



## AGENDA REPORT

**Meeting Date:** September 10, 2015  
**Item Number:** E-5  
**To:** Honorable Mayor & City Council  
**From:** Nancy Hunt-Coffey, Assistant Director of Community Services  
**Subject:** AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND  
EBSCO INFORMATION SERVICES FOR ACQUISITION OF SERIALS  
PUBLICATIONS  
**Attachments:** 1. Agreement

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### **RECOMMENDATION**

Staff recommends that City Council approve the five year Agreement with EBSCO Information Services for acquisition and maintenance of print magazine and newspaper subscriptions. The agreement for year one is for an amount not-to-exceed \$38,000. This expenditure was anticipated as part of the Library's ongoing collection development.

### **INTRODUCTION**

The Library seeks professional subscription acquisition and management services from EBSCO Information Services. EBSCO represents the Library with publishers throughout the world and facilitates the acquisition of magazines and newspapers for the Library.

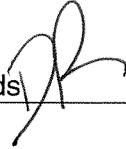
### **DISCUSSION**

The Library has worked closely with EBSCO Information Services to acquire and maintain the City's print magazine and newspaper collection for many years. EBSCO Information Services provides the most extensive access to publishers of any of similar vendors. EBSCO maintains over 200 titles for the library. EBSCO also handles acquisition of new titles, renewals, cancellations and claims for issues not received on time.

**FISCAL IMPACT**

The first year of this agreement calls for a not-to-exceed amount of \$38,000. Funds have been budgeted and are available for this purpose in FY 2015-2016.

Don Rhoads



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Finance Approval  
Chief Financial Officer  
Director of Administrative Services

Nancy Hunt-Coffey



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Approved By  
Nancy Hunt-Coffey,  
Assistant Director of Community Services

# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND EBSCO INFORMATION SERVICES FOR  
ACQUISITION OF SERIALS PUBLICATIONS

This document represents an agreement between the City of Beverly Hills (hereinafter called "BH") and EBSCO Information Services (hereinafter called "EBSCO"). ("Agreement") EBSCO is a serials subscription agency engaged in the business of representing libraries to publishers throughout the world for purposes of acquiring serial publications on behalf of its library clients. BH is a city that has a public library system which requires the services routinely offered by a subscription agency in the acquisition and management of its serial publications.

The terms and conditions under which EBSCO will provide such services are listed below.

1. The term of this Agreement shall be five years, which shall be defined as the subscription years beginning March, 2015 and extend through December 31<sup>st</sup> of 2016, 2017, 2018, and 2019. The City Manager or his designee may extend the term of this Agreement in writing for five (5) additional years.

2. It shall be the exclusive right of BH to select the serials for ordering each year. Although BH shall retain this exclusive right throughout the term of this Agreement, it is understood by both parties that the financial arrangement for this agreement is based upon a list of journals provided to EBSCO for order placement by BH during the subscription year 2015.

3. For each year of this Agreement, EBSCO shall order subscriptions as directed by BH. BH will designate a person (or persons) who is empowered (signature authority) to act on behalf of BH for order placement and renewal; and other such routine activities associated with subscription management for BH.

4. For services provided hereunder, EBSCO will charge a service fee equal to 5.9% of the publishers' subscription list price for public libraries not to exceed the amount set forth in City purchase orders annually. EBSCO reserves the right to re-visit the pricing structure for BH's account and initiate discussions with BH if the libraries' spending changes greater than 15%.

5. EBSCO shall always use the publisher's retail list or quoted price, which is clearly shown on each invoice. The only exceptions are titles for which a publisher does not offer a sufficient discount to EBSCO. These titles will incur a surcharge, currently of up to \$15.00, which will be added to the list price. This surcharge is subject to change based on market conditions and our agreements with EBSCO's publishers.

6. Both parties understand that EBSCO, as a serials agency, has no control over publishers' subscription prices. In this connection, EBSCO also has limited influence

over the commissions (discounting below retail subscription prices) given to agencies by certain publishers. Therefore, the parties retain the right to renegotiate the service fees stated above should publisher(s) change or alter the payment structure to EBSCO. For purposes of this Agreement, changes in the payment structure shall not be limited to commissions or discounts.

7. BH may terminate this Agreement, provided all previously contracted services are paid in full, with at least 30 days prior written notice to the other party stating such party's intention to terminate this Agreement.

8. EBSCO shall have the right to terminate this Agreement if BH materially changes its ordering of serials to the point where, in EBSCO's sole judgment, the financial incentive to perform is no longer present. Termination of this Agreement will become effective at the end of the subscription period for the serials which are then currently under term with publisher(s).

9. EBSCO's standard payment invoices are net due upon receipt of invoice. Early payment discounts are available should BH wish to pay for subscriptions prior to the routine ordering and invoice dates each subscription year for subscriptions due to begin in January of the year next following. EBSCO prefers payment via check and ACH. If BH prefers to pay with a credit card, this may affect the pricing structure of BH's account.

10. EBSCO's liability shall be limited to those of an agency representing BH to publishers. EBSCO is not an agent for the publisher(s) in this Agreement and as such does not assume any performance or financial responsibility for the publisher(s). Within the limits of its authority as an agent representing BH, EBSCO will exercise every reasonable effort to ensure performance of the publishers to deliver the subscriptions ordered under this Agreement.

11. Notwithstanding anything in this Agreement or any other agreement between EBSCO and BH to the contrary, (i) except for liability based on willful misconduct or fraudulent misrepresentation, and liability for death or personal injury resulting from EBSCO's negligence, the maximum aggregate monetary liability of EBSCO and any of its employees, agents, suppliers, directors or affiliates in connection with the services provided by EBSCO to BH in this Agreement shall be the service fees paid to EBSCO by BH under this Agreement that are the subject of the claim as of the time of the occurrence of the events giving rise to the claim and (ii) in no event shall EBSCO be responsible for any claims by BH related to publisher's failure to perform or for any claims made by a third party against BH that are related to publisher's performance or ownership of the intellectual property delivered by publisher to BH under this Agreement.

12. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable California 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.

13. This Agreement represents the entire integrated agreement between BH and EBSCO, 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 BH and EBSCO.

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

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

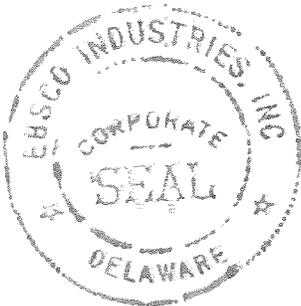
ATTEST:

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

CONTRACTOR: EBSCO INFORMATION  
SERVICES

\_\_\_\_\_  
REE SHRER  
Executive Vice President & General Manager

\_\_\_\_\_  
Sandra Bullock  
SANDRA BULLOCK  
Assistant Secretary



[Signatures Continue]

APPROVED AS TO FORM:



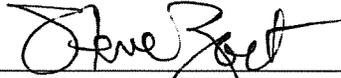
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LAURENCE WIENER  
City Attorney

APPROVED AS TO CONTENT:

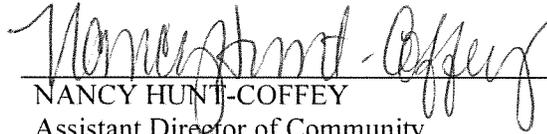
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MAHDI ALUZRI  
Interim City Manager



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STEVE ZOET  
Director of Community Services



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NANCY HUNT-COFFEY  
Assistant Director of Community  
Services/City Librarian



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KARL KIRKMAN  
Risk Manager