOPE OF WORK

CONSULTANT shall provide CITY up to 550 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.
- Provide GIS design and development services to enhance and upgrade the CITY's permit and planning application system (OBC).

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 2015 and 2016 Rate Schedule attached hereto as Attachment 1 to this Exhibit B. In no event shall the total compensation exceed $125,000. 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.

## ATTACHMENT 1 TO EXHIBIT B

## RATE SCHEDULE

Hourly time and materials labor rates have been provided for each labor category from January 1, 2015 to the end of the calendar year 2016. Other direct costs, such as travel, reproduction, subcontractor, telecommunication/freight, or materials, will be charged a material handling fee and invoiced.

| Labor Category | 2015 | 2016 |
|---|---|---|
| GIS Technical Specialist/Engineer (S1) | $205 | $213 |
| GIS System/Software Developer (S2) | $264 | $275 |
| Sr. GIS System/Software Architect (S3) | $324 | $337 |
| GIS Consultant/Project Manager (M1) | $249 | $259 |
| Sr. GIS Consultant/Project Manager (M2) | $313 | $326 |
| Principal/GIS Consultant/Prog. Manager (M3) | $413 | $430 |
| GIS Database Specialist/Analyst (DB) | $173 | $180 |

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.**

## 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 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

Scott G. Miller — Date
Chief Financial Officer
Director of Administrative Services

3-29-12

Jeffrey A. Kolin — Date
City Manager

# ADDENDUM A

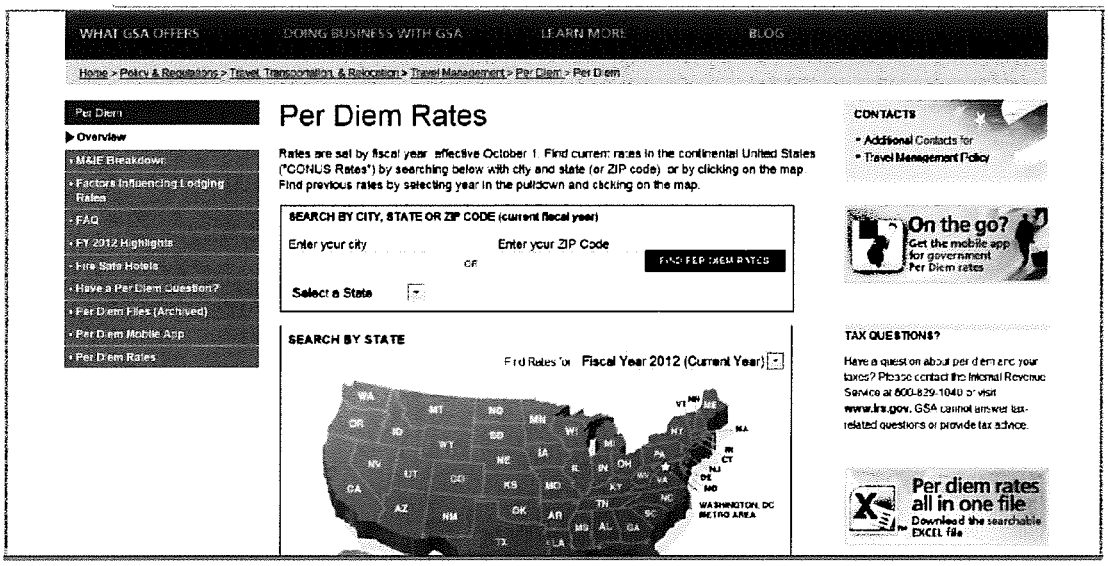
Table 3. **Maximum Federal Per Diem Rates (Effective October 1, 2010 – September 30, 2011)[1]**

**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.)

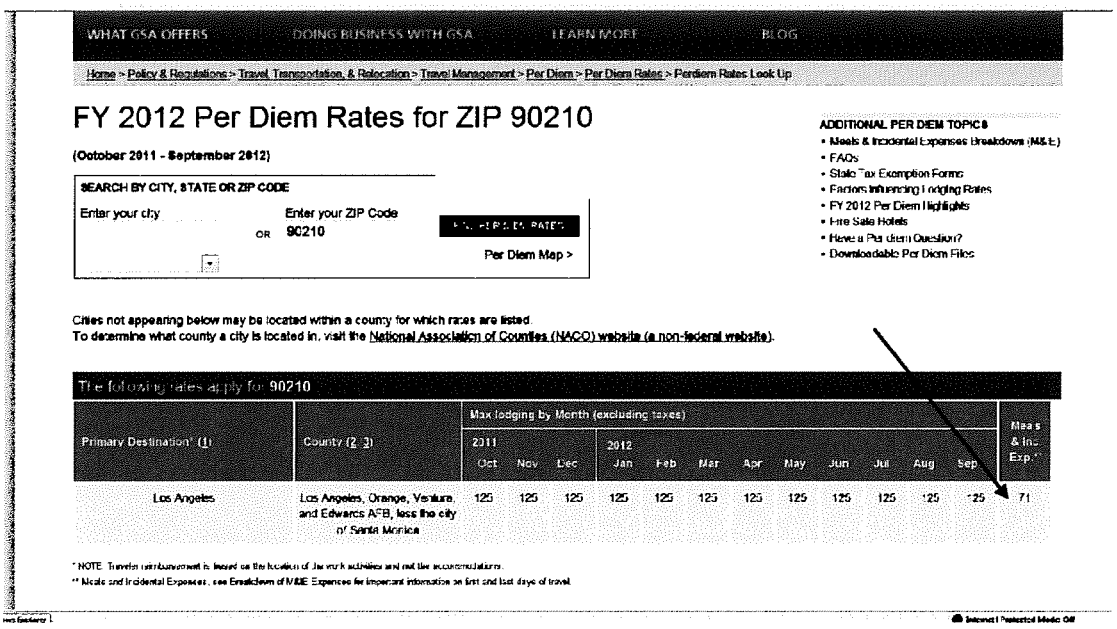
**Table 4 lists all per diem rates alphabetically by state abbreviation. Click on a link below to find rates for your state:**
Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, 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

| Per Diem Locality | | | | Computing Maximum Rate | | |
|---|---|---|---|---|---|---|
| State | Key City[2] | County and/or Other Defined Location[3,4] | 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<br>6/1 - 7/31<br>8/1 - 12/31 | 101<br>126<br>101 | 51<br>51<br>51 | 152<br>177<br>152 |
| | Huntsville | Madison, Limestone | All year | 86 | 51 | 137 |
| | Mobile | Mobile | 1/1 - 2/28<br>3/1 - 12/31 | 98<br>90 | 51<br>51 | 149<br>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<br>3/1 - 10/31<br>11/1 - 12/31 | 77<br>95<br>77 | 66<br>66<br>66 | 143<br>161<br>143 |
| | Kayenta | Navajo | 1/1 - 4/30<br>5/1 - 9/30<br>10/1 - 12/31 | 77<br>89<br>77 | 46<br>46<br>46 | 123<br>135<br>123 |
| | Phoenix, Scottsdale | Maricopa | 1/1 - 5/31<br>6/1 - 8/31<br>9/1 - 12/31 | 126<br>81<br>106 | 71<br>71<br>71 | 197<br>152<br>177 |
| | Sedona | City limits of Sedona | 1/1 - 2/28<br>3/1 - 4/30<br>5/1 - 12/31 | 129<br>145<br>129 | 66<br>66<br>66 | 195<br>211<br>195 |
| | Sierra Vista | Cochise | All year | 81 | 46 | 127 |
| | Tucson | Pima | 1/1 - 1/31<br>2/1 - 5/31<br>6/1 - 8/31<br>9/1 - 12/31 | 93<br>111<br>77<br>93 | 56<br>56<br>56<br>56 | 149<br>167<br>133<br>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<br>After 3/31/11 | 83<br>99 | 56<br>56 | 139<br>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<br>6/1 - 8/31<br>9/1 - 12/31 | 82<br>92<br>82 | 61<br>61<br>61 | 143<br>153<br>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 GSA OFFERS
DOING BUSINESS WITH GSA
LEARN MORE
BLOG
Home > Policy & Regulations > Travel, Transportation, & Relocation > Travel Management > Per Diem > Per Diem
Per Diem
Overview
M&IE Breakdown
Factors Influencing Lodging Rates
FAQ
FY 2012 Highlights
Hire Safe Hotels
Have a Per Diem Question?
Per Diem Files (Archived)
Per Diem Mobile App
Per Diem Rates
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
Enter your ZIP Code
OR
Select a State
SEARCH BY STATE
Find Rates for Fiscal Year 2012 (Current Year)
WASHINGTON, DC METRO AREA
CONTACTS
Additional Contacts for
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. 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 GSA OFFERS
DOING BUSINESS WITH GSA
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BLOG
Home > Policy & Regulations > Travel, Transportation, & Relocation > Travel Management > Per Diem > Per Diem Rates > Perdiem Rates Look Up
FY 2012 Per Diem Rates for ZIP 90210
(October 2011 - September 2012)
SEARCH BY CITY, STATE OR ZIP CODE
Enter your city
Enter your ZIP Code
OR
90210
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
Hire 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)
2011
2012
Oct Nov Dec Jan Feb Mar Apr May Jun Jul Aug Sep
Meals & Inc. Exp.**
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: Travel reimbursement is based on the location of the work activities and not the accommodations.
** Meals and Incidental 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

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

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | LIMITS B.I. | P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ **AUTOMOBILE LIABILITY**<br>☐ **GENERAL LIABILITY**<br>☐ PRODUCTS/COMPLETED OPERATIONS<br>☐ BLANKET CONTRACTUAL<br>☐ VENDOR'S PROTECTIVE<br>☐ PERSONAL INJURY<br>☐ EXCESS LIABILITY<br>☐ **WORKERS' COMPENSATION**<br>☐ | | | | | |

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: _____

_____ _____

**RM02.DOC REVISED 10/14/96.**

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

| | |
|---|---|
| NAME OF CONSULTANT: | First Tek, Inc. |
| RESPONSIBLE PRINCIPAL OF CONSULTANT: | Phani Vippaheli<br>Account Manager |
| CONSULTANT'S ADDRESS: | 1551 S. Washington Avenue, Suite 402A<br>Piscataway, NJ 08854 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | Not to exceed $275,000.00 based on the rates set forth in Exhibit B |

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND FIRST TEK, 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 First Tek, 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, 2015 and shall terminate on June 30, 2016.

**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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

CONSULTANT: FIRST TEK, INC.

_____
SATYAKUMAR BHAVANASI
President and Chief Executive Officer

Mariam Faisal
_____
MARIAM FAISAL
Director, HR and Operations

[Signatures continue]

APPROVED AS TO FORM

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

For DS

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 2015 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 Seventy-Five Thousand Dollars ($275,000). 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, 2015 – June 30, 2016**

**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 skillets:

- 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 skillets:

- 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 skillets:

- 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 Cordvoa 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**
**A.**
**B.**
**C.**

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | LIMITS B.I. | P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐**AUTOMOBILE LIABILITY**<br>☐**GENERAL LIABILITY**<br>☐PRODUCTS/COMPLETED OPERATIONS<br>☐BLANKET CONTRACTUAL<br>☐CONTRACTOR'S PROTECTIVE<br>☐PERSONAL INJURY<br>☐EXCESS LIABILITY<br>☐**WORKERS' COMPENSATION**<br>☐ | | | | | |

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: _____

_____ _____

**RM02.DOC REVISED 10/14/96.**

# 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** 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 form 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**

### 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**

## 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:**

By_____
Authorized signature

Title:
Name (type or print): Mark Hobson

Date:

Customer number:

Enterprise number:

Customer address:

Agreed to:
**International Business Machines Corporation**

By_____
Authorized signature

Title: IBM Client Executive
Name (type or print): Carlos Flores

Date: 6/16/15

Agreement number:

IBM address: 1177 S. Belt line Rd
Coppell Tx 75019

CITY OF BEVERLY HILLS
A Municipal Corporation

JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills

Attest:

BYRON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

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

**Customer Billing Address:**

CITY OF BEVERLY HILLS
IT DEPT
455 N REXFORD DR
BEVERLY HILLS CA 90210-4817

**Master Services Attachment Number:** MAG30KN
**Statement of Work Number:** A04XJR
**Change Authorization Number:**
**Customer Number:** 01782976

**Schedule Number:** A04XJR
**Revised Schedule:** No
**Schedule Effective Date:** 04/29/2015
**Proposal Reference Date:** 08/01/2015

**Transaction Contract Period:**
**Start Date:** 08/01/2015
**End Date:** 07/31/2016
**Renewal Contract Period:** 1 Year(s)

***Charge Period Charges / Payment Plan (Inclusive of MES):**

| | |
|---|---|
| **WSU One Time Charges:** | **0.00** |
| **HWMA Re-estab 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** |
| **One Time Charges:** | **0.00** |

| | |
|---|---|
| ***Maintenance Charges:** | **117,479.58** |
| ***Service Charges:** | **4,491.00** |
| ***TOTAL CHARGE PERIOD CHARGES:** | **121,970.58** |

Annually Billing Frequency — Contract Year Alignment

**Charge Period:**
**Start Date:** 08/01/2015
**End Date:** 07/31/2016

[1] **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:

By: _____ Authorized signature
Name (type or print): Mark Hobson
Date: _____

Agreed to:

**International Business Machines Corporation**

By: _____ Authorized signature
Name (type or print): Carlos Flores
Date: 6/16/15

# Schedule for ServiceElite

## Enterprise Total for Charge Period by Customer Number Inclusive of MES:

| Customer No. | Customer Name | Customer Location | Charges [4] |
|---|---|---|---|
| 00972226 | CITY OF BEVERLY HILLS | 333 N FOOTHILL RD, PS MAINTENCE SERVICE, BEVERLY HILLS CA 90210-3609 | 4,254.76 |
| 01782812 | CITY OF BEVERLY HILLS | 9355 CIVIC CENTER DR, COMPUTER ROOM, BEVERLY HILLS CA 90210-3427 | 4,329.29 |
| 01782976 | CITY OF BEVERLY HILLS | 455 N REXFORD DR, IT DEPT, BEVERLY HILLS CA 90210-4817 | 19,612.32 |
| 01783193 | CITY OF BEVERLY HILLS | 455 N REXFORD DR, INFORMATION TECHNOLOGY, BEVERLY HILLS CA 90210-4817 | 522.00 |
| 01783202 | CITY OF BEVERLY HILLS | 9355 CIVIC CENTER DR, SUPPORT GROUP, BEVERLY HILLS CA 90210-3427 | 69,575.04 |
| 01783271 | CITY OF BEVERLY HILLS | 9355 CIVIC CENTER DR, COMPUTER ROOM, BEVERLY HILLS CA 90210-3427 | 6,894.38 |
| 01783603 | CITY OF BEVERLY HILLS | 455 N REXFORD DR, IT DEPT, BEVERLY HILLS CA 90210-4817 | 13,561.64 |
| 01783957 | CITY OF BEVERLY HILLS | 9355 CIVIC CENTER DR, SUPPORT GROUP, BEVERLY HILLS CA 90210-3427 | 3,221.15 |
| **Total** | | | **121,970.58** |

**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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | **Specified Location: 00972226** | | **City, State: BEVERLY HILLS CA 90210-3609** | | | | | | |
| LNV | 4251 | AC1 | | 00KQ45BTF | | 4251 AC1 | 1 | B | 1 | 242.00 H | | |
| LNV | 7870 | AC1 | | 0006AA453 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 H | | |
| LNV | 7915 | AC1 | | 0006ATZD9 | | 7915 AC1 | 1 | B | 1 | 675.00 H | | |
| LNV | 7944 | AC1 | | 00KQ45G19 | | XSER X3550 M3 | 1 | B | 1 | 173.54 PH | 04/02/2016 | |
| LNV | 7944 | AC1 | | 00KQ45K13 | | XSER X3550 M3 | 1 | B | 1 | 173.54 PH | 04/02/2016 | |
| LNV | 7945 | AC1 | | 00KQ09B7N | | SYSTEM X3650 M3 | 1 | B | 1 | 208.75 PH | 04/15/2016 | |
| LNV | 7945 | AC1 | | 00KQ128BT | | SYSTEM X3650 M3 | 1 | B | 1 | 709.00 H | | |
| LNV | 7945 | AC1 | | 00KQ60T46 | | SYSTEM X3650 M3 | 1 | B | 1 | 196.93 PH | 04/21/2016 | |
| LNV | 8852 | HC1 | | 0099C8794 | | BLADECENTER H | 1 | B | 1 | 788.00 H | | |
| LNV | 8852 | HC1 | | 0099C9478 | | BLADECENTER H | 1 | B | 1 | 788.00 H | | |
| **Subtotal Without MES** | | | | | | | | | | **4,254.76** | | |
| **Subtotal With MES** | | | | | | | | | | **4,254.76** | | |
| | | | | **Specified Location: 01783202** | | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | | |
| IBM | 1814 | 52A | | 0078K16DC | | EXP520 EXPANSION UNIT | 1 | B | 1 | 2,530.00 H | | |
| IBM | 1814 | 52A | | 0078K16DD | | EXP520 EXPANSION UNIT | 1 | B | 1 | 2,530.00 H | | |
| IBM | 1814 | 52A | | 0078K16DF | | EXP520 EXPANSION UNIT | 1 | B | 1 | 2,530.00 H | | |
| IBM | 1814 | 52A | | 0078K16DG | | EXP520 EXPANSION UNIT | 1 | B | 1 | 2,530.00 H | | |
| **Subtotal Without MES** | | | | | | | | | | **10,120.00** | | |
| **Subtotal With MES** | | | | | | | | | | **10,120.00** | | |
| | | | | **Specified Location: 01782812** | | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | | |
| IBM | 1746 | E2A | | 0013D00Z8 | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |
| IBM | 1746 | E2A | | 0013D00ZA | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |

**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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| IBM | 1746 | E2A | | 0013D00ZD | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |
| IBM | 1746 | E2A | | 0013D00ZF | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |
| IBM | 1746 | E2A | | 0013D010W | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |
| IBM | 1746 | C2A | | 0013D01WY | | SYSTEM STORAGE DS3512 | 1 | B | 1 | 0.00 PH | 06/23/2017 | |
| IBM | 1746 | E2A | | 0013D020K | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 04/04/2017 | |
| IBM | 1746 | E2A | | 0013D03CP | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/25/2017 | |
| IBM | 1746 | E2A | | 0013D03DM | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/25/2017 | |
| IBM | 1746 | E2A | | 0013D03KX | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/25/2017 | |
| IBM | 1746 | E2A | | 0013D04NH | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D04P1 | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D04P7 | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D04PB | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D04PG | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D04PL | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 06/01/2017 | |
| IBM | 1746 | E2A | | 0013D0BWH | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 WPH | 08/09/2017 | |
| IBM | 1746 | C2A | | 0013K0YYM | | SYSTEM STORAGE DS3512 | 1 | B | 1 | 0.00 PH | 11/28/2016 | |
| IBM | 1746 | E2A | | 0013K0Z5H | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 11/28/2016 | |
| IBM | 1746 | E2A | | 0013K0Z62 | | SYSTEM STORAGE EXP3512 | 1 | B | 1 | 0.00 PH | 11/28/2016 | |
| IBM | 3573 | L4U | | 0078P1470 | | TS3200 TAPE LIBRARY | 1 | A | 1 | 192.53 PH | 06/23/2016 | |
| IBM | 7026 | 6H1 | | 00006753F | | 7026 6H1 PSERIES 660 MODEL 6H1 | 1 | A | 1 | 3,257.28 H | | |
| **Subtotal Without MES** | | | | | | | | | | **3,449.81** | | |
| **Subtotal With MES** | | | | | | | | | | **3,449.81** | | |
| | | | | **Specified Location: 01782976** | | **City, State: BEVERLY HILLS CA 90210-4817** | | | | | | |
| IBM | 3584 | L32 | | 000011655 | | ULTRASCALABLE TAPE LIBRARY | 1 | A | 1 | 14,826.24 H | | |
| IBM | 7014 | T42 | | 0000728AF | | RS/6000 SYSTEM RACK | 1 | A | 1 | 334.32 H | | |
| IBM | 7026 | 6H1 | | 0000672AF | | 7026 6H1 PSERIES 660 MODEL 6H1 | 1 | A | 1 | 3,257.28 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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Subtotal Without MES** | | | | | | | | | | **18,417.84** | | | |
| **Subtotal With MES** | | | | | | | | | | **18,417.84** | | | |
| | | | **Specified Location: 01783193** | | | **City, State: BEVERLY HILLS CA 90210-4817** | | | | | | | |
| LNV | 1723 | HC1 | | 0023P5779 | | 1U FLAT PNL MONITOR CONS KIT | 1 | B | 1 | 174.00 | H | | |
| LNV | 1723 | HC1 | | 0023P5781 | | 1U FLAT PNL MONITOR CONS KIT | 1 | B | 1 | 174.00 | H | | |
| LNV | 1723 | HC1 | | 0023P5783 | | 1U FLAT PNL MONITOR CONS KIT | 1 | B | 1 | 174.00 | H | | |
| **Subtotal Without MES** | | | | | | | | | | **522.00** | | | |
| **Subtotal With MES** | | | | | | | | | | **522.00** | | | |
| | | | **Specified Location: 01783271** | | | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | | | |
| LNV | 7870 | AC1 | | 0006F3940 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 | H | | |
| LNV | 7870 | AC1 | | 0006YD995 | | BLADECENTER HS22 | 1 | B | 1 | 37.50 | PH | 06/16/2016 | |
| LNV | 7870 | AC1 | | 0006YD998 | | BLADECENTER HS22 | 1 | B | 1 | 39.17 | PH | 06/14/2016 | |
| LNV | 7870 | AC1 | | 0006YD999 | | BLADECENTER HS22 | 1 | B | 1 | 37.50 | PH | 06/16/2016 | |
| LNV | 7870 | AC1 | | 0006YE000 | | BLADECENTER HS22 | 1 | B | 1 | 37.50 | PH | 06/16/2016 | |
| LNV | 7870 | AC1 | | 0006YE003 | | BLADECENTER HS22 | 1 | B | 1 | 38.33 | PH | 06/15/2016 | |
| LNV | 7870 | AC1 | | 0006YE005 | | BLADECENTER HS22 | 1 | B | 1 | 38.33 | PH | 06/15/2016 | |
| LNV | 7870 | AC1 | | 0006YE007 | | BLADECENTER HS22 | 1 | B | 1 | 38.33 | PH | 06/15/2016 | |
| LNV | 7870 | AC1 | | 0006YE010 | | BLADECENTER HS22 | 1 | B | 1 | 39.17 | PH | 06/14/2016 | |
| LNV | 7870 | AC1 | | 0006YE012 | | BLADECENTER HS22 | 1 | B | 1 | 38.33 | PH | 06/15/2016 | |
| LNV | 7870 | AC1 | | 0006YE013 | | BLADECENTER HS22 | 1 | B | 1 | 37.50 | PH | 06/16/2016 | |
| LNV | 7870 | AC1 | | 0006YE018 | | BLADECENTER HS22 | 1 | B | 1 | 37.50 | PH | 06/16/2016 | |
| LNV | 7870 | AC1 | | 0006YE019 | | BLADECENTER HS22 | 1 | B | 1 | 38.33 | PH | 06/15/2016 | |
| LNV | 7875 | AC1 | | 0006CLRR0 | | BLADECENTER HS23 | 1 | B | 1 | 0.00 | PH | 08/08/2017 | |

**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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| LNV | 7875 | AC1 | | 0006CLRR9 | | BLADECENTER HS23 | 1 | B | 1 | 0.00 PH | 08/08/2017 | |
| LNV | 7875 | AC1 | | 0006CLYY9 | | BLADECENTER HS23 | 1 | B | 1 | 0.00 PH | 08/08/2017 | |
| LNV | 7875 | AC1 | | 0006CLYZ6 | | BLADECENTER HS23 | 1 | B | 1 | 0.00 PH | 08/08/2017 | |
| LNV | 7875 | AC1 | | 0006CLZA6 | | BLADECENTER HS23 | 1 | B | 1 | 0.00 PH | 08/08/2017 | |
| LNV | 7914 | AC1 | | 00KQ2CV10 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 WPH | 09/10/2016 | |
| LNV | 7914 | AC1 | | 00KQ3P7Y4 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 WPH | 10/18/2017 | |
| LNV | 7914 | AC1 | | 00KQ3P7Z1 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 WPH | 10/18/2017 | |
| LNV | 7914 | AC1 | | 00KQ6TR45 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 WPH | 10/08/2016 | |
| LNV | 7915 | AC1 | | 00KQ0C1C4 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 10/18/2017 | |
| LNV | 7915 | AC1 | | 00KQ3X4DM | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 03/11/2018 | |
| LNV | 7915 | AC1 | | 00KQ4B4CD | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 03/11/2018 | |
| LNV | 7915 | AC1 | | 00KQ4B4CF | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 03/11/2018 | |
| LNV | 7915 | AC1 | | 00KQ4L9XM | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 03/11/2018 | |
| LNV | 7915 | AC1 | | 00KQ8XH41 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 10/04/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C7N7 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/08/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C7P1 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/08/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C7X0 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/08/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C8K4 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/08/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C8K9 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/08/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C8L2 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/13/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C8L7 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 02/13/2018 | |
| LNV | 7915 | AC1 | | 00KQ9C8Z8 | | 7915 AC1 | 1 | B | 1 | 0.00 WPH | 01/18/2018 | |
| LNV | 7944 | AC1 | | 00KQ88L5G | | XSER X3550 M3 | 1 | B | 1 | 36.46 PH | 07/06/2016 | |
| LNV | 7944 | AC1 | | 00KQ88L5L | | XSER X3550 M3 | 1 | B | 1 | 36.46 PH | 07/06/2016 | |
| LNV | 7944 | AC1 | | 00KQ88L5T | | XSER X3550 M3 | 1 | B | 1 | 36.46 PH | 07/06/2016 | |
| LNV | 7944 | AC1 | | 00KQ88L5W | | XSER X3550 M3 | 1 | B | 1 | 36.46 PH | 07/06/2016 | |
| LNV | 7945 | AC1 | | 00KQ04B4W | | SYSTEM X3650 M3 | 1 | B | 1 | 709.00 H | | |
| LNV | 7945 | AC1 | | 00KQ14RBM | | SYSTEM X3650 M3 | 1 | B | 1 | 0.00 PH | 11/15/2016 | |
| LNV | 7945 | AC1 | | 00KQ14TGW | | SYSTEM X3650 M3 | 1 | B | 1 | 0.00 PH | 11/15/2016 | |
| LNV | 7945 | AC1 | | 00KQ7F923 | | SYSTEM X3650 M3 | 1 | B | 1 | 0.00 PH | 06/30/2017 | |

**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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| LNV | 7945 | AC1 | | 00KQ86H7C | | SYSTEM X3650 M3 | 1 | B | 1 | 61.05 | PH | 06/30/2016 | |
| LNV | 7978 | AC1 | | 0099N1781 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7978 | AC1 | | 0099N1782 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7978 | AC1 | | 0099N1787 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7978 | AC1 | | 0099N1789 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7978 | AC1 | | 0099N1793 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 8852 | HC1 | | 0099B8861 | | BLADECENTER H | 1 | B | 1 | 788.00 | H | | |
| LNV | 8853 | AC1 | | 0099BL520 | | BLADECENTER HS21 | 1 | B | 1 | 441.00 | H | | |
| LNV | 8853 | AC1 | | 0099BL545 | | BLADECENTER HS21 | 1 | B | 1 | 441.00 | H | | |
| LNV | 8864 | AC1 | | 0099A9627 | | IBM SYSTEM X3850 | 1 | B | 1 | 926.00 | H | | |
| **Subtotal Without MES** | | | | | | | | | | **6,894.38** | | | |
| **Subtotal With MES** | | | | | | | | | | **6,894.38** | | | |
| | | | | **Specified Location: 01783603** | | **City, State: BEVERLY HILLS CA 90210-4817** | | | | | | | |
| LNV | 1723 | 1NX | | 0023B4796 | | FLAT PANEL MONITOR WO/KEYB | 1 | B | 1 | 174.00 | H | | |
| LNV | 1735 | L04 | | 002367062 | | NETBAY LOCAL CONSOLE MANAGER | 1 | B | 1 | 140.00 | H | | |
| LNV | 7870 | AC1 | | 0006E9120 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 | H | | |
| LNV | 7870 | AC1 | | 0006E9127 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 | H | | |
| LNV | 7870 | AC1 | | 0006F3881 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 | H | | |
| LNV | 7870 | AC1 | | 0006F8831 | | BLADECENTER HS22 | 1 | B | 1 | 300.00 | H | | |
| LNV | 7915 | AC1 | | 00KQ4AV8W | | 7915 AC1 | 1 | B | 1 | 0.00 | WPH | 03/29/2017 | |
| LNV | 7944 | AC1 | | 00KQ33XTZ | | XSER X3550 M3 | 1 | B | 1 | 525.00 | H | | |
| LNV | 7945 | AC1 | | 00KQXKGML | | SYSTEM X3650 M3 | 1 | B | 1 | 709.00 | H | | |
| LNV | 7947 | AC1 | | 0099C5367 | | SYSTEM X3650 M2 | 1 | B | 1 | 709.00 | H | | |
| LNV | 7978 | AC1 | | 0099V1044 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7978 | MC1 | | 00KQLDZ72 | | SYSTEM X3550 SERVER | 1 | B | 1 | 525.00 | H | | |
| LNV | 7979 | 71U | | 00KDKWNBH | | XSER3650 3.0GHZ 4MB 1G 0HD | 1 | B | 1 | 709.00 | 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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| LNV | 7979 | 71U | | 00KDKWNCB | | XSER3650 3.0GHZ 4MB 1G 0HD | 1 | B | 1 | 709.00 | H | | |
| LNV | 7979 | 71U | | 00KDKWPKM | | XSER3650 3.0GHZ 4MB 1G 0HD | 1 | B | 1 | 709.00 | H | | |
| LNV | 7979 | 71U | | 00KQMKYC9 | | XSER3650 3.0GHZ 4MB 1G 0HD | 1 | B | 1 | 709.00 | H | | |
| LNV | 7979 | AC1 | | 00KQXCZC9 | | SYSTEM X3650 | 1 | B | 1 | 709.00 | H | | |
| LNV | 8654 | 51Y | | 0078TN263 | | XSER330 1.0G 256 256/0HD S | 1 | A | 1 | 350.00 | H | | |
| LNV | 8676 | M1X | | 00KPPCRG1 | | XSER335 3.06G 512 512/0HDD S | 1 | B | 1 | 525.00 | H | | |
| LNV | 8676 | M1X | | 00KPPCRH2 | | XSER335 3.06G 512 512/0HDD S | 1 | B | 1 | 525.00 | H | | |
| LNV | 8837 | 11U | | 00KPZWT02 | | XSER336 3.0G 1MB 1GB/0HD3.5 S | 1 | B | 1 | 525.00 | H | | |
| LNV | 8837 | 25U | | 00KQAZC0H | | XSER336 3.2G 2MB 1GB/0HDD S | 1 | A | 1 | 350.00 | H | | |
| LNV | 8837 | 25U | | 00KQAZC5M | | XSER336 3.2G 2MB 1GB/0HDD S | 1 | A | 1 | 350.00 | H | | |
| LNV | 8837 | 25U | | 00KQAZD1V | | XSER336 3.2G 2MB 1GB/0HDD S | 1 | A | 1 | 350.00 | H | | |
| LNV | 8840 | 45U | | 00KQBPY1K | | XSER346 3.6G 2MB 1GB/0HDD | 1 | A | 1 | 472.66 | H | | |
| LNV | 8863 | E5U | | 00KQCMZ1G | | XSER366 2X3.6GHZ 1MB 2GB 0HD | 1 | A | 1 | 567.99 | H | | |
| LNV | 8863 | E5U | | 00KQCYR0Z | | XSER366 2X3.6GHZ 1MB 2GB 0HD | 1 | A | 1 | 567.99 | H | | |
| LNV | 8864 | AC1 | | 0099A8951 | | IBM SYSTEM X3850 | 1 | B | 1 | 926.00 | H | | |
| **Subtotal Without MES** | | | | | | | | | | **13,561.64** | | | |
| **Subtotal With MES** | | | | | | | | | | **13,561.64** | | | |
| | | | | **Specified Location: 01783957** | | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | | | |
| LNV | 1723 | HC1 | | 00MM03649 | | 1U FLAT PNL MONITOR CONS KIT | 1 | B | 1 | 174.00 | H | | |
| LNV | 1754 | HC3 | | 00MM02304 | | LOCAL CONSOLE MANAGER | 1 | B | 1 | 140.00 | H | | |
| LNV | 7914 | AC1 | | 00KQ0M0DH | | SYSTEM X3550 M4 | 1 | B | 1 | 331.50 | WPH | 12/24/2015 | |
| LNV | 7914 | AC1 | | 00KQ6YC8Z | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 03/03/2019 | |
| LNV | 7914 | AC1 | | 00KQ6YD3V | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 03/03/2019 | |
| LNV | 7914 | AC1 | | 00KQ6YD3Z | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 03/03/2019 | |
| LNV | 7914 | AC1 | | 00KQ6YD5A | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 03/03/2019 | |
| LNV | 7914 | AC1 | | 00KQ6YD5C | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 03/03/2019 | |

**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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| LNV | 7914 | AC1 | | 00KQ7N1KX | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 06/11/2018 | |
| LNV | 7914 | AC1 | | 00KQ8N7YX | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 06/11/2018 | |
| LNV | 7914 | AC1 | | 00KQ9RG64 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 12/20/2016 | |
| LNV | 7914 | AC1 | | 00KQ9RK77 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 12/19/2016 | |
| LNV | 7914 | AC1 | | 00KQ9RK78 | | SYSTEM X3550 M4 | 1 | B | 1 | 0.00 | WPH | 11/01/2016 | |
| LNV | 7915 | AC1 | | 00KQ0WZ5X | | 7915 AC1 | 1 | B | 1 | 0.00 | WPH | 11/21/2018 | |
| LNV | 7915 | AC1 | | 00KQ0WZ5Z | | 7915 AC1 | 1 | B | 1 | 0.00 | WPH | 11/21/2018 | |
| LNV | 7945 | AC1 | | 00KQ904PA | | SYSTEM X3650 M3 | 1 | B | 1 | 338.73 | PH | 02/09/2016 | |
| LNV | 7945 | AC1 | | 00KQ904PW | | SYSTEM X3650 M3 | 1 | B | 1 | 338.73 | PH | 02/09/2016 | |
| LNV | 7945 | AC1 | | 00KQ916VZ | | SYSTEM X3650 M3 | 1 | B | 1 | 338.73 | PH | 02/09/2016 | |
| LNV | 7945 | AC1 | | 00KQ960HD | | SYSTEM X3650 M3 | 1 | B | 1 | 338.73 | PH | 02/09/2016 | |
| LNV | 7945 | AC1 | | 00KQ960WY | | SYSTEM X3650 M3 | 1 | B | 1 | 338.73 | PH | 02/09/2016 | |
| LNV | 8853 | AC1 | | 000674569 | | BLADECENTER HS21 | 1 | B | 1 | 441.00 | H | | |
| LNV | 8853 | AC1 | | 000674575 | | BLADECENTER HS21 | 1 | B | 1 | 441.00 | H | | |
| **Subtotal Without MES** | | | | | | | | | | **3,221.15** | | | |
| **Subtotal With MES** | | | | | | | | | | **3,221.15** | | | |
| | | | **Specified Location: 01782976** | | | **City, State: BEVERLY HILLS CA 90210-4817** | | | | | | | |
| IBM | 7998 | 60X | | 00064DC0A | | 7998 60X JS12 EXPRESS | 1 | B | 1 | 315.00 | H | | |
| **Subtotal Without MES** | | | | | | | | | | **315.00** | | | |
| **Subtotal With MES** | | | | | | | | | | **315.00** | | | |
| | | | **Specified Location: 01783202** | | | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | | | |
| IBM | 3584 | D53 | | 000044897 | | TS3500 EXPANSION FRAME | 1 | B | 1 | 936.00 | H | | |
| IBM | 3588 | F4A | | 000091669 | | TS1040 ULTRIUM 4 TAPE DRIVE | 1 | B | 1 | 2,364.00 | 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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| IBM | 3588 | F4A | | 000091742 | | TS1040 ULTRIUM 4 TAPE DRIVE | 1 | B | 1 | 2,364.00 H | | |
| IBM | 3588 | F4A | | 000091781 | | TS1040 ULTRIUM 4 TAPE DRIVE | 1 | B | 1 | 2,364.00 H | | |
| IBM | 3588 | F4A | | 000091793 | | TS1040 ULTRIUM 4 TAPE DRIVE | 1 | B | 1 | 2,364.00 H | | |
| IBM | 3588 | F4A | | 000091794 | | TS1040 ULTRIUM 4 TAPE DRIVE | 1 | B | 1 | 2,364.00 H | | |
| IBM | 1814 | 52A | | 0078K0WD5 | | EXP520 EXPANSION UNIT | 1 | B | 1 | 2,530.00 H | | |
| IBM | 1814 | 20A | | 0078K0WD6 | | DS5020 MIDRANGE DISK | 1 | B | 1 | 5,311.00 H | | |
| IBM | 1818 | RS2 | | 007800632 | | DS RSM MODEL RS2 | 1 | B | 1 | 660.00 H | | |
| IBM | 1818 | D1A | | 0078K10BN | | EXP5000 EXPANSION UNIT | 1 | B | 1 | 2,244.00 H | | |
| IBM | 1818 | D1A | | 0078K10BR | | EXP5000 EXPANSION UNIT | 1 | B | 1 | 2,244.00 H | | |
| IBM | 1818 | D1A | | 0078K10BT | | EXP5000 EXPANSION UNIT | 1 | B | 1 | 2,244.00 H | | |
| IBM | 1818 | D1A | | 0078K10BV | | EXP5000 EXPANSION UNIT | 1 | B | 1 | 2,244.00 H | | |
| IBM | 1818 | D1A | | 0078K10BW | | EXP5000 EXPANSION UNIT | 1 | B | 1 | 2,244.00 H | | |
| IBM | 1818 | 51A | | 0078K10C6 | | DS5100 MIDRANGE DISK | 1 | B | 1 | 6,684.00 H | | |
| IBM | 2101 | N00 | | 00001027W | | STORAGE SOLUTIONS RACK | 1 | B | 1 | 528.00 H | | |
| 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 H | | |
| IBM | 7998 | 60X | | 000655E6A | | 7998 60X JS12 EXPRESS | 1 | B | 1 | 315.00 H | | |
| IBM | 7998 | 60X | | 000655E7A | | 7998 60X JS12 EXPRESS | 1 | B | 1 | 315.00 H | | |
| 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 | 1,584.00 H | | |
| IBM | 8203 | E4A | | 00007B9C5 | | POWER SYSTEM 520 | 1 | B | 1 | 1,584.00 H | | |
| IBM | 8203 | E4A | | 00007B9E5 | | POWER SYSTEM 520 | 1 | B | 1 | 1,584.00 H | | |
| **Subtotal Without MES** | | | | | | | | | | **56,723.00** | | |

**See Legend for Details**

# 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. Reinstating Maintenance Services after a lapse in Services may require payment of additional charges.

| Mfg | Type | Mod/ Feat | Add/ Rem | Order/ Serial Number | Related Order/ Serial Number | Product Description | Qty. | Type of Svc[2] | Maint. Svc[3] | Charges[4] | Charges Start[5] | Charges Stop[5] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Subtotal With MES** | | | | | | | | | | **56,723.00** | | |

**Total Charge Period Charges for Maintenance Machine List Without MES** **$117,479.58**

**Total Charge Period Charges for Maintenance Machine List With MES** **$117,479.58**

**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 [4] | Services Start | Charges Start [5] | Charges Stop [5] |
|---|---|---|---|---|---|---|---|---|---|
| | | | **Specified Location: 01782812** | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | |
| | | | SWMA FOR AIX STD EDITION | | | 879.48 | | | |
| | | | | SOFTWARE MAINTENANCE<br>E5<br>CHARGEABLE PROCESSORS<br>FULL SHIFT | 2 | | | | |
| 7026 | 6H1 | 00006753F | | | 1 | | | | |
| **Subtotal** | | | | | | **879.48** | | | |
| | | | **Specified Location: 01782976** | **City, State: BEVERLY HILLS CA 90210-4817** | | | | | |
| | | | SWMA FOR AIX STD EDITION | | | 879.48 | | | |
| | | | | SOFTWARE MAINTENANCE<br>E5<br>CHARGEABLE PROCESSORS<br>FULL SHIFT | 2 | | | | |
| 7026 | 6H1 | 0000672AF | | | 1 | | | | |
| **Subtotal** | | | | | | **879.48** | | | |
| | | | **Specified Location: 01783202** | **City, State: BEVERLY HILLS CA 90210-3427** | | | | | |
| | | | SWMA FOR AIX STD EDITION | | | 879.48 | | | |
| | | | | SOFTWARE MAINTENANCE<br>D5<br>CHARGEABLE PROCESSORS<br>FULL SHIFT | 2 | | | | |
| 8203 | E4A | 0000717F4 | | | 1 | | | | |
| | | | SWMA FOR AIX STD EDITION | | | 879.48 | | | |
| | | | | SOFTWARE MAINTENANCE<br>D5 | | | | | |

**See Legend for Details**

# Schedule for ServiceElite

## Services List

----------Eligible Machine Description----------

| Type | Model | Serial/ Order Number | Support Service | Product Group / Service Option | Qty. | Charges [4] | Services Start | Charges Start [5] | Charges Stop [5] |
|---|---|---|---|---|---|---|---|---|---|
| | | | | CHARGEABLE PROCESSORS | 2 | | | | |
| | | | | FULL SHIFT | | | | | |
| 8203 | E4A | 00007B9E5 | | | 1 | | | | |
| | | | SWMA FOR AIX STD EDITION | | | 879.48 | | | |
| | | | | SOFTWARE MAINTENANCE | | | | | |
| | | | | D5 | | | | | |
| | | | | CHARGEABLE PROCESSORS | 2 | | | | |
| | | | | FULL SHIFT | | | | | |
| 8203 | E4A | 00007B9C5 | | | 1 | | | | |
| | | | SWMA FOR POWERVM EXPRESS ED | | | 46.80 | | | |
| | | | | SOFTWARE MAINTENANCE | | | | | |
| | | | | CHARGEABLE PROCESSORS | 2 | | | | |
| | | | | FULL SHIFT | | | | | |
| 8203 | E4A | 00007B9E5 | | | 1 | | | | |
| | | | SWMA FOR POWERVM EXPRESS ED | | | 46.80 | | | |
| | | | | SOFTWARE MAINTENANCE | | | | | |
| | | | | CHARGEABLE PROCESSORS | 2 | | | | |
| | | | | FULL SHIFT | | | | | |
| 8203 | E4A | 00007B9C5 | | | 1 | | | | |
| **Subtotal** | | | | | | **2,732.04** | | | |
| **Total Charge Period Charges for Services List** | | | | | | **$ 4,491.00** | | | |

**Note: One Time Charges are not included in these totals.**
**See Legend for Details**

## Legends:

[1]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)

[2]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)

[3]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

[4]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.
A (K) indicates assumptive Products included in the total Charge Period Price that are based on the customer provided configuration.
An (M) indicates a Miscellaneous Equipment Specification (MES) on order is not installed and applicable pricing not included.
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 (R) indicates the usage charge rate (feet, hours, or impressions) for a Machine under a usage plan.
An (S) indicates a manual order installation date change.
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.

[5]Charges Start/Stop dates shown are those that differ from the Contract Period Start/End Dates

# A SERVICES PROPOSAL FOR

# City of Beverly Hills

to provide:

## Hourly Technical Consulting Services

April 30, 2015

submitted by

**IBM**

600 Anton Boulevard

Costa Mesa, CA 92626

Service dates

July 1, 2015 – June 30, 2016

# 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 2015 - 2016 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.

# 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, 2016 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, trace 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, 2015

Estimated End Date = June 30, 2016

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, 2015.

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): MARK HOBSON

Date: 6/16/15

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): CARLOS FLORES

Date: 6/16/15

Agreement Number:

Statement of Work number: PRBL54

IBM Office address: IBM Corporation
600 Anton Boulevard
Costa Mesa, CA 92626

# 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

# 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, 2015 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:*

**City of Beverly Hills**

By: _____

Authorized signature

Name (type or print):

Date:

Customer Number:

Customer Address: **455 North Rexford Dr.**

**Beverly Hills, CA 90210**

Project Name or Identifier:

*Agreed to:*

**International Business Machines Corporation**

By:_____

Authorized signature

Name (type or print):

Date:

Reference Agreement Number:

Reference Statement of Work Number:

Change Authorization Number:

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 | | IBM Renewal Contact Information | |
|---|---|---|---|
| Quotation Number: | 26657851 | IBM Renewal Representative: | Darren Libman |
| Passport Advantage Agreement Number: | 130144 | Phone Number: | 1-888-771-7705 x333487 |
| Passport Advantage Site Number: | 7199797 | eMail Address: | dlibman@ca.ibm.com |
| IBM Customer Number: | 0985895 | | |
| Anniversary Date: | 01-Aug-2015 | | |
| Relationship SVP Level: | GV | | |
| Quotation SVP Level: | GV | | |

### 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 | 1.43 | 01-Aug-2015 | 31-Jul-2016 | 12 | 265.20 | 265.20 | 265.20 |
| IBM Cognos Impromptu Web Reports Authorized User Annual SW Subscription & Support Renewal | | | | | | | | | |
| 002 | E063RLL | 30 | 34.50 | 01-Aug-2015 | 31-Jul-2016 | 12 | 212.50 | 49.75 | 1,492.50 |
| IBM Cognos Impromptu Web Reports Limited Use Processor Value Unit (PVU) Annual SW Subscription & Support Renewal | | | | | | | | | |
| 003 | E063SLL | 200 | 322.00 | 01-Aug-2015 | 31-Jul-2016 | 12 | 299.20 | 70.28 | 14,056.00 |
| IBM Rational Application Developer for WebSphere Software Authorized User Annual SW Subscription & Support Renewal | | | | | | | | | |
| 004 | E01MJLL | 1 | 4.84 | 01-Aug-2015 | 31-Jul-2016 | 12 | 901.00 | 901.00 | 901.00 |

# 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 | 114.40 | 01-Aug-2015 | 31-Jul-2016 | 12 | 81.39 | 81.39 | 21,161.40 |
| IBM WebSphere Application Server Network Deployment Processor Value Unit (PVU) Annual SW Subscription & Support Renewal | | | | | | | | | |
| 006 | E025SLL | 300 | 57.00 | 01-Aug-2015 | 31-Jul-2016 | 12 | 35.28 | 35.28 | 10,584.00 |
| IBM Tivoli Storage Manager Extended Edition 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal | | | | | | | | | |
| 007 | E029ELL | 600 | 42.00 | 01-Aug-2015 | 31-Jul-2016 | 12 | 13.60 | 13.60 | 8,160.00 |
| IBM Tivoli Storage Manager 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal | | | | | | | | | |
| 008 | E029KLL | 10 | 0.40 | 01-Aug-2015 | 31-Jul-2016 | 12 | 7.57 | 7.57 | 75.70 |
| IBM Tivoli Storage Manager for Mail 10 Processor Value Units (PVUs) Annual SW Subscription & Support Renewal | | | | | | | | | |
| 009 | E02B6LL | 80 | 11.20 | 01-Aug-2015 | 31-Jul-2016 | 12 | 25.93 | 25.93 | 2,074.40 |
| IBM Integration Designer per Authorized User Annual SW Subscription & Support Renewal | | | | | | | | | |
| 010 | E0BRLLL | 1 | 4.28 | 01-Aug-2015 | 31-Jul-2016 | 12 | 793.90 | 793.90 | 793.90 |
| Total Points & SVP Amount (USD) | | | 592.05 | | | | | | 59,564.10 |

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
   - Sign in to https://www.ibm.com/software/howtobuy/passportadvantage/paocustomer/eorder/eRenewal?rquotenum=0026657851 and renew.

3. If you do not renew your IBM Software Subscription and Support by 08/01/2015, 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.

IBM Corp
by: CF
Carlos Flores
6/16/15

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<br>Oak Park, CA 91377 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | Not to exceed $ 55,000 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, 2015 and shall terminate on June 30, 2016.

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 polices 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

_____
JULIAN A. GOLD, M.D.
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:

MAHDI ALUZRI
Interim 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 (VSys) 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 Fifty-Five Thousand Dollars ($55,000).

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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY<br>☐ GENERAL LIABILITY<br>☐ PRODUCTS/COMPLETED OPERATIONS<br>☐ BLANKET CONTRACTUAL<br>☐ CONSULTANT'S PROTECTIVE<br>☐ PERSONAL INJURY<br>☐ EXCESS LIABILITY<br>☐ 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: | Brian Showman, Corporate Counsel |
| CONSULTANT'S ADDRESS: | 1700 Summit Lake Drive<br>Tallahassee, FL 32317 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| 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, 2015 until June 30, 2016.

**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 polices 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

_____
JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

CONSULTANT: MAINLINE INFORMATION SYSTEMS, INC.

_____
BRIAN SHOWMAN
Corporate Counsel

[Signatures continue]

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim 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.**

## 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 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

Scott G. Miller Date
Chief Financial Officer
Director of Administrative Services

3-29-12

Jeffrey A. Kolin Date
City Manager

## ADDENDUM A

Table 3. **Maximum Federal Per Diem Rates (Effective October 1, 2010 – September 30, 2011)[1]**

**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

| Per Diem Locality | | | | Computing Maximum Rate | | |
|---|---|---|---|---|---|---|
| State | Key City[2] | County and/or Other Defined Location[3,4] | 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<br>6/1 - 7/31<br>8/1 - 12/31 | 101<br>126<br>101 | 51<br>51<br>51 | 152<br>177<br>152 |
| | Huntsville | Madison, Limestone | All year | 86 | 51 | 137 |
| | Mobile | Mobile | 1/1 - 2/28<br>3/1 - 12/31 | 98<br>90 | 51<br>51 | 149<br>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<br>3/1 - 10/31<br>11/1 - 12/31 | 77<br>95<br>77 | 66<br>66<br>66 | 143<br>161<br>143 |
| | Kayenta | Navajo | 1/1 - 4/30<br>5/1 - 9/30<br>10/1 - 12/31 | 77<br>89<br>77 | 46<br>46<br>46 | 123<br>135<br>123 |
| | Phoenix, Scottsdale | Maricopa | 1/1 - 5/31<br>6/1 - 8/31<br>9/1 - 12/31 | 126<br>81<br>106 | 71<br>71<br>71 | 197<br>152<br>177 |
| | Sedona | City limits of Sedona | 1/1 - 2/28<br>3/1 - 4/30<br>5/1 - 12/31 | 129<br>145<br>129 | 66<br>66<br>66 | 195<br>211<br>195 |
| | Sierra Vista | Cochise | All year | 81 | 46 | 127 |
| | Tucson | Pima | 1/1 - 1/31<br>2/1 - 5/31<br>6/1 - 8/31<br>9/1 - 12/31 | 93<br>111<br>77<br>93 | 56<br>56<br>56<br>56 | 149<br>167<br>133<br>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<br>After 3/31/11 | 83<br>99 | 56<br>56 | 139<br>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<br>6/1 - 8/31<br>9/1 - 12/31 | 82<br>92<br>82 | 61<br>61<br>61 | 143<br>153<br>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 |

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## ADDENDUM B

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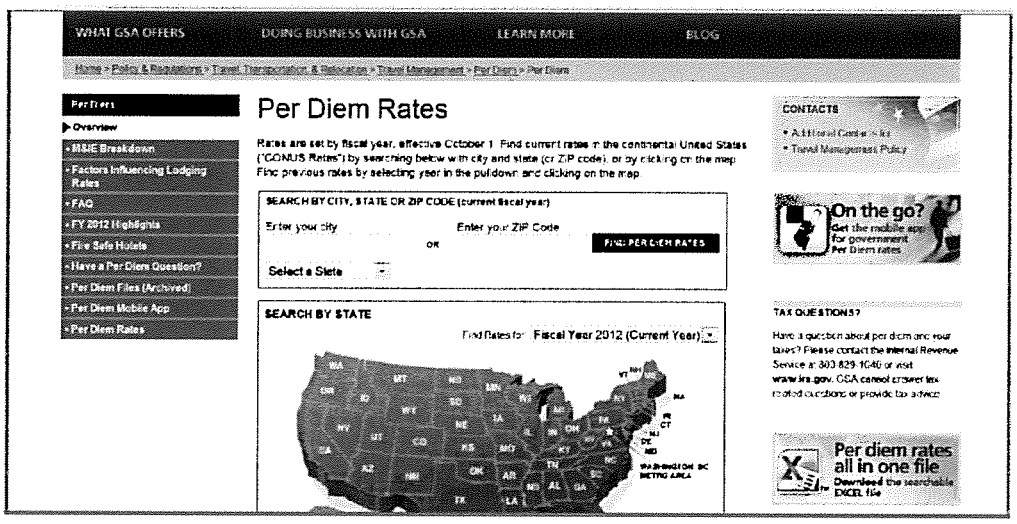
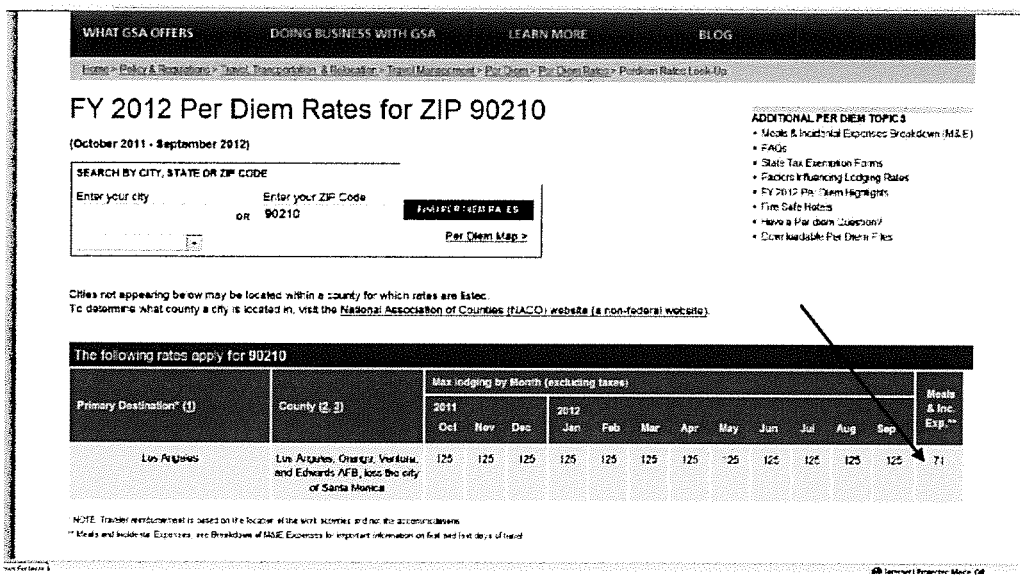



## ADDENDUM C




Page 8 of 8

EXHIBIT C

CERTIFICATE OF INSURANCE

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

**NAMED INSURED**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | LIMITS B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY | | | | | |
| | ☐ GENERAL LIABILITY | | | | | |
| | ☐ PRODUCTS/COMPLETED OPERATIONS | | | | | |
| | ☐ BLANKET CONTRACTUAL | | | | | |
| | ☐ CONTRACTOR'S PROTECTIVE | | | | | |
| | ☐ PERSONAL INJURY | | | | | |
| | ☐ EXCESS LIABILITY | | | | | |
| | ☐ 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 OROPRISE SOLUTIONS, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES FOR VARIOUS CITY INITIATIVES

| | |
|---|---|
| NAME OF CONSULTANT: | Oroprise Solutions, Inc. |
| RESPONSIBLE PRINCIPAL OF CONSULTANT: | Anand Belaguly, President |
| CONSULTANT'S ADDRESS: | 13428 Maxella Avenue, Suite 309<br>Marina del Rey, CA 90292 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer<br>Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| CONSIDERATION: | An amount not to exceed $325,000.00 (includes applicable taxes) as more fully described in Exhibit B |

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND OROPRISE SOLUTIONS, INC. FOR INFORMATION TECHNOLOGY CONSULTING SERVICES FOR VARIOUS CITY INITIATIVES

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

RECITALS

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

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

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall provide the consulting services on an "as needed" basis or as mutually agreed to by the parties, relating to the City's web applications and as more particularly described in Exhibit A, in a manner satisfactory to City and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

Section 2. 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. City agrees to compensate Consultant, and Consultant agrees to accept in full satisfaction for the services required by this Agreement the Consideration set forth above and 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). City shall pay Consultant said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 4. 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 5. Assignment and Subcontracting. Consultant shall not assign or attempt to assign any portion of this Agreement, or subcontract any required performance hereunder, without the prior written approval of City. Consultant, however, shall at all times be responsible for the services performed by any subcontractors.

Section 6. 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 Principle 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 7. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform Consultant's services under this Agreement.

Section 8. Interests of Consultant. Consultant affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with Consultant.

Section 9. Insurance.

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

(b) Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of 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 services required by this Agreement.

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

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

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

(f) 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.

(g) At all times during the term of this Agreement, Consultant shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth on Exhibit C, attached hereto and incorporated herein, or satisfactory to the City Attorney and Risk Manager, showing that the aforesaid policies are in effect in the required amounts. Consultant shall, prior

to commencement of work under this Agreement, file with the City Clerk such certificate or certificates.

(h) The policies of insurance required by this Agreement shall contain an endorsement naming the City and City's elected officials, officers and employees as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to City, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(i) The insurance provided by Consultant shall be primary to any coverage available to City, and any insurance or self-insurance maintained by City, its officers, officials, employees, agents or volunteers shall be excess of Consultant's insurance and shall not contribute with it. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation. The Consultant hereby waives all rights of subrogation against City.

(j) 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 10. 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 11. Termination.

(a) Either party may cancel this Agreement, with or without cause, at any time upon five (5) days written notice to the other party. Consultant agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by City, due to no fault or failure of performance by Consultant, Consultant shall be paid full compensation for all services performed by Consultant, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, Consultant shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid Consultant for the full performance of the services required by this Agreement.

Section 12. 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 13. Work Product. 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 shall be the exclusive property f City. Upon the

request of City, Consultant shall sign all documents requested by City to confirm or perfect the exclusive ownership of City of the Work Product. Any Work Product in the possession of Consultant shall be delivered to the City at least ten (10) days prior to the termination of this Agreement. This section shall survive termination of this Agreement.

Section 14. Information and Documents. All data, information, documents and drawings prepared for City and required to be furnished o 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 15. 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:

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

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

(3) 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 the City.

Section 16. Notice. Any notice required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth above or to such other addresses as the parties may designate in writing.

Section 17. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 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. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this

Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

EXECUTED the _____ day of _____, 20___.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

CONSULTANT: OROPRISE SOLUTIONS, INC.

_____
ARNAND BELAGULY
President

_____
SHAN SUNDAR
Director and Corporate Secretary

[Signatures continue]

APPROVED AS TO FORM

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

MAHDI ALUZRI
Interim City Manager

For DS

DAVID SCHIRMER
Chief Information Officer

KARL KIRKMAN
Risk Manager

## EXHIBIT A

## SCOPE OF SERVICES

Consultant shall provide information technology consulting services (the "Services") related to various City Initiatives such as enhancing website usability by integrating multiple new and existing eGov initiatives, which include Customer Service applications (utility billing, business tax, etc.), HR applications (training, payroll, etc.), and others for a single unified web presence, simplified user interface, uniform look and feel, and streamlined processes for City customers and employees. Consultant shall provide the Services as directed by City on an as-needed basis. The Services shall include the following:

*A) Information Technology Application Development Services*

1. Analysis of business requirements and subsequent creation of high-level technical design documents and detailed technical specifications, in accordance with City architecture standards.

2. Development of application code as necessary, using Java, tomcat, WebSphere and Struts.

3. Unit and system testing of application code as well as execution of implementation activities.

4. Identification, documentation and estimation of technical tasks for projects of varying sizes and levels of complexity.

5. Analysis and identification of technical areas of improvement within existing web applications.

6. Work with internal Information Technology teams to complete project activities, such as infrastructure, architecture and database design.

7. Discovery, solutions development, systems testing, solutions presentations, training, and application support.

8. Work with internal Information Technology teams to work on data mapping and data conversion services.

9. Work with internal Information Technology teams to develop a digital experience portal for the city brining all online city services under one roof.

*B) Information Technology Project Management Services*

1. Accomplish IT objectives by planning and evaluating project activities.

2. Track, monitor and coordinate active projects.

3. Serve as liaison between IT and various departments related to project activities.

EXHIBIT B

## COMPENSATION AND PAYMENT

City shall pay Consultant compensation at the following rates for scheduled service during normal business hours.

| Resource Category | Hourly Rate |
|---|---|
| Project Manager | $ 165.00 |
| Software Architect | $ 165.00 |
| Database Architect / DBA | $ 150.00 |
| Senior Programmer (Java, .NET, Other) | $ 125.00 |
| Programmer (Java, .NET, other) | $ 100.00 |
| Web Designer (Graphics Designer) | $ 100.00 |
| Systems Administrator | $ 100.00 |
| Data Migration Specialist | $ 75.00 |
| Junior Programmer/Analyst | $ 65.00 |

The total sum paid to Consultant under this Agreement shall not exceed the amount of Three Hundred Twenty-Five Thousand Dollars ($325,000.00), 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).

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

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

**NAMED INSURED**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**
**A.**
**B.**
**C.**

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ **AUTOMOBILE LIABILITY**<br>☐ **GENERAL LIABILITY**<br>☐ PRODUCTS/COMPLETED OPERATIONS<br>☐ BLANKET CONTRACTUAL<br>☐ CONTRACTOR'S PROTECTIVE<br>☐ PERSONAL INJURY<br>☐ EXCESS LIABILITY<br>☐ **WORKERS' COMPENSATION**<br>☐ | | | | | |

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 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<br>San Diego, CA 92109 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016 |
| 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 polices 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 _____ 201___, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
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:

MAHDI ALUZRI
Interim 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.

| **Quartic Solutions Billing Rates** | |
|---|---|
| **Position** | **Rate** |
| 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY<br>☐ GENERAL LIABILITY<br>☐ PRODUCTS/COMPLETED OPERATIONS<br>☐ BLANKET CONTRACTUAL<br>☐ CONTRACTOR'S PROTECTIVE<br>☐ PERSONAL INJURY<br>☐ EXCESS LIABILITY<br>☐ 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

TITLE : _____

AGENCY : _____ 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 129th Avenue N<br>Largo, FL 33774 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | Upon Written Notice To Proceed |
| TERMINATION DATE: | June 30, 2016, unless sooner terminated pursuant to Section 13 |
| CONSIDERATION: | An amount not to exceed $100,000, 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 polices 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 _____ 201___, at Beverly Hills, California.

CITY OF BEVERLY HILLS,
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills,
California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

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:

MAHDI ALUZRI
Interim City Manager

For DS

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 Ten Dollars ($110.00) 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 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, 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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**

**A.**

**B.**

**C.**

| COMPANY (A.B.C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐ AUTOMOBILE LIABILITY | | | | | |
| | ☐ GENERAL LIABILITY | | | | | |
| | ☐ PRODUCTS/COMPLETED OPERATIONS | | | | | |
| | ☐ BLANKET CONTRACTUAL | | | | | |
| | ☐ CONSULTANT'S PROTECTIVE | | | | | |
| | ☐ PERSONAL INJURY | | | | | |
| | ☐ EXCESS LIABILITY | | | | | |
| | ☐ 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 WAVE TECHNOLOGY SOLUTIONS GROUP, INC. FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

| | |
|---|---|
| NAME OF CONSULTANT: | Wave Technology Solutions Group, Inc. |
| RESPONSIBLE PRINCIPAL OF CONSULTANT: | Amir Afzali, Vice President |
| CONSULTANT'S ADDRESS: | 320 Goddard, Suite 100<br>Irvine, California 92618 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: David Schirmer, Chief Information Officer |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2018, unless sooner terminated pursuant to Section 13 of the Agreement |
| CONSIDERATION: | Not to exceed $150,000 annually based on the costs set forth in Exhibit B |

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND WAVE TECHNOLOGY SOLUTIONS GROUP, INC. FOR EMC DOCUMENTUM APPLICATIONXTENDER SUPPORT AND SERVICES RELATED TO THE CITY'S DOCUMENT AND RECORDS MANAGEMENT SYSTEM

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

RECITALS

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

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

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Consultant's Services. Consultant shall provide EMC Documentum ApplicationXtender maintenance and support, document conversion services, and related professional services, as more particularly described in Exhibit A, Scope of Work, and in the Request for Proposals (Bid No. 12-25: EMC Documentum ApplicationXtender Support & Services), both incorporated herein by this reference, 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. This Agreement shall commence upon a notice to proceed, and shall terminate on the Termination Date set forth above, unless sooner terminated pursuant to Section 13 of this Agreement. The City Manager or his designee may extend the Agreement in writing for up to two, one year periods.

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 set forth above and 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).

Section 4. 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 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 and Subcontracting. Consultant shall not assign or attempt to assign any portion of this Agreement, or subcontract any required performance hereunder, without the prior written approval of City. Consultant, however, shall at all times be responsible for the services performed by any subcontractors.

Section 7. Party Representatives.

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

(b) Consultant's Onsite Representatives. Consultant shall have at least one competent representative on the project site at all times while work is in progress. At the City's direction and at the sole discretion of the City, Consultant shall immediately replace any individual who fails to perform the duties required by the work with a qualified, competent replacement that is acceptable to City's authorized representative.

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

Section 8. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform Consultant's services under this Agreement.

Section 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 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 Work required by this Agreement.

3) A policy or policies of Professional Liability Insurance coverage with minimum limits of One Million Dollars ($1,000,000).

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 polices 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 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.

(a) 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 from any claim, liability or financial loss (including without limitation, attorneys fees and costs) arising out of the acts or omissions of Consultant, its employees, agents, representatives, and/or subcontractors, whether intentional, reckless, negligent, or otherwise wrongful, in the performance of this Agreement.

(b) Consultant agrees to indemnify, hold harmless and defend the City, the City Council and each member thereof, every officer, employee and agent of the City from and against any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any claim that the technology and services provided by Consultant under this

Agreement infringes upon any copyright, trade secret, trademarks, patent or other proprietary or intellectual property right of any third party.

Section 13. Termination.

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

Section 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. 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 (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. This provision survives termination of Consultant's duties to the City.

Section 17. Notice. Any notice required by this Agreement shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during regular business hours; or (b) on the second business day following deposit in the United States

mail, postage prepaid, to the addresses set forth above or to such other addresses as the parties may designate in writing.

Section 18. Attorney's Fees. In the event of litigation between the parties arising out of or connected with this Agreement, the prevailing party in such litigation shall be entitled to recover, in addition to any other amounts, reasonable attorney's fees and costs of such litigation.

Section 19. Precedence. In case of conflict between any of the Exhibits attached hereto and the terms of this Agreement, this Agreement shall take precedence over the Exhibits.

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

Section 23. No Third Party Beneficiaries. This Agreement and the obligations hereunder are not intended to benefit any party other than City and Consultant, except as expressly provided otherwise herein. No entity not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

EXECUTED the _____ day of _____, 201__.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

COMPANY NAME: WAVE TECHNOLOGY SOLUTIONS, INC.

ADAM TORAB
President

MEHRON VAEZI
Chief Financial Officer

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

DAVID SCHIRMER
Chief Information Officer

KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

Consultant shall provide the following services related to the City's Documents and Records Management System (or "system") to the City's full satisfaction:

**TASK 1:** **Software Systems Maintenance and Support:** Consultant shall provide all software maintenance, support and updates necessary for a fully functional system. The City's current version of EMC Documentum software is 6.5. Consultant shall provide maintenance and support for the system for a three year period which may be renewed annually as set forth in Section 2 of the Agreement. Consultant shall submit its service level agreement(s) for all support and maintenance activities. The following EMC Documentum and Kofax software require support:

(a) <u>EMC ApplicationXtender</u>
ApplicationXtender Server – 1 CC User
ApplicationXtender OCR Server
Verity K2 Server
Verity K2 Client – 5 CC User
ApplicationXtender Server – 5 CC User Pack
(2) ApplicationXtender ProIndex Full Text Client – 5 CC User
ApplicationXtender ProIndex Full Text Server
DiskXtender for Windows File System Mgr Server
ApplicationXtender Intg Mod – 25 Users
Additional Records Mgr Admin Client Connection
Records Manager for ApplicationXtender
DiskXtender for Windows File System Mgr
ApplicationXtender Server – 25 CC Users
Pegasus Scanfix for ApplicationXtender
ApplicationXtender Image Capture Server
ApplicationXtender OCR Server

(b) <u>Kofax</u>
AC Volume 75K/Mo
AC Volume 25K/Mo
AC Volume 25K/Mo
Full Station

**TASK 2:** **Scanner Maintenance and Support:** Consultant shall provide all support and maintenance for fully functional scanners. Consultant shall submit its service level agreement(s) for all support and maintenance activities. The following hardware requires annual support:

(a) <u>Kodak</u>
Kodak i640 with VRS (Qty-1: Administrative Services, Finance Division)

Kodak i620 with VRS (Qty-1: Community Development, Building and Safety Division)
Kodak i260 with VRS (Qty-2: Police Department, Administrative Services Division, Records Bureau)

(b) Bowe Bell & Howell
Bowe Bell & Howell Infinity WF Large Format Scanner (Qty-1: Community Development, Building and Safety Division)

*Note: Scanner locations are provided for informational purposes only. Scanners may be moved between City departments by authorized City representatives at any time during the term of this Agreement.*

**TASK 3:** **Document Conversion Services:** Consultant shall provide document conversion services, which shall be provided on an as needed basis, as determined by City representatives.

(a) Consultant's duties shall include provision of all necessary discovery, sample testing, image adjustment, labor, hardware, equipment, software, validation, quality control, and release to complete full document conversion services into the City's Document and Records Management system.

(b) Consultant shall provide high quality scanning services at 200 DPI resolution for various document types and sizes, as directed by City staff.

**TASK 4:** **Professional Services:** Consultant shall provide EMC Documentum ApplicationXtender software customizations, engineering, integrations, and application development services to maximize the performance of the records management system.

(a) Consultant shall provide the following professional services as requested by the City:

i. Provide detailed technical specifications, develop code, and other necessary technical tasks to automate and integrate AX applications with various City software applications.

ii. Provide discovery, solutions deployment, application testing, validation and support.

iii. Develop application code and perform the integration necessary for 'public access' applications.

iv. Create departmental AX applications.

v. Provide various application services to optimize City department applications and workflows.

(b) The following tasks must be included with respect to all Professional Services requests received from authorized City staff:

i. *Project Management*: The Consultant must present a comprehensive project plan and project budget, detailing time and resources required to accomplish the

requested tasks. Consultant must employ professional project management software such as Microsoft Project.

ii. *Documentation*: Documentation must be developed to support the City's business processes. At a minimum, the contracting firm shall provide the City with the following:

1. User documentation
2. Configuration documentation
3. Interface documentation
4. System administration manuals
5. Application software tutorials
6. System documentation

All user documentation, including application and interface documentation, help documentation and software tutorials should be available online and accessible from within the relevant application. Additionally, the Consultant is expected to provide sufficient copies of each type of user documentation.

iii. *Testing*: Each Professional Services engagement must include adequate provisions for functional, performance and reliability testing. The City requires Consultant involvement in the development and execution of all test plans to ensure that the customizations and integrations deliver the expected results.

iv. *Training*: Consultant shall provide the following as needed types of training programs:

1. Administrator training that includes all knowledge transfer activities necessary to enable City staff to configure, tailor, monitor and administer the technical and functional aspects of system.

2. End user training that includes the use of a "train-the-trainer" approach accompanied by computer-based training, both web-based and onsite.

All training materials must be provided in both electronic and hard copy formats for unlimited duplication by the City. Training materials must reflect the specific functionality of the system in the City and all training sessions must include specific skills required to support the functionality of the City's system.

EXHIBIT B

COMPENSATION AND PAYMENT

A. Breakdown of Costs.

| Bidder: | WAVE Technology Solutions Group |
|---|---|
| **Software Systems Maintenance and Support** | **Not to Exceed** |
| **1-year cost:** | $ 23,832.00 |
| **3-year cost:** | $ 71,496.00 |
| **Scanner Maintenance and Support** | |
| **1-year cost:** | $ 12,121.00 |
| **3-year cost:** | $ 36,363.00 |

B. Rates.

| | |
|---|---|
| **Document Conversion Services (hourly)** | $175.00 |
| **Professional Services (hourly)** | $175.00 |
| **Scan Duplex 8 ½ x 11 (per page)** | |
| **onsite:** | $ 0.18 |
| **offsite:** | $ 0.06 |
| **Scan Duplex 8 ½ x 14 (per page)** | |
| **onsite:** | $0.30 |
| **offsite:** | $0.10 |
| **Scan Duplex 11 x 17 (per page)** | |
| **onsite:** | $ 0.30 |
| **offsite:** | $ 0.10 |
| **Scan Large Format 24 x 36 (per page)** | |
| **onsite:** | $3.00 |
| **offsite:** | $1.00 |
| **Scan Large Format 36 x 42 (per page)** | |
| **onsite:** | $ 3.00 |
| **offsite:** | $ 1.00 |
| **Scan Large Format Velum (per page)** | |
| **onsite:** | $3.00 |
| **offsite:** | $.00 |
| **Scan Large Format Mylar (per page)** | |
| **onsite:** | $3.00 |
| **offsite:** | $1.00 |

| | |
|---|---|
| **Convert 16MM Microfiche jacket** | |
| **onsite:** | N/A |
| **offsite:** | $0.12 |
| **comments:** | Minimum $6 order with maximum resolution of 300dpi. |
| **Convert 35MM Microfiche jacket** | |
| **onsite:** | N/A |
| **offsite:** | $0.35 |
| **comments:** | Minimum $2 order with maximum resolution of 300dpi. |
| **Photograph** | |
| **onsite:** | $ 0.18 |
| **offsite:** | $ 0.06 |
| **Newspaper (per page)** | |
| **onsite:** | $ 0.18 |
| **offsite:** | $ 0.06 |
| **Document Indexing** | |
| **onsite:** | $ 0.02 |
| **offsite:** | $ 0.01 |
| **comments:** | Pricing is per keystroke. |
| **Document Pickup and Return** | |
| **onsite:** | $ 200.00 |
| **offsite:** | $ 50.00 |
| **comments:** | Pricing for onsite is per day. Pricing for offsite is per trip. |
| **Document Storage During Conversion** | |
| **onsite:** | N/A |
| **offsite:** | $- |
| **comments:** | Storage is included in quoted prices for document conversion costs. |
| **On Demand Document Retrieval During Conversion** | |
| **onsite:** | N/A |
| **offsite:** | $ - |
| **comments:** | Retrieval is included in quoted prices for document conversion costs. |
| **Document Preparation** | |
| **onsite:** | $ 51.00 |
| **offsite:** | $ 17.00 |
| **comments:** | Pricing is per hour. |

| | |
|---|---|
| **User Training (2 hour increments)** | |
| **onsite:** | $ 175.00 |
| **offsite:** | $ 175.00 |
| **comments:** | Pricing is per hour. |
| **Systems Administrator Training (2 hour increments)** | |
| **onsite:** | $ 175.00 |
| **offsite:** | $ 175.00 |
| **comments:** | Pricing is per hour. |

C. Payment.
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**

**ADDRESS**

**COMPANIES AFFORDING COVERAGE**
**A.**
**B.**
**C.**

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | B.I. | LIMITS P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐**AUTOMOBILE LIABILITY**<br>☐**GENERAL LIABILITY**<br>☐PRODUCTS/COMPLETED OPERATIONS<br>☐BLANKET CONTRACTUAL<br>☐CONTRACTOR'S PROTECTIVE<br>☐PERSONAL INJURY<br>☐EXCESS LIABILITY<br>☐**WORKERS' COMPENSATION**<br>☐ | | | | | |

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: _____

_____ _____

Exhibit C

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND GLORIA WINER TO PROVIDE "PARENT AND ME" MUSIC AND MOVEMENT CLASS INSTRUCTION THROUGH THE CITY'S COMMUNITY SERVICES DEPARTMENT

| | |
|---|---|
| NAME OF VENDOR: | Gloria Winer |
| RESPONSIBLE PRINCIPAL OF VENDOR: | Gloria Winer, Owner |
| VENDOR'S ADDRESS: | 1875 Kelton Avenue<br>Los Angeles, CA 90025 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: Steve Zoet, Director of Community Services |
| COMMENCEMENT DATE: | July 1, 2015 |
| TERMINATION DATE: | June 30, 2016, unless extended pursuant to Section 2 of the Agreement |
| CONSIDERATION: | Not to exceed:<br>a. FY15-16: $54,000 per year<br>b. FY16-17: $54,000 per year<br>c. FY17-18: $54,000 per year<br>Based on the rates set forth in Section 3 |

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND GLORIA WINER TO PROVIDE "PARENT AND ME" MUSIC AND MOVEMENT CLASS INSTRUCTION THROUGH THE CITY'S COMMUNITY SERVICES DEPARTMENT

THIS AGREEMENT is made as of the Commencement Date set forth above, by and between the City of Beverly Hills, a municipal corporation (hereinafter called "CITY"), and Gloria Winer, an individual (hereinafter called "VENDOR").

RECITALS

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

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

NOW, THEREFORE, the parties agree as follows:

Section 1. VENDOR's Services.

(a) VENDOR shall perform the Scope of Services described in Exhibit A, attached hereto and incorporated herein, to the full satisfaction of CITY.

(b) VENDOR shall acquire, repair and maintain at its sole cost and expense such equipment as VENDOR requires for its use to conduct the services required by this Agreement.

(c) VENDOR shall supply at its sole cost and expense any instructional materials, supplies, handouts, books and photocopying VENDOR may require for the conduct of the services required by this Agreement.

(d) VENDOR is solely responsible for the hiring, training, supervision and compensation of substitutes or assistants required for the conduct of the services under this Agreement.

Section 2. Time of Performance. VENDOR shall commence its Services under this Agreement upon the Commencement Date. VENDOR shall perform the Services on or by the Termination Date set forth on the cover page hereof. The City Manager or his designee may extend the Time of Performance in writing for:

☐ one additional one-year period

☒ two additional one-year periods

pursuant to the same terms and conditions as this Agreement.

Section 3. Compensation. CITY shall pay VENDOR at the rate of 70% of an amount to be based on the CITY resident rate multiplied by the number of registrants of the class provided by VENDOR for CITY under this Agreement as follows:

☒ Ongoing Classes

CITY shall make two payments to VENDOR upon receipt of an itemized statement on a form acceptable to CITY for VENDOR's services performed. The first payment shall be made midway through each session and the second payment shall be made at the end of each session. CITY shall pay VENDOR the amount of such billing within thirty (30) days of receipt of same.

Section 4. Independent Contractor. VENDOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of VENDOR or any of VENDOR's employees, except as herein set forth. VENDOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

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

Section 6. Responsible Principal.

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

(b) CITY'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 7. Personnel.

(a) VENDOR represents that all of the services required under this Agreement shall be performed by VENDOR. VENDOR further represents that it is qualified to perform such services.

(b) If services under this Agreement involve minors under the age of 18, VENDOR and VENDOR's personnel shall be fingerprinted by the CITY Police Department in order to conduct a State Department of Justice ("DOJ") background check prior to VENDOR performing services under this Agreement. CITY shall waive the administrative cost of fingerprinting and shall pay the DOJ fees. If VENDOR or any VENDOR personnel have been convicted of a misdemeanor or felony involving moral turpitude according to the DOJ report, CITY may terminate this Agreement immediately.

Section 8. Interests of VENDOR. VENDOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with VENDOR.

Section 9. Insurance.

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

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

(c) VENDOR agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation and employer's liability insurance as required by law. If VENDOR represents that it is not required by law to maintain workers' compensation insurance coverage, VENDOR shall sign an affidavit to this effect, which shall be attached hereto and incorporated herein as Exhibit B.

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

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

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

(g) At all times during the term of this Agreement, VENDOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit B, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. VENDOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The General Liability policy of insurance required by this Agreement shall contain an endorsement naming the CITY as an additional insured. If the class is located on Beverly Hills Unified School District Property, the General Liability policy of insurance shall also name the Beverly Hills Unified School District 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.

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

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

Section 10. Indemnification.

☒ If Location of Class is on CITY Property

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

Section 11. Termination.

(a) CITY may cancel this Agreement at any time upon five (5) days written notice to VENDOR. VENDOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) VENDOR may cancel this Agreement at any time upon five (5) days written notice to CITY. After such effective date, VENDOR shall continue providing, to the conclusion of the session, any course and/or camp that began prior to the effective date of termination. Such performance shall be subject to the terms of this Agreement.

(c) In the event of termination or cancellation of this Agreement by CITY or VENDOR, due to no fault or failure of performance by VENDOR, VENDOR shall be paid full compensation for all services performed by VENDOR, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, VENDOR 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 VENDOR for the full performance of the services required by this Agreement.

Section 12. 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 13. 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 14. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and VENDOR, and supersedes all prior negotiations, representations

or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and VENDOR.

Section 15. 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 16. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 17. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than VENDOR.

Section 18. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____ 201__, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

VENDOR: GLORIA WINER

Gloria Winer
GLORIA WINER
Owner

[Signatures Continue]

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

STEVE ZOET
Director of Community Services

KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF SERVICES

VENDOR shall provide music and movement class instruction to children and their parents through the CITY's Community Services Department. Classes will run approximately 10-14 weeks per session during each of the four yearly sessions offered by CITY.

VENDOR has experience and training in providing the services and instruction outlined in this Scope of Services. CITY lacks this experience and training and is not qualified to determine the methods and means to be employed in providing such services. CITY is only interested in the results to be achieved. As a result, VENDOR shall be solely responsible for determining the outline and content of instruction provided under this Agreement. VENDOR shall be solely responsible for determining the instructional methods and means to be used for all instruction under this Agreement and in determining manner by which services will be provided.

VENDOR retains the right to provide similar services, including recreation classes, for other cities, special districts or private entities or to provide its services directly to the general public.

After-school classes and/or summer camp activities shall occur at locations and on a schedule approved by CITY in writing. The schedule is subject to change by CITY, which may reschedule or cancel any or all classes at its sole discretion. Other than as necessary to meet the needs of students and program participants, VENDOR shall set its own schedule and hours (including any time for preparation). All classes will take place at one of the two CITY Community Centers as determined by CITY staff.

# EXHIBIT B

## CERTIFICATE OF INSURANCE

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

NAMED INSURED

ADDRESS

COMPANIES AFFORDING COVERAGE
A.
B.
C.

| COMPANY (A. B. C.) | COVERAGE | POLICY NUMBER | EXPIRATION DATE | LIMITS B.I. | P.D. | AGGREGATE |
|---|---|---|---|---|---|---|
| | ☐AUTOMOBILE LIABILITY<br>☐GENERAL LIABILITY<br>☐PRODUCTS/COMPLETED OPERATIONS<br>☐BLANKET CONTRACTUAL<br>☐CONTRACTOR'S PROTECTIVE<br>☐PERSONAL INJURY<br>☐EXCESS LIABILITY<br>☐WORKERS' COMPENSATION<br>☐ | | | | | |

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: _____

_____

RM02.DOC REVISED 10/14/96.

AMENDMENT NO. 9 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TRUGREEN LANDCARE FOR LANDSCAPE MAINTENANCE SERVICES

| | |
|---|---|
| NAME OF VENDOR: | TruGreen LandCare |
| RESPONSIBLE PRINCIPAL OF VENDOR: | Ralph Navarro, Operations Manager |
| VENDOR'S ADDRESS: | 1323 West 130th Street<br>Gardena, CA 90247 |
| CITY'S ADDRESS: | City of Beverly Hills<br>455 N. Rexford Drive<br>Beverly Hills, CA 90210<br>Attention: Steve Zoet<br>Director of Community Services |
| COMMENCEMENT DATE: | July 1, 2004 |
| TERMINATION DATE: | December 31, 2016 |
| CONSIDERATION: | Original Agreement: Not to exceed $420,000 per year, as more particularly described in Exhibit B-1<br><br>Amendment Nos. 1-8: Not to exceed $430,200 per year<br><br>Amendment No. 9: Additional $20,000. Not to exceed $450,200 (July 1, 2015-December 31, 2016) |

AMENDMENT NO. 9 TO AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND TRUGREEN LANDCARE FOR LANDSCAPE MAINTENANCE SERVICES

This Amendment No. 9 is to that certain Agreement dated July 10, 2004 and identified as Contract No. 206-04, as amended by Amendment No. 1, dated June 13, 2008 and identified as Contract No. 204-08, Amendment No. 2, dated July 21, 2009 and identified as Contract No. 310-09; Amendment No. 3, dated October 12, 2009 and identified as Contract No. 401-09; Amendment No. 4, dated June 22, 2010 and identified as Contract No. 228-10; Amendment No. 5, dated December 21, 2010 and identified as Contract No. 541-10; Amendment No. 6, dated March 1, 2011 and identified as Contract No. 66-11; Amendment No. 7, dated June 7, 2011 and identified as Contract No. 186-11; and Amendment No. 8, dated December 19, 2011 (the "Agreement"), copies of which are on file in the office of the City Clerk, between the City of Beverly Hills, a municipal corporation ("CITY") and TruGreen LandCare ("VENDOR"), for landscape maintenance services.

RECITALS

A. CITY entered into a written Agreement, dated July 10, 2004, for landscaping maintenance services, which has been previously amended.

B. CITY desires to increase the Consideration due to additional services needed for drought abatement.

NOW, THEREFORE, the parties hereto do amend the Agreement as follows:

Section 1. The CONSIDERATION shall be amended as set forth on the cover sheet of this Amendment No. 9.

Section 2. Exhibit B-1 shall be amended as attached hereto.

Section 3. Subsection (a)iv of Section 8 entitled "Insurance", which states, "iv. Professional Liability Insurance with minimum limits of One Million Dollars ($1,000,000.00)" is hereby deleted.

Section 4. Except as amended by specifically amended by Section 2, 3 and 4 of Amendment No. 8 and this Amendment No. 9, all terms and conditions set forth in the Agreement shall remain in full force and effect.

EXECUTED the _____ day of _____, 201__, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

_____
JULIAN A. GOLD, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

VENDOR: TRUGREEN LANDCARE

_____
RALPH NAVARRO
Branch Manager

[Signatures continue]

APPROVED AS TO FORM

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

STEVE ZOET
Director of Community Services

KARL KIRKMAN
Risk Manager

EXHIBIT B-1

RATES

CITY shall compensate CONTRACTOR in the following not to exceed amounts pursuant to the rates set forth in Exhibit A:

(a) For services performed July 1, 2004 through June 30, 2008: $420,000 per year;

(b) For services performed July 2008 through June 30, 2015: $430,200 per year;

(c) For services commencing July 1, 2015: $450,200 per year.

# Attachment 2

# City of Beverly Hills

**Exhibit - A**

## Listing of Annual Blanket Purchase Orders 2015-2016

| | | |
|---|---|---|
| **BUILDING AND FACILITIES** | | |
| **Janitorial Maintenance Services & Supplies** | | |
| Able Building Maintenance Company | $1,652,155.00 | |
| Citywide custodial services. | | |
| **Buildings - Maintenance, Supplies & Contractors** | | |
| DMS Facility Services | $540,750.00 | |
| Engineering services for mechanical-electrical services, fire and life safety, heating, ventilating & air conditioning systems. | | |
| Thyssenkrupp Elevator Corporation | $389,000.00 | |
| Elevator maintenance for all City elevators | | |
| **TOTAL BUILDING AND FACILITIES:** | | $2,581,905.00 |
| **VEHICLES - Supplies and Maintenance** | | |
| IPC (USA), Inc. | $800,000.00 | |
| Gasoline, diesel fuel, lubricant products. | | |
| Sid Tool Co., Inc. | $55,000.00 | |
| Hardware supplies and fasteners. | | |
| Tire Centers LLC | $70,000.00 | |
| Tire repair and disposal for City vehicles | | |
| **EQUIPMENT - Supplies and Maintenance** | | |
| 3M Library Systems/3M Company | $65,500.00 | |
| Library self check, RFID, and related 3M library systems annual maintenance and support. | | |
| Accuvant with **AGREEMENT** | $250,000.00 | |
| IT consulting services related to the City's network and wireless systems. | | |
| Allstar Fire Equipment, Inc. | $99,000.00 | |
| Rescue equipment, supplies and accessories including rescue nets, power extractors, rose and life harnesses, etc. | | |
| AT & T Mobility II, LLC | $73,000.00 | |
| Wireless communications for public safety vehicles, field operations & staff (IT; $53,000); cellular phone charges (PW; $20,000). | | |
| Avaya, Inc. | $185,000.00 | |
| City's Avaya telephone system maintenance and support ($130,000); telecommunications equipment includes hardware, software and miscellaneous equipment ($55,000). | | |
| Berkone, Inc. with **AGREEMENT** | $150,000.00 | |
| Document imaging and records management system services. | | |
| CDW Government, Inc. with **AGREEMENT** | $750,000.00 | |
| IT consulting services, computer equipment, hardware, software and miscellaneous equipment. | | |
| Commline, Inc. with **AGREEMENT** | $250,000.00 | |
| Radio consulting services and related equipment. | | |
| Compucom | $174,161.04 | |
| Maintenance and support of the City's Microsoft software systems. | | |
| Data Specialties, Inc. with **AGREEMENT** | $55,000.00 | |
| Maintenance and support related to I.T.'s electrical systems. | | |
| Dell Marketing L.P. | $250,000.00 | |
| Miscellaneous computer and infrastructure equipment in support of anticipated Council & City Manager initiative. | | |
| ESRI with **AGREEMENT** | $163,150.00 | |
| GIS professional services related to application development for Citywide GIS initiatives ($125,000); GIS software licensing ($38,150). | | |

# City of Beverly Hills

## Listing of Annual Blanket Purchase Orders 2015-2016

| | |
|---|---|
| First Tek, Inc. with **AGREEMENT**<br>Consulting services related to Citywide e-Gov and other IT initiatives ($275,000); BHSUD network administration services ($125,000). | $400,000.00 |
| Govconnection, Inc.<br>Computer equipment (miscellaneous hardware, software and equipment) as needed. | $51,000.00 |
| IBM Corporation with **AGREEMENT**<br>Ongoing maintenance and support services for the City's Data Center includes hardware and software maintenance; Passport Advantage, IGS services and Cognos Web Report. | $252,872.80 |
| Independent Technology Group with **AGREEMENT**<br>Professional services related to network security. | $55,000.00 |
| Infor Public Sector, Inc.<br>Hansen Public Works work order and asset management system annual maintenance and support. | $81,136.00 |
| Innovative Interfaces, Inc.<br>Library online millennium system annual maintenance and support. | $67,680.00 |
| Integrated Media Technologies, Inc.<br>Extreme networks support for network related hardware, software & equipment ($79,235) and tipping point annual maintenance & support for the City's network intrusion detection system ($29,680.58). | $108,915.58 |
| Mainline Information Systems with **AGREEMENT**<br>IT consulting services for citywide community security projects and other IT projects. | $600,000.00 |
| Motorola Solutions, Inc.<br>Motorola radio system maintenance and support services; radio depot service ($166,425.72); radios and radio related hardware, software and equipment as needed ($1,000,000). | $1,166,425.72 |
| Networld Solutions, Inc.<br>BHUSD systems administration services. | $125,000.00 |
| New World Systems<br>CAD/RMS year 4 maintenance. | $252,470.00 |
| Oroprise Solutions, Inc. with **AGREEMENT**<br>Consulting services related to E-Gov initiatives and citywide application development. | $325,000.00 |
| Quartic Solutions, LLC with **AGREEMENT**<br>GIS professional services related to citywide initiatives. | $70,000.00 |
| Tyler Technologies, Inc.<br>Tyler Munis annual software maintenance and support; Tyler unlimited | $123,981.66 |
| Video to IP Consulting Services, Inc. with **AGREEMENT**<br>IP video consulting services related to the City's community video security systems. | $100,000.00 |
| Wave Technology Solutions Group with **AGREEMENT**<br>EMC documentum applicationxtender support and services to the City's document and records management system. | $150,000.00 |
| Xerox Capitol Services, LLC<br>Lease of copiers/scanners/printers (citywide multi-function devices) including supplies, maintenance & repairs. | $350,000.00 |
| XO Communications Services, Inc.<br>Internet service provider and related network and data center services. | $100,000.00 |
| **TOTAL VEHICLES AND EQUIPMENT** | $7,769,292.80 |

# City of Beverly Hills

## Listing of Annual Blanket Purchase Orders 2015-2016

| | | |
|---|---|---|
| **Postage** | | |
| Neopost, Inc. | $130,000.00 | |
| Postage | | |
| **Uniforms, Linens, Etc.** | | |
| Galls, Inc. | $75,505.00 | |
| Uniforms and accessories. PD/CS/PW | | |
| **TOTAL POSTAGE, UNIFORMS AND SUPPLIES** | | $205,505.00 |
| **ENTERPRISE FUND OPERATIONS** | | |
| **Parking Operations** | | |
| IPS Group, Inc. | $516,500.00 | |
| 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 several City parking facilities; monthly parking billing, collection and reporting services; valet services; holiday parking. | | |
| Sentry Control Systems | $277,000.00 | |
| Preventive maintenance of the Parking access & revenue control system as needed for (time & material), hosting fee, replacement parts & equipment. | | |
| Xerox State & Local Solutions, Inc. | $650,000.00 | |
| Parking citation processing & collection; maintenance for auto view (license plate reader). | | |
| **Solid Waste and Refuse Disposal** | | |
| Recology Los Angeles | $7,160,000.00 | |
| Commercial and residential solid waste collection. | | |
| Trugreen Landcare | $151,538.40 | |
| Alley tree trimming and weed abatement maintenance services. | | |
| **Water System** | | |
| Aclara Technologies, LLC. | $59,950.00 | |
| Parts, such as psions, mtu's (meter transmitting units), solar panels, etc., for water meters. | | |
| Ferguson Enterprises, Inc. | $315,000.00 | |
| Neptune water meters, parts for repairs & replacement of the Neptune water meters ($200,000); waterworks supply ($115,000) | | |
| General Pump Company, Inc. | $100,000.00 | |
| Water well & pump related maintenance & repair services. | | |
| Grainger | $99,100.00 | |
| Material and supplies such as small tools, parts, lubricant, cleaning fluids, plumbing, HVAC, construction and hardware, etc., for the various Public Works Department divisions. | | |

# City of Beverly Hills

## Listing of Annual Blanket Purchase Orders 2015-2016

| | | |
|---|---|---|
| Graybar Electric Co. Inc.<br>Electrical parts, fixtures, supply and components. | $96,000.00 | |
| J W D'Angelo Company<br>Waterworks supplies as needed | $115,000.00 | |
| L A County Department of Public Works<br>Maintenance of traffic signals, highway safety lights & illuminated street name signs ($7,500); administration of industrial wastewater discharge program as required by EPA ($90,000). | $97,500.00 | |
| S & J Supply Co., Inc.<br>Various water works supplies as needed. | $55,000.00 | |
| Western Water Works Supply Co.<br>Various water works supplies as needed. | $115,000.00 | |
| **TOTAL ENTERPRISE FUND OPERATIONS:** | | $11,057,588.40 |
| **Library** | | |
| Baker and Taylor, Inc.<br>Book purchases. | $147,340.00 | |
| Brodart Company<br>Library books lease program, library materials and supplies. | $68,495.60 | |
| Gale<br>Audio visual online services and library serials. | $175,314.39 | |
| **Recreation & Parks** | | |
| Beverly Hills Unified School District<br>Quarterly payments per joint powers agreement; quarterly crossing guard payments per joint powers agreement. | $9,825,000.00 | |
| Billy W Smith dba Bevwood Fun Camp<br>Youth basketball and volleyball camp and classes | $80,000.00 | |
| Destination Science Camp<br>Youth Science camp instruction | $60,000.00 | |
| Diego Cevallos dba Beverly Hills Aquatics<br>Aquatics program and instruction. | $170,000.00 | |
| Gloria Winer with **AGREEMENT**<br>"Parent and Me" music and movement class instruction. | $54,000.00 | |
| Town & Country Event Rentals, Inc.<br>Rentals for special events and farmer's market. | $95,450.00 | |
| **Landscape Maintenance** | | |
| Montage Beverly Hills<br>Gardens Maintenance | $141,197.46 | |
| Trugreen Landcare with **AGREEMENT**<br>Landscape maintenance, weed abatement for Fire Suppression at City reservoirs and holiday program landscape maintenance. | $450,200.00 | |
| West Coast Arborist, Inc.<br>Tree trimming & maintenance of urban forest; tree replacement. | $1,390,176.00 | |
| **TOTAL COMMUNITY SERVICES:** | | $12,657,173.45 |

# City of Beverly Hills

**Exhibit - A**

## Listing of Annual Blanket Purchase Orders 2015-2016

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|---|---|---|
| **Public Notices** | | |
| Beverly Hills Courier | $97,700.00 | |
| Beverly Hills Weekly | $54,200.00 | |
| **Consulting Services** | | |
| Athens Insurance Service | $305,299.00 | |
| Worker's compensation self-insurance administration services. | | |
| Bryan Cave HRO, LLP. | $100,000.00 | |
| Special counsel services related to intellectual property. | | |
| Carl Warren | $95,000.00 | |
| Self-insurance administration services. | | |
| Dapeer, Rosenblit & Litvak, LLP. | $350,000.00 | |
| Municipal code prosecution counsel services. | | |
| G4S Secure Solutions (USA), Inc. | $599,000.00 | |
| Jailer service (staffing checkpoints, warrant service) operation and management of City jail. | | |
| HF&H Consultants, LLC | $110,000.00 | |
| Solid waste analysis including rates and operational audits. | | |
| PMAM Corporation | $85,000.00 | |
| Alarm program fees. | | |
| Richards, Watson & Gershon | $1,954,100.00 | |
| Legal fees for litigation & special projects ($755,000); legal retainer ($1,139,100,000); reimbursables and services excluded in retainer ($60,000) | | |
| Tegner-Miller Insurance | $3,500,000.00 | |
| Brokerage services related to the City's insurance needs. | | |
| Wittmann Enterprises, LLC. | $68,400.00 | |
| Ambulance billing and collection services. | | |
| **TOTAL CONSULTANTS AND SERVICES** | | $7,318,699.00 |
| **TOTAL:** | | $ 41,590,163.65 |