ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 09/09/15
ITEM FROM FINANCE COMMITTEE MEETING OF 08/31/15

ISSUE:

15. Request for Approval of Exempt Procurement and Support and Maintenance Agreements – City-Wide Hardware and Software Services for ITT Division. (Renee Martinez)
    - SunGard Public Sector, Inc.
    - DENOVO Ventures, LLC
    - Selectron Technologies, Inc.
    - Spinnaker Support, LLC

FINANCE COMMITTEE ACTION:

Approved as Consent item.

FUNDING SOURCE: 12028.530710

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	Excused		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

4-13-15

City of Santa Fe, New Mexico

memo

DATE: August 20, 2015

TO: Finance Committee

FROM: Caryn Fiorina, ITT Systems & Programming Manager

VIA: Renee Martinez, ITT Department Director

ITEM & ISSUE:

Approval of annual support and maintenance agreements over $50,000 for software vendors for fiscal year 15/16

BACKGROUND & SUMMARY:

The ITT Department provides centralized support for computer hardware and software services for all departments and divisions in the City. In support of this effort, ITT purchases support and maintenance agreements for all software systems used to support City services.
The following vendors will surpass $50,000 for the costs of their services. I respectfully request approval to renew annual support and maintenance for the vendors listed below:

Vendor	Department Supported	Software System	Contract Amount	Cumulative from July 1, 2013
Sungard Public Sector	• Land Use • Police Department	• Building Permits, Business Licensing, Planning & Zoning, Land Management • Police and Fire Records	$121,857.50	$242,869.84
Denovo Ventures LLC	• Public Utilities	• Utility Billing	$9,326.62	$61,293.75
Selectron	• Land Use • Public Utilities	• Building Permits Integrated Voice Response system • Utility Billing Integrated Voice Response system	$45,640.00	$94,065.00
Spinnaker	• Finance • Human Resources	• Oracle JDEdwards EnterpriseOne	$49,995.00	$49,995.00

The monies for this contract have been budgeted in 12028.530710.
ACTION REQUESTED: Please approve the annual support and maintenance contract for vendors over 50,000.

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Sungard Public Sector

Procurement Title: Annual Maintenance Contract

Other Methods: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Exempt* ☑ *Other* ☐ _____

Department Requesting/Staff Member ITT/Caryn Fiorina

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Departments Recommendation of Award Memo addressed to Finance
☐	☑	State Price Agreement
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☑	☐	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☑	☑	Other: Section 18.L - Exempt Procurement

Caryn Fiorina Systems & Programming Mgr.
Department Rep Printed Name and Title

Caryn Fiorina
Department Rep Signature attesting that all information included

[signature] 8/19/15
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☑	State Price Agreement
☐	☑	Cooperative Agreement
☐	☑	Sole source Request and Determination Form
☐	☑	Contractors Exempt Letter
☑	☑	Purchasing Officers approval of exempt procurement

*

☐ ☐ Copies of all Sole Source submittals

☐ ☐ Other: _____

AWARD*

YES N/A

☐ ☑ Fully executed Memo to Committees from the Department with recommendation of award
☐ ☑ Other: _____

CONTRACT*

YES N/A

☑ ☑ Copy of Executed Contract
☐ ☑ Copy of all documentation presented to the Committees
☐ ☑ Finalized Council Committee Minutes
☐ ☑ Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

Caryn Fiorino Systems & Programs Mgr.

Department Rep Printed Name and Title

Caryn Fiorino

Department Rep Signature attesting that all information included

*

SUNGARD PUBLIC SECTOR INC. SUPPORT SERVICES AGREEMENT
CONTRACT NO. SNFE-2345LG-150489

This SunGard Public Sector Inc. Support Services Agreement ("Agreement") is entered into by and between **SunGard Public Sector Inc. (SunGard Public Sector)**, a Florida Corporation, with its principal place of business at: 1000 Business Center Drive, Lake Mary, Florida 32746;

and

City of Santa Fe
(Customer),
with its principal place of business at
200 Lincoln Avenue
Santa Fe, NM 87501

1.

Qty	Licensed Applications	Annual Support Term 7/1/15-6/30/16
6	Retrofit Modification Option	$ 600.00
1	NAVI - Cash Receipts	$ 3,354.14
1	Naviline-Land/Parcel Management	$ 3,486.54
1	NAVI - Business Licenses	$ 3,365.17
1	NAVI-Code Enforcement	$ 2,328.04
1	NAVI-Building Permits	$ 5,511.16
1	NAVI - Planning/Engineering	$ 5,511.16
1	Click2Gov Core Module	$ 1,456.40
1	Click2Gov - Building Permits	$ 2,030.14
1	BP Voice Response Interface	$ 1,588.81
1	NAVI-DMS - Document Management Service	$ 1,119.89
1	Multi Agency or Jurisdictional FIRES	$ 761.30
1	Click2Gov - Planning/Engineering	$ 1,867.18
1	Click2Gove-Code Enforcement	$ 2,127.10
1	Click 2 Gov - Busines Licenses	$ 2,323.37
1	CAD400 SunPro Interface	$ 3,543.41
1	Electronic Learning Pass (HELP) Card-LF	$ 5,000.00
		$ 45,973.81

Qty	Third Party Applications	Annual Support Term 7/1/15-6/30/16
1	GTG Looking Glass Viewer Web	$ 3,687.17
1	GTG - Address Manager	$ 2,212.31
		$ 5,899.48
	Total	**$ 51,873.29**

2. **TERM.** The Term of this Agreement shall be as stated above ("Initial Term"). This Agreement can be renewed for successive one (1) year terms by payment of the then-current annual Support Services Fee. SunGard Public Sector will invoice Customer when the Support Services Fees are due.

3. **SUPPORT SERVICES.** For so long as Customer has purchased Support Services and is current in its payments to SunGard Public Sector, Customer shall be entitled to receive, and SunGard Public Sector agrees to provide, the following services which are hereinafter referred to as "Support Services" for the Licensed Programs listed in Paragraph 1 hereof:

3.1 **Program Fix Service.** Customer shall promptly report to SunGard Public Sector any errors or defects in the Licensed Program's which prevents the Licensed Programs from operating substantially in accordance with their documentation and shall further provide such information as may be required by SunGard Public Sector to replicate such errors or defects. Customer agrees to provide dial-in access to Customer's computer in order for SunGard Public Sector to investigate reported errors or defects. SunGard Public Sector will address any such replicable errors or defects with an effort commensurate with their severity and will deliver to Customer a remedial release or workaround as it becomes available. In the event the problem Customer reported as an error or defect was in fact not in the Licensed Programs, then Customer shall pay SunGard Public Sector, at SunGard Public Sector's then current list price therefore, for time spent as a result of Customer's report.

3.2 **Software Upgrades and Updates.** Customer shall receive, at no additional cost, upgrades and updates to the Licensed Programs which are generally made available at no cost by SunGard Public Sector to customers who have purchased Support Services. Customer shall receive one original of any upgrade or update to the Licensed Programs delivered hereunder in electronic form or on media, according to the general form of distribution implemented by SunGard Public Sector. Customer agrees that any upgrades or updates provided by SunGard Public Sector shall be held by Customer upon all of the terms and shall be subject to all of the conditions contained in the license agreement granting Customer the right to use the Licensed Programs.

3.3 **Telephone Support.** SunGard Public Sector shall make available a toll free telephone support line, twenty-four (24) hours a day, seven (7) days per week, for use by Customer's representatives who shall have received training on the Licensed Programs and who shall be relatively proficient in the operation of the Licensed Programs.

3.4 **Exclusions.** Support Services do not include on-site services nor Licensed Programs that are not at the latest release level or the level immediately prior to the latest release, or for which Customer has not installed all distributed corrective code, or Licensed Programs that have been modified or customized, or that have been damaged by negligence, misuse, use with inappropriate software or equipment or by other external causes.

4. **SUPPORT SERVICES FEES.**

4.1 Support Services Fees for the ~~Initial~~ Term hereof are as provided in Paragraph 1, and are due and payable upon execution of this Agreement.

~~4.2 Support Services Fees for Renewal Terms are due and payable prior to the first day of the Renewal Term, and are subject to change upon each renewal date.~~

4.3 Support Services Fees stated herein do not include sales (or equivalent) taxes. Taxes due, if any, will be added to Customer's invoice.

4.4 Support Services Fees are not refundable in whole or in part, except in the event of Customer's termination for cause as provided in Paragraph 7.3 hereof.

5. **MODIFICATION MAINTENANCE SERVICES.** For so long as Customer has purchased Modification Maintenance Services and is current in its payments to SunGard Public Sector under this Agreement, Customer shall be entitled to receive, and SunGard Public Sector agrees to provide, the following service:

5.1 Modified Program Compatibility. For each non Licensed Program in library SunGard Public Sector MOD that was written by SunGard Public Sector or any Licensed Program that has had custom modifications performed by SunGard Public Sector at the customer's request, SunGard Public Sector will perform all necessary programming to ensure that the program is compatible with each new software release, version, or Program Temporary Fix made available by SunGard Public Sector.

6. **MODIFICATION MAINTENANCE FEES.**

6.1 Modification Maintenance Fees are determined on an annual basis. This determination is based upon the number of modified programs prior to each renewal period multiplied by the then current rate charged per program.

6.2 Modification Maintenance Fees are not refundable in whole or in part.

7. **WARRANTIES AND REMEDIES.** SunGard Public Sector warrants that the Support Services provided under this Agreement shall be performed professionally, in a workmanlike manner and by employees with appropriate skills and expertise. Except as provided in this paragraph, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, IN THE EVENT HTE BREACHES THIS WARRANTY, IS TO TERMINATE THIS AGREEMENT PURSUANT TO THE TERMS OF PARAGRAPH 8 BELOW.

8. **TERMINATION.** This Agreement may be terminated as follows:

~~8.1 Upon Customer's failure to renew this Agreement at the expiration of the Initial Term or any Renewal Term.~~

8.2 By SunGard Public Sector, if Customer fails to pay Support Services Fees on or before the due date, then this Agreement shall terminate if non-payment continues for more than ten (10) days after receipt of notice in writing from SunGard Public Sector to Customer of such non-payment setting forth the sum then due and how such sum was determined.

8.3 Except as provided in Paragraph 8.2 hereof, by the non-breaching party, in the event this Agreement is breached by a party and that party fails to cure the breach within thirty (30) days after having been given written notice thereof.

8.4 If Customer terminates this Agreement and subsequently desires to reinstate Support Services, SunGard Public Sector's then-current policy with regard to reinstatement shall apply.

9. **GENERAL TERMS. Choice of Law/Dispute Resolution.** This Agreement shall be governed by laws of the State of New Mexico. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations, then either party may commence legal action against the other. Each party hereto agrees to submit to the personal jurisdiction and venue of the state and/or federal courts in or for Santa Fe, New Mexico for resolution of all disputes in connection with this Agreement.

Binding Agreement. The individual signing this Agreement for Customer warrants that he/she has been duly authorized to bind Customer to all rights, duties, remedies, obligations and responsibilities hereunder and that the Agreement is a valid and binding obligation of Customer.

Assignment. This Agreement and the rights, title, and interest herein, may not be assigned or transferred by Customer without the prior written consent of SunGard Public Sector, which consent may be withheld. SunGard Public Sector may assign its rights, title and interest herein by providing prior written notice to Customer.

Successors Bound. The terms and conditions of this Agreement shall extend and inure to the benefit and be binding on the respective successors and permitted assigns of Customer and SunGard Public Sector.

Force Majeure. Neither party shall be held responsible for failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control.

Severability. If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Notices. Any notice provided for herein shall be in writing and sent by registered or certified mail, postage prepaid, addressed to the party for which it is intended at the address set forth on the first page of the Agreement or to such other address as either party shall from time to time indicate in writing. Any notice given pursuant to this paragraph shall be deemed given when received or five (5) calendar days from the date of the mailing, whichever occurs first.

Headings. Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms hereof.

Non-Hiring Statement. During the term of this Agreement and for a period of twenty-four (24) months after the termination of this Agreement, the Customer may not offer to hire or in any way employ or compensate any of the employees of SunGard Public Sector or persons who have been employed by SunGard Public Sector within the immediate past twenty-four (24) months without prior written consent of SunGard Public Sector.

Non-waiver. Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

Third Party Product Maintenance. Third party hardware/software maintenance will be provided by the third party hardware and software manufacturer(s). Contractor makes no representations as to expected performance, suitability, or the satisfaction of City's requirements with respect to the hardware or other third party products specified in this Agreement.

Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to Support Services, and there are no representations, conditions, warranties, or collateral agreements, expressed or implied, statutory or otherwise, with respect to this Agreement other than as contained herein. This Agreement supersedes all previous communications, representations or agreements, either written or oral, between the parties. This Agreement may not be modified or supplemented in any way except by written agreement signed by persons authorized to sign agreements on behalf of Customer and of SunGard Public Sector. Preprinted conditions which vary from the terms and conditions herein, and which are contained in any purchase order or other document submitted hereafter by Customer, are of no force or effect.

The parties, each acting with due authority, have executed this Agreement by setting forth their respective signatures:

CITY OF SANTA FE, NM	**SUNGARD PUBLIC SECTOR INC.**
Authorized Signature	Authorized Signature
MARCOS MARTINEZ	Lisa Neumann, Controller Sungard Public Sector Inc
Print Name & Title	Print Name & Title
Date	June 30, 2015 Date

CITY OF SANTA FE:

JAVIER M. GONZALES, MAYOR

DATE

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

8/7/15
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

OSCAR RODRIGUEZ, FINANCE DIRECTOR

CONTRACTOR:
SUNGARD PUBLIC SECTOR

NAME & TITLE

DATE

Bl# 15-00120170

SUNGARD PUBLIC SECTOR INC. SUPPORT SERVICES AGREEMENT
CONTRACT NO. SFPD-2302LG-150488

This SunGard Public Sector Inc. Support Services Agreement ("Agreement") is entered into by and between **SunGard Public Sector Inc. (SunGard Public Sector)**, a Florida Corporation, with its principal place of business at: 1000 Business Center Drive, Lake Mary, Florida 32746;

and
City of Santa Fe Police Department
(Customer),

with its principal place of business at
2651 Siringo Road
Santa Fe, NM 87505

1.

Qty	Licensed Applications	Annual Support Term 7/1/15-6/30/16
1	False Alarm Billing - CAD400	$ 1,673.21
1	State Interface - CAD 400	3,929.70
6	MOBILE DATA BROWSER (CAD IV OR CAD V)	1,343.28
27	Mobile Data Browser Client - MB	5,885.73
1	PDSI TeleStaff Interface to FIRES	1,614.29
1	Message Switch	16,283.20
50	Mobile Data Browser Client	10,899.50
1	Crimes I/F to Full Court (3p vendor)	3,564.62
1	Electronic Learning Pass (HELP) Card	-
1	Retrofit Modification Option	-
1	NaviLine Crimes Management	10,545.40
1	Navi- Fires Management	5,356.48
1	QRep Catalog (CC)	335.46
1	Navi - FIRES Prevention System	-
1	Navi-FIRES Incident	-
1	Navi - FIRES Resource Activity Tracking	-
1	QRep Catalog (FS)	335.46
	Total	**$ 61,766.33**
	Third Party Applications	**Annual Support Term 7/1/15-6/30/16**
1	QRep Administrator	$ 351.16
1	QRep End User	351.16
2	QRep End User	702.32
5	GTG Looking GlassCrimes	2,801.85
	Total	**$ 4,206.49**
	Third Party Applications	**Annual Support Term 9/1/15-8/31/16**
1	CryWolf Alarm Billing Interface - CAD400 (SaaS Version)	$ 630.28
	Total	**$ 630.28**
	Taxes	3,381.11
	Combined Total	**$ 69,984.21**

INITIAL

2. **TERM.** The Term of this Agreement shall be as stated above ("~~Initial~~ Term"). This Agreement can be renewed for successive one (1) year terms by payment of the then-current annual Support Services Fee. SunGard Public Sector will invoice Customer when the Support Services Fees are due.

3. **SUPPORT SERVICES.** For so long as Customer has purchased Support Services and is current in its payments to SunGard Public Sector, Customer shall be entitled to receive, and SunGard Public Sector agrees to provide, the following services which are hereinafter referred to as "Support Services" for the Licensed Programs listed in Paragraph 1 hereof:

3.1 **Program Fix Service.** Customer shall promptly report to SunGard Public Sector any errors or defects in the Licensed Program's which prevents the Licensed Programs from operating substantially in accordance with their documentation and shall further provide such information as may be required by SunGard Public Sector to replicate such errors or defects. Customer agrees to provide dial-in access to Customer's computer in order for SunGard Public Sector to investigate reported errors or defects. SunGard Public Sector will address any such replicable errors or defects with an effort commensurate with their severity and will deliver to Customer a remedial release or workaround as it becomes available. In the event the problem Customer reported as an error or defect was in fact not in the Licensed Programs, then Customer shall pay SunGard Public Sector, at SunGard Public Sector's then current list price therefore, for time spent as a result of Customer's report.

3.2 **Software Upgrades and Updates.** Customer shall receive, at no additional cost, upgrades and updates to the Licensed Programs which are generally made available at no cost by SunGard Public Sector to customers who have purchased Support Services. Customer shall receive one original of any upgrade or update to the Licensed Programs delivered hereunder in electronic form or on media, according to the general form of distribution implemented by SunGard Public Sector. Customer agrees that any upgrades or updates provided by SunGard Public Sector shall be held by Customer upon all of the terms and shall be subject to all of the conditions contained in the license agreement granting Customer the right to use the Licensed Programs.

3.3 **Telephone Support.** SunGard Public Sector shall make available a toll free telephone support line, twenty-four (24) hours a day, seven (7) days per week, for use by Customer's representatives who shall have received training on the Licensed Programs and who shall be relatively proficient in the operation of the Licensed Programs.

3.4 **Exclusions.** Support Services do not include on-site services nor Licensed Programs that are not at the latest release level or the level immediately prior to the latest release, or for which Customer has not installed all distributed corrective code, or Licensed Programs that have been modified or customized, or that have been damaged by negligence, misuse, use with inappropriate software or equipment or by other external causes.

4. **SUPPORT SERVICES FEES.**

4.1 Support Services Fees for the ~~Initial~~ Term hereof are as provided in Paragraph 1, and are due and payable upon execution of this Agreement.

~~4.2 Support Services Fees for Renewal Terms are due and payable prior to the first day of the Renewal Term, and are subject to change upon each renewal date.~~

4.3 Support Services Fees stated herein do not include sales (or equivalent) taxes. Taxes due, if any, will be added to Customer's invoice.

4.4 Support Services Fees are not refundable in whole or in part, except in the event of Customer's termination for cause as provided in Paragraph 7.3 hereof.

5. **WARRANTIES AND REMEDIES.** SunGard Public Sector warrants that the Support Services provided under this Agreement shall be performed professionally, in a workmanlike manner and by employees with appropriate skills and expertise. Except as provided in this paragraph, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, IN THE EVENT HTE BREACHES THIS WARRANTY, IS TO TERMINATE THIS AGREEMENT PURSUANT TO THE TERMS OF PARAGRAPH 6 BELOW.

6. **TERMINATION**. This Agreement may be terminated as follows:

INITIAL

6.1 Upon Customer's failure to renew this Agreement at the expiration of the Initial Term or any Renewal Term.

6.2 By SunGard Public Sector, if Customer fails to pay Support Services Fees on or before the due date, then this Agreement shall terminate if non-payment continues for more than ten (10) days after receipt of notice in writing from SunGard Public Sector to Customer of such non-payment setting forth the sum then due and how such sum was determined.

6.3 Except as provided in Paragraph 6.2 hereof, by the non-breaching party, in the event this Agreement is breached by a party and that party fails to cure the breach within thirty (30) days after having been given written notice thereof.

6.4 If Customer terminates this Agreement and subsequently desires to reinstate Support Services, SunGard Public Sector's then-current policy with regard to reinstatement shall apply.

7. **GENERAL TERMS. Choice of Law/Dispute Resolution**. This Agreement shall be governed by laws of the State of New Mexico. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations, then either party may commence legal action against the other. Each party hereto agrees to submit to the personal jurisdiction and venue of the state and/or federal courts in or for Santa Fe, New Mexico for resolution of all disputes in connection with this Agreement.

Binding Agreement. The individual signing this Agreement for Customer warrants that he/she has been duly authorized to bind Customer to all rights, duties, remedies, obligations and responsibilities hereunder and that the Agreement is a valid and binding obligation of Customer.

Assignment. This Agreement and the rights, title, and interest herein, may not be assigned or transferred by Customer without the prior written consent of SunGard Public Sector, which consent may be withheld. SunGard Public Sector may assign its rights, title and interest herein by providing prior written notice to Customer.

Successors Bound. The terms and conditions of this Agreement shall extend and inure to the benefit and be binding on the respective successors and permitted assigns of Customer and SunGard Public Sector.

Force Majeure. Neither party shall be held responsible for failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control.

Severability. If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Notices. Any notice provided for herein shall be in writing and sent by registered or certified mail, postage prepaid, addressed to the party for which it is intended at the address set forth on the first page of the Agreement or to such other address as either party shall from time to time indicate in writing. Any notice given pursuant to this paragraph shall be deemed given when received or five (5) calendar days from the date of the mailing, whichever occurs first.

Headings. Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms hereof.

Non-Hiring Statement. During the term of this Agreement and for a period of twenty-four (24) months after the termination of this Agreement, the Customer may not offer to hire or in any way employ or compensate any of the employees of SunGard Public Sector or persons who have been employed by SunGard Public Sector within the immediate past twenty-four (24) months without prior written consent of SunGard Public Sector.

Non-waiver. Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

Third Party Product Maintenance. Third party hardware/software maintenance will be provided by the third party hardware and software manufacturer(s). Contractor makes no representations as to expected performance, suitability, or the satisfaction of City's requirements with respect to the hardware or other third party products specified in this Agreement.

Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to Support Services, and there are no representations, conditions, warranties, or collateral agreements, expressed or implied, statutory or otherwise, with respect to this Agreement other than as contained herein. This Agreement supersedes all previous communications, representations or agreements, either written or oral, between the parties. This Agreement may not be modified or supplemented in any way except by written agreement signed by persons authorized to sign agreements on behalf of Customer and of SunGard Public Sector. Preprinted conditions which vary from the terms and conditions herein, and which are contained in any purchase order or other document submitted hereafter by Customer, are of no force or effect.

The parties, each acting with due authority, have executed this Agreement by setting forth their respective signatures:

CITY OF SANTA FE POLICE DEPARTMENT, NM	**SUNGARD PUBLIC SECTOR INC.**
_____	_____
Authorized Signature	Authorized Signature
_____	Lisa Ne ntroller Sungard Public Sector Inc
Print Name & Title	Print Name & Title
_____	6/30/15
Date	Date

CITY OF SANTA FE:

JAVIER M. GONZALES, MAYOR

DATE

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

8/7

KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

OSCAR RODRIGUEZ, FINANCE DIRECTOR

CONTRACTOR:
SUNGARD PUBLIC SECTOR

NAME & TITLE

DATE

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☑ or CONTRACT AMENDMENT ☐

2 Name of Contractor SunGard Public Sector

3 Complete information requested ☑ Plus GRT ☐ Inclusive of GRT

Original Contract Amount: $121,857.50

Termination Date: June 30, 2016

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Contract is for: Annual Support and Maintenance for Police and Fire Records and Community Development

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) ☐ Plus GRT ☐ Inclusive of GRT

Amount $ 111,634.13 of original Contract# 14-1008 Termination Date: 06/30/2015

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ _____

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# _____ Date: _____

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other _____

6 **Procurement History:** Exempt procurement code Section 18-7L
example: (First year of 4 year contract)

7 **Funding Source:** _____ **BU/Line Item:** 12028.53071

8 **Any out-of-the ordinary or unusual issues or concerns:**

_____
(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Caryn Fiorina

Phone # 955-5573

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 04/23/2015

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

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

PRODUCER	CONTACT NAME:	
Aon Risk Services Central, Inc. Philadelphia PA Office One Liberty Place 1650 Market Street Suite 1000 Philadelphia PA 19103 USA	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
	E-MAIL ADDRESS:	

INSURED	INSURER(S) AFFORDING COVERAGE		NAIC #
SunGard Capital Corp. Its Companies & Subsidiaries 680 East Swedesford Road Wayne PA 19087 USA	INSURER A:	The Charter Oak Fire Insurance Company	25615
	INSURER B:	Travelers Property Cas Co of America	25674
	INSURER C:	The Travelers Indemnity Co.	25658
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 570057502465 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			6600D923415	05/01/2015	05/01/2016	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
	X Contractual Liability						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY [ ] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:						Total Aggregate per policy	$10,000,000
B	AUTOMOBILE LIABILITY			TJ-CAP-8045X05A-TIL-15	05/01/2015	05/01/2016	COMBINED SINGLE LIMIT (Ea accident)	$2,000,000
	X ANY AUTO						BODILY INJURY (Per person)	
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	
							Comp/Coll Deductible	$2,500
	UMBRELLA LIAB [ ] OCCUR						EACH OCCURRENCE	
	EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	
	DED [ ] RETENTION							
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			TRKUB8045X04815 (AZ,MA,WI)	05/01/2015	05/01/2016	X PER STATUTE / OTH-ER	
B	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N]	N/A		TC2JUB8045X01215 (AOS)	05/01/2015	05/01/2016	E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000

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

Name Insured: SUNGARD DATA SYSTEMS INC., SunGard Capital Corp. Its Companies & Subsidiaries.

CERTIFICATE HOLDER

CITY OF SANTA FE
200 LINCOLN AVENUE
SANTA FE NM 87501 USA

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Aon Risk Services Central, Inc.

Holder Identifier :

Certificate No : 570057502465

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CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Denovo Ventures LLC

Procurement Title: Annual Maintenance Contract

Other Methods: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☒ *Exempt* ☐ *Other* ☐

Department Requesting/Staff Member ITT/Caryn Fiorina

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☐	☑	Approved Procurement Checklist (by Purchasing)
☐	☑	Departments Recommendation of Award Memo addressed to Finance
☐	☑	State Price Agreement
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☑	☐	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☒	☐	Other: Section 18-L- Procurement Manual

Caryn Fiorina Systems & Programming Mgr
Department Rep Printed Name and Title

Caryn Fiorina
Department Rep Signature attesting that all information included

8/19/15
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☐	State Price Agreement
☐	☐	Cooperative Agreement
☐	☐	Sole source Request and Determination Form
☐	☐	Contractors Exempt Letter
☐	☐	Purchasing Officers approval of exempt procurement

*

☐ ☑ Copies of all Sole Source submittals

☐ ☑ Other: _____

AWARD*

YES N/A

☐ ☑ Fully executed Memo to Committees from the Department with recommendation of award

☐ ☑ Other: _____

CONTRACT*

YES N/A

☑ ☐ Copy of Executed Contract

☐ ☑ Copy of all documentation presented to the Committees

☐ ☑ Finalized Council Committee Minutes

☐ ☑ Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

_____

Department Rep Printed Name and Title

_____

Department Rep Signature attesting that all information included

SOFTWARE MAINTENANCE AGREEMENT

for

Utility Customer Information System (UCIS)

Client:
City of Santa Fe
2651 Siringo Road Building F
Santa Fe, NM 87505

DENOVO:
DENOVO Ventures, LLC.
6328 Monarch Park Place
Niwot, Colorado 80503

Effective Date: July 1, 2015

1. Start Date. This agreement shall start upon the effective date and full payment of the annual maintenance fees by Client. The agreement and maintenance coverage shall continue for one year so long as the, then current, annual maintenance fee is paid by Client.

2. MAINTENANCE SERVICES. DENOVO will furnish the following maintenance service for the Software that is the subject of a separate Software License Agreement between the parties:

- DENOVO will correct any material coding errors found by Client in the Software, which are reasonably capable of correction and which affects the published use of the Software.
- DENOVO shall provide Client with the support level access to DENOVO's technical staff for consultation in the use and operation of the Software.
- DENOVO will provide Updates that do not constitute new versions of the Software. Customer is responsible to install all upgrades to the Software.

Maintenance services do not include on-site training, installation, consultation, and software modification and customization services. DENOVO will make these services available to Customer at its then-prevailing fees for Professional Services.

This Agreement applies to the current and subsequent supported releases of UCIS. It does not apply to other versions of similar Denovo products such as UTILIGY-360.

3. Limitations. All services under this agreement are subject to the following limitations and requirements:

- Client must notify DENOVO promptly following the discovery of the error or need for service;
- The Software must not have been modified by any party other than DENOVO; and
- The error was not caused by Client, any third party, hardware, or operating system failure or deficiency
- The operating environment, including both hardware and systems software, meets DENOVO's recommended specifications;
- The computer hardware is in good operational order and is installed in a suitable operating environment;
- All fees due to DENOVO have been paid.

4. WARRANTY. DENOVO warrants that it will use its best efforts to perform the maintenance services in a timely and workmanlike manner.

5. WARRANTY DISCLAIMER. THIS AGREEMENT IS FOR SERVICES AND IS NOT A SALE OF GOODS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THERE ARE NO OTHER WARRANTIES, EXPRESSED ORIMPLIED. THE IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR THAT MAINTENANCE PROGRAMMING WILL EXECUTE ERROR FREE ARE EXPRESSLY DISCLAIMED.

6. EXCLUSIVE REMEDY. For any breach of warranty under Section 4, Client's sole and exclusive remedy and DENOVO's only obligation is to redo the maintenance services until they are performed in a good and workmanlike manner. In the event that these maintenance services cannot be provided within a reasonable time after notification, Customer's sole and exclusive remedy is to terminate this Agreement upon written notice to DENOVO. In that even, Client shall be entitled to receive a refund of all fees paid for the period beginning on the date the problem requiring correction was reported to DENOVO. DENOVO will not be liable for any lost profits

incidental, indirect, special, punitive, exemplary, or consequential damages. DENOVO's liability is limited to no more than the amount it has been paid by Client.

7. TERMINATION. This maintenance agreement can be terminated at the end for no reason by 30 days notice from either party to the other. If either party materially breaches this Agreement, the other party may give written notice of its desire to terminate and the specific grounds for termination. If the party in default fails to cure the default within thirty (30) days of the notice, the other party may terminate this Agreement. Upon termination, Denovo's responsibility for further maintenance shall cease.

Reinstatement of maintenance services after a lapse in coverage is subject to DENOVO's acceptance and reinstatement fee. Confidentiality obligations shall survive this agreement.

8. PAYMENT. Client will pay DENOVO the fees set forth in Section 1, Start Date of this Agreement and as referenced in Attachment A.

In addition to the charges due under this Agreement, and unless Client shall provide a tax exemption number or affidavit of exemption, Customer shall be responsible for all taxes including sales, use, property, excise, value added and gross receipts levied on this Agreement except taxes based on DENOVO's net income.

9. Term. This agreement is effective upon the Effective Date for a period of 12 months

Addendum is attached hereto and made a part hereof.

DENOVO Ventures, LLC.

By:

_____

Printed

Name:

_____

Title:

_____

Date

_____

BL# 15-00133949

APPROVED:

_____

Oscar S. Rodriguez, FINANCE DIRECTOR

City of Santa Fe

By: _____

Printed Name: _____

Title: _____

Date _____

ATTEST:

_____

YOLONDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

MDM 8/7

Kelley Brennan, CITY ATTORNEY

ATTACHMENT A - MAINTENANCE FEES AND OTHER COSTS

Service Type	Number of Service Addresses		Total
Water	40,000		
Sewer	40,000		
Refuse	40,000		
Storm Water	40,000		
Annual UCIS Maintenance Fees 7/1/2015 to 6/30/2016			$9,326.62
		Total Due	$9,326.62

All Amounts are in U.S. dollars

Maintenance fees may increase up to 5% per year.

Denovo

Bill To:
City of Santa Fe
Attn: Caryn Fiorina
2651 Siringo Road, Building F
Santa Fe NM 87505

Invoice Number:	29925		
Invoice Date:	5/6/2015	**Billing Through:**	5/2/2015
Payment Terms:	30 Days	**Due Date:**	6/5/2015
Project Title:	UCIS Annual Maintenance		

INVOICE

Description		Amount
Fixed Price		
Annual UCIS Maint. 7/1/15 - 6/30/16	Annual UCIS Maintenance 7/1/15 - 6/30/16	$ 9,326.62
	Total for Fixed Price:	**$ 9,326.62**
	Total Amount Due This Invoice:	**$ 9,326.62**

Please remit payment to:
Denovo (Public-Sector)
ACH: ABA #122042807 Acct #01133985
Checks: Denovo Ventures, LLC
28202 Cabot Road, Suite 300
Laguna Niguel, CA 92677

CITY OF SANTA FE (CLIENT) and DENOVO (DENOVO)

ADDENDUM

INDEMNIFICATION

DENOVO shall indemnify, hold harmless and defend the CLIENT from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from DENOVO's performance under this Agreement as well as the performance of DENOVO's employees, agents, representatives and subcontractors.

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the CLIENT in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The CLIENT and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the CLIENT for the performance of this Agreement. If sufficient appropriations and authorization are not made by the CLIENT, this Agreement shall terminate upon written notice being given by the CLIENT to DENOVO. The CLIENT's decision as to whether sufficient appropriations are available shall be accepted by the DENOVO and shall be final.

THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the CLIENT and DENOVO. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

STATUS OF DENOVO; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. DENOVO and its agents and employees are independent Contractors performing professional services for the CLIENT and are not employees of the CLIENT. DENOVO, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of CLIENT vehicles, or any other benefits afforded to employees of the CLIENT as a result of this Agreement.

B. DENOVO shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by DENOVO in the performance of the services under this Agreement.

C. DENOVO shall comply with CLIENT's Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

CONFLICT OF INTEREST

DENOVO warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. DENOVO further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

ASSIGNMENT; SUBCONTRACTING

DENOVO shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the CLIENT. DENOVO shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the CLIENT.

RELEASE

DENOVO, upon acceptance of final payment of the amount due under this Agreement, releases the CLIENT, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. DENOVO agrees not to purport to bind the CLIENT to any obligation not assumed herein by the CLIENT unless

DENOVO has express written authority to do so, and then only within the strict limits of that authority.

INSURANCE

A. The DENOVO, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the CLIENT, with limits of coverage in the maximum amount which the CLIENT could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the CLIENT is named as an additional insured and that the CLIENT is notified no less than 30 days in advance of cancellation for any reason. The DENOVO shall furnish the CLIENT with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. DENOVO shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for DENOVO's employees throughout the term of this Agreement. DENOVO shall provide the CLIENT with evidence of its compliance with such requirement.

C. DENOVO shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The DENOVO shall furnish the CLIENT with proof of insurance of DENOVO's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

RECORDS AND AUDIT

The DENOVO shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the CLIENT, the Department of Finance and Administration, and the State Auditor. The CLIENT shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the CLIENT to recover excessive or illegal payments.

APPLICABLE LAW; CHOICE OF LAW; VENUE

DENOVO shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the CLIENT of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the DENOVO agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

NON-DISCRIMINATION

During the term of this Agreement, DENOVO shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by DENOVO hereunder, on the basis of ethniCLIENT, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☑ or CONTRACT AMENDMENT ☐

2 Name of Contractor Denovo Ventures LLC

3 Complete information requested ☑ Plus GRT ☐ Inclusive of GRT

Original Contract Amount: $9,326.62

Termination Date: June 30, 2016

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Contract is for:

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) ☐ Plus GRT ☐ Inclusive of GRT

Amount $ _____ of original Contract# _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ _____

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# _____ Date: _____

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other Procurement code Section 18-7L

6 **Procurement History:** _____
example: (First year of 4 year contract)

7 **Funding Source:** _____ **BU/Line Item:** 12028.53071

8 **Any out-of-the ordinary or unusual issues or concerns:**

_____
(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Caryn Fiorina

Phone # 505 955 5573

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/18/2015

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

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PRODUCER	CONTACT NAME: Jo-Ann Matthews
The Ahbe Group 7167 S Alton Way Centennial CO 80112-2112	PHONE (A/C, No, Ext): (303) 565-1845 FAX (A/C, No): (720) 881-7448 E-MAIL ADDRESS: jmatthews@tagins.net
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A: Travelers Insurance — 36161
INSURED Denovo Ventures Holdings LLC 6328 Monarch Park Place Suite 200 Niwot Co 80503	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES **CERTIFICATE NUMBER:** CL1542343994 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR x Global Extension x GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:			ZLP71M04652	5/1/2015	5/1/2016	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Employee Benefits	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 1,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS HIRED AUTOS SCHEDULED AUTOS NON-OWNED AUTOS			BA5E621514	5/1/2015	5/1/2016	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Underinsured motorist	$ 1,000,000 $ $ $ $ 1,000,000
A	X UMBRELLA LIAB x OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			Excluding #PL21N18614 ZUP81M04729	5/1/2015	5/1/2016	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [ ] N/A If yes, describe under DESCRIPTION OF OPERATIONS below			UB9D52640215	1/1/2015	1/1/2016	x PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Prof'l Liability/E&O NetworkSecurity/Privacy			ZPL21N18614	5/1/2015	5/1/2016	EACH CLAIM AGGREGATE	$5,000,000 $5,000,000

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

Additional coverages: Communications & Media / retro date 5/1/2014 $5,000,000
Cyber Extortion / retro date 5/1/2014 $1,000,000 / Third Party Crime / $1,000,000

CERTIFICATE HOLDER

City of Santa Fe
2651 Siringo Road
Building F
Santa Fe, NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

J Matthews/MATTHE

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CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Selectron Technologies

Procurement Title: Annual Maintenance Contract

Other Methods: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☒ *Exempt* ☐ *Other* ☐ Sect. 13 I&L

Department Requesting/Staff Member ITT/Caryn Fiorina

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REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
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☑	☐	Departments Recommendation of Award Memo addressed to Finance
☐	☑	State Price Agreement
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☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☐	☐	Other: Exempt 13.1 - Purchasing Manual

Caryn Fiorina Systems & Programs Mgr.

Department Rep Printed Name and Title

Caryn Fiorina

Department Rep Signature attesting that all information included

8/19/15

Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☐	State Price Agreement
☐	☐	Cooperative Agreement
☐	☐	Sole source Request and Determination Form
☐	☐	Contractors Exempt Letter
☐	☐	Purchasing Officers approval of exempt procurement

*

☐ ☐ Copies of all Sole Source submittals

☐ ☐ Other: _____

AWARD*

YES N/A

☐ ☐ Fully executed Memo to Committees from the Department with recommendation of award

☐ ☐ Other: _____

CONTRACT*

YES N/A

☐ ☐ Copy of Executed Contract

☐ ☐ Copy of all documentation presented to the Committees

☐ ☐ Finalized Council Committee Minutes

☐ ☐ Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

Caryn Fromm Systems & Programs Mgr

Department Rep Printed Name and Title

Caryn Fromm

Department Rep Signature attesting that all information included

Selectron
TECHNOLOGIES, INC.

PremierPro Support and Maintenance Agreement

This Support and Maintenance Agreement (this "Agreement") is entered into upon commencement of the Service Date between Selectron Technologies, Inc. ("Company") and the City of Santa Fe, New Mexico ("Customer").

For the fees specified below, Company will provide to Customer support and maintenance for the Products, as outlined below and as set forth in Exhibit A, for the term of the Agreement.

1. Term:
a) The Term of this Agreement shall commence upon the issuance of the Second Invoice (as that term is defined in the Professional Services Agreement, Exhibit A) of the Company product(s) to which this Agreement relates (the "Products"), and shall end on the last day of the twelfth month. A list of the Products is attached as Exhibit A.

b) If this Agreement is entered into after the commencement of the Service Date or subsequent support periods, the Customer will be charged for the entire Term beginning on the Service Date.

INITIAL

2. Renewal:
a) The Term of this Agreement will automatically renew for successive terms of one year each unless either party gives written notice of non-renewal prior to thirty (30) days before the end of the then-current term.

b) The Customer shall maintain continuous coverage of its support contracts in order to be eligible for telephone support, and other services provided hereunder. If this Agreement is not renewed and the Customer later decides to reinstate support services, the Customer must pay all fees that would otherwise have been paid had this Agreement been renewed without interruption.

c) The Customer may request concurrent expiration dates for support agreements purchased at different times of the year. The Customer must work directly with Company to adjust (prorate) their support coverage so the terms of all such agreements expire concurrently.

3. Termination:
This Agreement may be terminated by either party upon ninety (90) days written notice to the other party. Upon termination by Company without cause or by Customer for material breach, Company will refund any fees paid for months subsequent to termination.

4. Fees:
The Customer shall prepay Company an annual fee for the support services as set forth in Exhibit A.

5. Support Services:
Company shall provide customer support for technical problems that occur when using the Products. This Agreement does not include support of the following items:

a) Altered or modified Software not performed by Company.
b) Errors caused by the Customer's negligence, or other causes beyond Company's reasonable control.
c) Version Upgrades of Host or backend database software.
d) Direct support for the required Application Program Interface either purchased or procured as part of the integrated solution.
e) Enhancements, replacements, or modifications to current versions performed at the Customer's request and not intended to resolve a product failure.
f) Services, support, and configuration of passive fail-over server (unless expressly purchased and listed in Exhibit A).

These professional services may be provided based on current published rates for Time and Material or fixed bid quote. Customers with Support Agreements in which all fees are current receive preferred rates for both standard and after hours professional services.

Company will directly handle the Customer issues outlined in the following levels of support.

6. Support and Maintenance:
The fee for PremierPro Support includes:

a. Telephone Support for general use questions during normal business hours (6:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday).
b. Use of Company's Toll Free Number
c. On-Line technical diagnostic support
d. Software correction upgrades
e. 1 business day relief goal
f. 24 Hours, 7 days per week, 365 days per year support for emergency (system down or inoperable) calls
g. Development work necessary to support standard updates to your Host database (i.e. land management software, utility billing

software, etc...) and back-end database. This requires two (2) weeks notice prior to planned system upgrade in order to accommodate scheduling of resources. Please contact support@STIgov.com to schedule.

h. Quarterly Proactive System Review. Selectron will perform the following system diagnostics and create a history file and notify the primary Customer contact with the results of these actions:
   1. Assess the current machine resources including memory, processor, and disk-space utilization
   2. Examine log files including error logs to identify any anomalous entries
   3. Apply current validated software updates to the operating system, device drivers, and database server software.

i. 'Out-of-cycle' critical updates. Updates that meet these criteria are failures that might be likely to cause hardware damage, system unavailability, data corruption, or severe data vulnerability.

Non-emergency calls made after normal business hours will be billed at an hourly rate of 1.5 times the current day labor rate, with a two hour minimum charge.

7. Hardware Maintenance:
Company, at its sole discretion, may use new or refurbished parts for the repair of any Company provided Hardware.

8. Customer Warranty:
Customer shall perform all necessary preventative maintenance as outlined in Company's Administrative Guide. If Customer's failure to perform the required preventative maintenance is determined, in Company's reasonable discretion, to be the cause of any support call, Customer will be billed at the current hourly rate.

9. Response Times:
Non-emergency support calls will be responded to within one business day, however most calls are handled within two hours of receipt. For Premier Support during non-business hours, an answering service takes all support calls. Calls that are placed as an emergency (system down or inoperable) will be dispatched to the on-call support staff for response within four hours. Non-emergency calls will be directed to support personnel, and will be responded to the next business day.

10. Customer Contacts:
Three customer support contacts are allowed. Additional contacts may be added at any time for an additional $500.00 per contact. Only Customer's customer support contacts may contact Company for support services. Customer's customer support contacts are as set forth on Exhibit A. Customer may change its customer support contacts upon 30 days written notice to Company.

11. Warranty Disclaimer:
TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE PROVIDED TO CUSTOMER "AS IS" AND COMPANY AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. This limitation on liability is made regardless of whether Company knows or had a reason to know of Customer's particular needs. No employee, agent, dealer or distributor of Company is authorized to modify this limited warranty, or make any additional warranties.

12. Limitation of Liability:
TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT. COMPANY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES PROVIDED HEREUNDER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO COMPANY HEREUNDER. CUSTOMER ACKNOWLEDGES THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT COMPANY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

13. Customer Remedies:
If Company materially fails to perform its obligations under this Agreement, and such failure results in downtime of the relevant hardware and software that exceeds 48 hours, Customer's sole remedy, and Company's entire liability, shall be a pro rata refund for the services ("Downtime Credit"). In order to receive a Downtime Credit, the Customer must notify Company in writing within 7 days from the time of Downtime. In no event shall any Downtime Credit or the total cumulative damages for a breach of this Agreement by Company be more than the amounts previously paid by Customer under this Agreement in the 12 month period immediately preceding the Downtime Credit or breach.

14. Severability:
If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, Customer agrees that Sections

12 and 13 will remain in effect notwithstanding the unenforceability of any provision in Section 11.

15. Force Majeure:
Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

16. Independent Contractors:
The relationship between Customer and Company is that of an independent contractor, and neither party is an agent or partner of the other. Customer or Company will not have, and will not represent to any third party that it has, any authority to act on behalf of either party.

17. Governing Law and Venue:
This Agreement will be governed by the laws of the State of New Mexico. ~~The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement~~. Any action or proceeding arising from or relating to this Agreement must be brought in the federal or state court located in Santa Fe County, New Mexico.

18. Attorney's Fees:
In the event of litigation between Customer and Company concerning this Agreement, the prevailing party in the litigation shall be entitled to recover attorneys' fees and expenses from the losing party.

19. Survival.
Sections 11, 12, 13, 14, 16, 17, 18, 19 and 20 will survive expiration or termination of this Agreement

20. Entire Agreement:
This Agreement and the attached Addendum, which are incorporated herein by reference, constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms on any purchase order or similar document submitted by Customer to Company will have no effect.

INITIAL

SELECTRON/CITY OF SANTA FE ADDENDUM

INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor and its agents and employees are independent Contractors performing professional services for the CITY and are not employees of the CITY. CONTRACTOR, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of CITY vehicles, or any other benefits afforded to employees of the CITY as a result of this Agreement.

B. CONTRACTOR shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. Contractor shall comply with CITY's Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

RELEASE

Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the

State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

THIS SECTION INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

_____
JAVIER M. GONZALES, MAYOR

DATE: _____

CONTRACTOR:
Selectron Technologies, Inc.

_____
NAME AND TITLE

DATE: _____

CRS#
City of Santa Fe Business
Registration # 15-00110464

ATTEST:

_____
YOLANDA Y. VIGIL
CITY CLERK

APPROVED AS TO FORM:

MPM 8/4/15
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

_____
OSCAR RODRIGUZ, FINANCE DIRECTOR

Business Unit Line Item

EXHIBIT A

VoicePermits

Pricing

Effective Dates: 12-Month PremierPro Support and Maintenance Services begin at the completion of on-site installation

Extended Maintenance Estimate:

Item	Dates covered	Amount	Payment Due Date
VoicePermits	September 1, 2015 through August 31, 2016	$21,390	August 15, 2015

Notes:

- Maintenance amounts for future periods are estimates, and do not include increases to reflect additional functionality purchased.
- Maintenance estimates for future periods are not a guarantee that annual support agreements will be offered. You will receive a minimum of 12 months notice of discontinuance of annual support agreements.

VoiceUtility

Pricing

Effective Dates: 12-Month PremierPro Support and Maintenance Services begin at the completion of on-site installation

Extended Maintenance Estimate:

Item	Dates covered	Amount	Payment Due Date
VoiceUtility	January 1, 2016 to December 31, 2016	$19,050.00	December 15, 2015

Notes:

- Maintenance amounts for future periods are estimates, and do not include increases to reflect additional functionality purchased.
- Maintenance estimates for future periods are not a guarantee that annual support agreements will be offered. You will receive a minimum of 12 months notice of discontinuance of annual support agreements.

Products and Licenses

Hardware

- **Production Server:**
  - HP Proliant DL380 G7 with Windows 2003
  - 16 GB RAM
  - 6 146-GB SAS Hard Drives
  - Intel Dialogic DMG2030 Media Gateway (T1)
  - 20 Licensed Ports
- **Failover Server:**
  - HP Proliant ML350 G5 with Windows 2003
  - 2 Licensed Ports

Software

- ***CommunitySelect***
  - English & Spanish

- ***VoicePermits*™ Interactive Voice Response Base Solution (8 Ports)**
  - **Included Functionality:**
    - Schedule Inspections
    - Cancel Inspections
    - Obtain Inspection Results
    - Post Inspection Results
    - Speak Site Address
    - Permit Based Messaging
    - ***VoicePermits*** Reporting Module
    - Remote Access Software
  - **English Professional Voice Recording**
    - Base System Call Flow & Prompts
    - Correction Codes
    - Street Names
  - **Spanish Language**
    - Translation & Professional Voice Recording of Base System Call Flow & Prompts
    - Correction Codes
  - ***SmartDelivery*** (2 Ports)
  - **Correction Codes**
  - **Inspection Prerequisite Logic**
  - **Inspection Combination Logic**
  - **Outbound Delivery Services**
  - **Outbound Notifications:**
    - Automatic Results Notification
    - Expired Permits Notification
  - **Plan Review**
  - **Utility Notification** ***(SmartDelivery Required)***
  - **2 Additional Remote Admin Licenses**

- ***VoiceUtility***™ **Interactive Voice Response Base Solution (12 Ports)**
  - **Included Functionality:**
    - Current Balance Owed
    - Last Billing Date and Amount
    - Next Billing Date
    - Transaction Logging
    - Last Payment Date and Amount
    - ***VoiceUtility*** Reporting Module
  - **Included Fax and Email Functionality:**
    - Payment History
    - Billing History
    - Account Status Detail
    - Last Payment Date and Amount
    - ***SmartDelivery*** (2 Ports)
  - **English Professional Voice Recording**
    - Base System Call Flow & Prompts
    - Street Names
  - **Spanish Language**
    - Translation & Professional Voice Recording of Base System Call Flow & Prompts
  - **Payment Processing**
    - Credit Card Processing Module
  - **Outbound Delivery Services**
  - **Outbound Alerts**
  - **Outbound Notification – Delinquency Notification**
    - Automatic Results Notification
    - Expired Permits Notification

Selectron ProMonitor Service

For the fees specified below, Company will provide to Customer the specified Selectron ProMonitor Service as outlined below:

a. Monitoring of Event Logs, Disk Space, database application, CPU and Memory utilization
b. Places a call once per hour to the IVR application to ensure:
    a. The IVR System answers the call
    b. Prompts are being played
c. Notification to Selectron Support Personnel in the event of any anomalies detected
d. Optional notification to agency personnel based on the severity of the issue
e. Pro Monitor system reporting

The Selectron ProMonitor Service requires the Customer to have a current Selectron Support and Maintenance Agreement in place. Customer or Company may terminate this additional service at any time with 30 day notice entitling Customer to a prorated refund for the unused period of service.

Effective Dates: Begins upon initiation of service

Extended Maintenance Estimate:

Monitored Application(s)	Dates covered	Amount	Payment Due Date
VoicePermits	January 1, 2016 to December 31, 2016	$2,600.00	December 15, 2015
VoiceUtility	January 1, 2016 to December 31, 2016	$2,600.00	December 15, 2015

Notes:

- ProMonitor fees above assume both applications are receiving this service and both applications are invoiced on the same schedule.
- Fees for future periods are estimates, and do not include increases to reflect additional functionality purchased.
- Fee estimates for future periods are not a guarantee that the Selectron ProMonitor Service will be offered. You will receive a minimum of 12 months notice of discontinuance of the service.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/27/2015

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

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

PRODUCER	CONTACT NAME: W.B. Adams Company
W.B. Adams Company General Insurance 14737 SW Millikan Way Beaverton OR 97006	PHONE (A/C, No, Ext): (503) 644-9945 FAX (A/C, No): (503) 644-9997 E-MAIL ADDRESS: info@wbadams.com
INSURED	INSURER(S) AFFORDING COVERAGE / NAIC #
Selectron Technologies, Inc. 12323 SW 66th Ave. Portland, OR 97223	INSURER A: One Beacon Insurance Company AXI INSURER B: Hartford Casualty Insurance Co. A XV INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC			711013743	01/31/2015	01/31/2016	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] HIRED AUTOS [ ] SCHEDULED AUTOS [ ] NON-OWNED AUTOS			711013743	01/31/2015	01/31/2016	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			711013743	01/31/2015	01/31/2016	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		52WBCGD0279	01/31/2015	01/31/2016	[X] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Technology Services E & O Retroactive Date 01/31/2002			711013743	01/31/2015	01/31/2016	Agg: $1,000,000 Each Claim	Ded: $10,000 $1,000,000

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

City of Santa Fe is listed as an additional insured with respects to General Liability as per the attached VCG 207 07 09.

CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87504

CANCELLATION

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

AUTHORIZED REPRESENTATIVE <ALS>

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City of Santa Fe
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☑ or CONTRACT AMENDMENT ☐

2 Name of Contractor Selectron Technologies

3 Complete information requested ☑ Plus GRT ☐ Inclusive of GRT

Original Contract Amount: $45,640.00

Termination Date: August 31, 2016

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Contract is for:

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) ☐ Plus GRT ☐ Inclusive of GRT

Amount $ 41,765.00 of original Contract# 14-1009 Termination Date: 08/31/2015

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ _____

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# _____ Date: _____

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other Procurement code Section 18-7L

6 **Procurement History:** _____
example: (First year of 4 year contract)

7 **Funding Source:** _____ **BU/Line Item:** 12028.53071

8 **Any out-of-the ordinary or unusual issues or concerns:**

_____
(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Caryn Fiorina

Phone # 505 955 5573

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Spinnaker Support LLC

Procurement Title: Annual Maintenance Contract

Other Methods: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Exempt* ☒ *Other* ☐ _____

Department Requesting/Staff Member ITT/Caryn Fiorina

Procurement Requirements:
A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☐	☑	Departments Recommendation of Award Memo addressed to Finance
☐	☑	State Price Agreement
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☑	☐	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☐	☑	Contract, Agreement or Amendment
☐	☑	Current Business Registration and CRS numbers on contract or agreement
☐	☑	Summary of Contracts and Agreements form
☐	☑	Certificate of Insurance
☐	☑	Other: _____

Caryn Fiorina Systems & Programs Mgr.
Department Rep Printed Name and Title

Caryn Fiorina
Department Rep Signature attesting that all information included

8/19/15
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☑	State Price Agreement
☐	☑	Cooperative Agreement
☐	☑	Sole source Request and Determination Form
☐	☑	Contractors Exempt Letter
☑	☐	Purchasing Officers approval of exempt procurement

*

☐ ☑ Copies of all Sole Source submittals

☐ ☑ Other: _____

AWARD*

YES N/A

☐ ☑ Fully executed Memo to Committees from the Department with recommendation of award

☐ ☑ Other: _____

CONTRACT*

YES N/A

☑ ☑ Copy of Executed Contract

☐ ☑ Copy of all documentation presented to the Committees

☐ ☑ Finalized Council Committee Minutes

☐ ☑ Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

Caryn Fiorenza Systems & Programming Mgr

Department Rep Printed Name and Title

Caryn Fiorenza

Department Rep Signature attesting that all information included

*

SPINNAKER SUPPORT

RENEWAL ADDENDUM NO. 1

This Renewal Addendum No. 2 (this "**Addendum**") is effective as of September 1, 2015, by and between Spinnaker Support, LLC ("**Spinnaker**") and City of Santa Fe ("**Customer**"), and amends that certain Support Services Agreement entered into by the parties, dated August 30, 2014 (the "**Support Services Agreement**"), and Renewal Addendum No. 1, effective September 1, 2015.

The parties, for their mutual benefit, now wish to amend the Support Services Agreement. Capitalized terms herein used which are not herein defined shall have the respective meanings ascribed to them in the Support Services Agreement. All references to the term "Agreement" in the Support Services Agreement shall be deemed to include all of the terms and conditions of this Addendum.

NOW, THEREFORE, it is agreed as follows:

1. **AMENDMENTS.**

1.1 Term. The term of the Support Services Agreement is hereby renewed for an additional period of twelve (12) months (the "**Renewal Term**"), such that the Support Services Agreement shall continue until one minute before midnight (Mountain Standard Time) on August 30, 2016.

1.2 Fees. The fees for Services during the Renewal Term shall be equal to $49,995 USD (United States Dollars). Payment terms will remain the same as defined in the original Agreement.

2. **REAFFIRMATION.** The parties hereby reaffirm their acknowledgements, agreements and obligations under the Support Services Agreement.

3. **COUNTERPARTS.** This Addendum may be executed in counterparts by each party and delivered by electronic transmission (e.g., email scan or facsimile), and such execution and delivery shall be legally binding on the parties to the same extent as if original signatures in ink were delivered in person.

4. **NO OTHER AMENDMENTS.** Except as herein set forth, the Support Services Agreement has not been modified and, as amended by this Addendum, remains in full force and effect. Upon execution by the parties, this Addendum shall form a part of the Support Services Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Addendum effective as of the date first written above.

CUSTOMER: CITY OF SANTA FE

Signed:_____

Printed: JAVIER M. GONZALES

Title: MAYOR

Date:_____

SPINNAKER SUPPORT, LLC

Signed:_____

Printed:_____

Title:_____

Date:_____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____ 8/4
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

_____
OSCAR RODRIGUEZ, FINANCE DIRECTOR

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☐ or CONTRACT AMENDMENT ☑

2 Name of Contractor Spinnaker Support LLC

3 Complete information requested ☑ Plus GRT ☐ Inclusive of GRT

Original Contract Amount: $49,995.00

Termination Date: September 30, 2015

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Contract is for: Annual Support and Maintenance for Oracle JDEdwards Enterprise One

Amendment # 1 to the Original Contract# 14-0986

Increase/(Decrease) Amount $ _____

Extend Termination Date to: August 30, 2016

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) ☐ Plus GRT ☐ Inclusive of GRT

Amount $ 49,995.00 of original Contract# 14-0986 Termination Date: 09/30/2015

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ _____

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# _____ Date: _____

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other _____

6 **Procurement History:** Exempt procurement code Section 18-7L
example: (First year of 4 year contract)

7 **Funding Source:** _____ **BU/Line Item:** 12028.53071

8 **Any out-of-the ordinary or unusual issues or concerns:**

_____
(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Caryn Fiorina

Phone # 955-5573

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

SPINN-6 OP ID: LIZ

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/22/2015

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

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

PRODUCER Cherry Creek Ins. Agency, Inc. Suite 500 5660 Greenwood Plaza Blvd. Greenwood Village, CO 80111 Scott Asbury	CONTACT NAME: Janine Darling PHONE (A/C, No, Ext): 303-799-0110 FAX (A/C, No): 303-799-0156 E-MAIL ADDRESS: JanineD@thinkccig.com
INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great Northern Ins Company	
INSURED Spinnaker Support, LLC 11777 Katy Freeway, Suite 350 Houston, TX 77079	INSURER B : Federal Insurance Company 20281
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

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

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT X LOC OTHER:			36027093	05/01/2015	05/01/2016	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ Included
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS			36027093	05/01/2015	05/01/2016	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10000			79887877	05/01/2015	05/01/2016	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
A	3rd Party Crime EE Dishonesty			8240-6352	05/01/2015	05/01/2016	Limit Ded	250,000 1,000

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

CERTIFICATE HOLDER

Proof of Coverage

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Janine D. Darling

© 1988-2014 ACORD CORPORATION. All rights reserved.

COVERAGE: Professional Liability - Including Errors and Ommissions
INSURER: Hanover Insurance Company
POLICY #: LH4A166928 Claims Made Prior & Pending Litigation Date 12/01/07
EFFECTIVE: 12/01/14 - 12/01/15
LIMIT: $3,000,000 Ea Claim; SIR: 25,000
All Insurance Carriers are rated "A" "X" or better

ITEM # 14-0986

SPINNAKER SUPPORT

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT ("**Agreement**") is made as of 9-1, 2014 (the "**Effective Date**"), by and between Spinnaker Support, LLC, a Colorado limited liability company with its principal place of business at 11777 Katy Freeway, South Building, Suite 350, Houston, Texas 77079 ("**Spinnaker**") and the party identified below (the "**Customer**").

Name of Customer: City of Santa Fe	Contact Name: Caryn Fiorina
Address: 2651 Siringo Rd. Bldg F	Phone: 505 955-5573 Fax:
State/Country of Corporate Formation: NM, 87505	E-Mail: cyfiorina@ci.santa-fe.nm.us

The terms and conditions of this Agreement (including the attached Standard Terms and Conditions which are incorporated herein by reference) will apply to each business transaction between the parties for Spinnaker providing to Customer the Services described herein. Any different or additional terms of a related purchase order, confirmation or similar form signed by the parties after the date hereof shall have no force or effect on this Agreement or its subject matter, and pre-printed or standard terms of Customer's purchase order are specifically excluded.

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

ACCEPTED AND AGREED TO:

CUSTOMER: CITY OF SANTA FE

Signed: _____

Printed: Brian K. Snyder

Title: City Manager

Date: 9-12-14

SPINNAKER SUPPORT, LLC

Signed: Kurt Moydell

Printed: Kurt Moydell

Title: Vice President

Date: 9-18-14

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS. As used in this Agreement or any attachment hereto:

1.1 "Deliverable" means any item provided by Spinnaker to Customer as a result of the Services, which may include, findings, analyses, conclusions, opinions, designs, programs, enhancements, updates, fixes and/or source and object code.

1.2 "Intellectual Property Rights" means all known or hereafter existing worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights and other proprietary rights.

1.3 "Licensor" means the applicable licensor of a Third Party Product.

1.4 "Licensor Terms and Conditions" means the terms and conditions applicable to access and/or use of any Third Party Product, including any confidentiality, license and/or other agreement with the applicable Licensor(s), and any "terms of use" or similar terms imposed by such Licensor(s).

1.5 "Services" means the consulting, support, training, integration, implementation and other professional services to be performed by Spinnaker for Customer under this Agreement pursuant to one or more Statement(s) of Work.

1.6 "Spinnaker Tools" means (a) all software, documentation, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that Spinnaker utilizes in connection with its performance of the Services and that Spinnaker makes, develops, conceives or reduces to practice, either (i) prior to, contemporaneously with, or subsequent to the performance of the Services, or (ii) in the course of performing the Services, and (b) all enhancements, modifications, improvements and derivative works of each and any of the foregoing.

1.7 "Statement of Work" means a written statement of work executed by the parties that describes the specific Services to be performed by Spinnaker hereunder.

1.8 "Third Party Product(s)" means any third-party licensed software product(s) or other third-party material(s) in Customer's custody and/or control.

1.9 Capitalized terms not specifically defined in this Section shall have the respective meanings ascribed to them in this Agreement.

2. PERFORMANCE OF SERVICES.

2.1 Statements of Work. The specific Services to be performed by Spinnaker under this Agreement shall be set forth in one or more Statements of Work mutually agreed to by the parties. A Statement of Work shall not be binding unless signed by both parties, and upon such signing, shall be attached to and incorporated into this Agreement.

2.2 Additional Services. Any additional services required by Customer that are outside the scope of a Statement of Work (**"Additional Services"**) shall be performed at Spinnaker's then-current consulting rates on a time and materials basis; that is, Customer shall pay Spinnaker for the time spent performing the relevant Additional Services, plus applicable materials, taxes and expenses. Notwithstanding the foregoing, for Additional Services, Spinnaker shall bill a minimum of one (1) labor hour for each new, unique request for assistance placed with Spinnaker (as evidenced by an assigned unique case number), with billing in ¼ hour increments thereafter (rounding up to the next whole ¼ hour of labor).

2.3 Change Orders; Conflicts. In the event either party requires a material change to a Statement of Work, such party will provide a written change order to the other for approval, specifying the change required (each a **"Change Order"**). Each party agrees that a Change Order may necessitate a change in the delivery schedule and/or fees due under the applicable Statement of Work. No Change Order will be binding upon either party until it is signed by the authorized representatives of both parties. Each Statement of Work and Change Order will be governed by the terms of this Agreement. In the event of a conflict between the terms and conditions of this Agreement and those of a Statement of Work or Change Order (if any), the following order of precedence shall apply: (i) Change Order (if any), (ii) Statement of Work, (iii) this Agreement.

3. FEES AND PAYMENT.

3.1 Fees. Customer will timely pay Spinnaker all fees as specified in the applicable Statement of Work. Unless otherwise expressly provided in this Agreement or the applicable Statement of Work, all fees are non-refundable.

3.2 Payment Terms. Unless otherwise expressly provided in this Agreement or the applicable Statement of Work, Customer will pay Spinnaker all amounts due under this Agreement within fifteen (15) days after the date of the invoice therefore. All payments must be made in U.S. dollars.

3.3 Taxes. Fees exclude, and Customer will make all payments of fees to Spinnaker free and clear of, all applicable sales, use and other taxes and all applicable export and import fees, customs, duties and similar charges. When applicable, Spinnaker may include any taxes that it is required to collect as a separate line item on an invoice.

3.4 Travel and Other Expenses. Services provided hereunder shall be provided at Spinnaker's principal places of business. Should Customer request or it be otherwise necessary that Spinnaker send personnel to any Customer site or other location in connection with the Services, Customer shall pay Spinnaker's reasonable travel, meals and lodging expenses. Under such circumstances, Customer shall also pay actual costs for supplies and other expenses reasonably incurred by Spinnaker, which are not of the sort normally provided or covered by Spinnaker, provided that Customer has approved in advance the purchase of such supplies and other expenses. If Customer so requires, Spinnaker shall submit written evidence of each expenditure to Customer prior to receiving reimbursement of such costs and expenses.

4. CUSTOMER OBLIGATIONS. Customer shall provide Spinnaker with such resources, information, software access

and assistance as Spinnaker may reasonably request in connection with the performance of the Services. Customer acknowledges and agrees that Spinnaker's ability to successfully perform the Services in a timely manner is contingent upon its receipt from Customer of such information, resources, software access and assistance. Spinnaker shall have no liability for deficiencies in the Services resulting from the acts or omissions of Customer, its agents or employees. Without limiting the generality of the foregoing, Customer acknowledges and agrees that Customer's obligations include the following:

4.1 Primary Contact. Customer shall designate one (1) primary point of contact under each Statement of Work who shall be responsible for managing the relationship between Spinnaker and Customer thereunder, including providing reasonable assistance to Spinnaker with technical and non-technical issues related to the applicable Services.

4.2 Access to Third Party Products. Customer acknowledges and agrees that Spinnaker is performing the Services solely for the benefit of Customer, and that Spinnaker's ability to perform the Services may require Spinnaker's access (either through remote access or direct physical access on Customer's premises) and use of certain Third Party Products. In connection therewith, Customer hereby represents and warrants that it has the right to provide Spinnaker with access to, and use of, any and all portions of such Third Party Products in connection with Spinnaker's performance of the Services, including, if applicable, the right to customize and/or configure each such Third Party Product for the benefit of Customer. Customer agrees to immediately notify Spinnaker of any changes made (actual or attempted) by the applicable Licensor to Customer's license and access rights to such Third Party Product(s), including changes to the applicable Licensor Terms and Conditions, that may affect Spinnaker's ability to continue performing the Services.

4.3 Personnel. Customer shall provide sufficient, qualified and knowledgeable personnel capable of (a) performing Customer's obligations as described in this Agreement and each Statement of Work and (b) making necessary and timely decisions on behalf of Customer.

5. WARRANTIES.

5.1 Performance. Spinnaker warrants to Customer that the Services will be performed in a professional manner consistent with industry standards. Spinnaker shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section, re-perform the Services which gave rise to the breach, or at Spinnaker's option, refund the fees paid by Customer for the Services which gave rise to the breach; provided that Customer notifies Spinnaker in writing of the breach within thirty (30) days following performance of the defective Services, specifying the breach in reasonable detail.

5.2 Disclaimers. THE EXPRESS WARRANTIES IN THIS SECTION 5 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SERVICES, AND SPINNAKER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. NO SPECIFIC RESULTS FROM THE PERFORMANCE OF THE SERVICES ARE ASSURED OR GUARANTEED. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES PROVIDED HEREIN.

6. INFRINGEMENT CLAIMS. Spinnaker will defend at its own expense any action against Customer brought by a third-party to the extent that the action is based upon a claim that Customer's use of any Deliverable infringes any U.S. patent or copyright or misappropriates any trade secret of a third-party, and Spinnaker will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer (a) notifying Spinnaker promptly in writing of such action, (b) giving Spinnaker sole control of the defense thereof and any related settlement negotiations and (c) cooperating and, at Spinnaker's request and expense, assisting in such defense (collectively the "**Defense Conditions**"). If any Deliverable becomes, or in Spinnaker's opinion is likely to become, the subject of an infringement claim, Spinnaker may, at its option and expense, either (i) procure for Customer the right to continue using the Deliverable, (ii) replace or modify the Deliverable so that it becomes non-infringing or (iii) terminate Customer's right to use the Deliverable and refund Customer the fees paid for such portion of the Deliverable which is allegedly infringing, upon which Customer shall have no further rights in and to the subject Deliverable. Notwithstanding the foregoing, Spinnaker will have no obligation under this Section 6 or otherwise with respect to any infringement claim based upon (A) any use of the Deliverable not in accordance with this Agreement or for purposes not intended by Spinnaker, (B) any use of the Deliverable in combination with other services, products, equipment, software or data not intended by Spinnaker to be used with the Deliverable, (C) any information, software code or other materials furnished to Spinnaker by Customer, its agents, representatives and suppliers, including Customer's specifications, (D) any unauthorized and/or unlicensed activities by Customer, its agents, representatives and suppliers, including any violation by Customer of Section 4.2, or (E) any modification of the Deliverable by any person other than Spinnaker or its authorized agents or subcontractors. THIS SECTION 6 STATES SPINNAKER'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS RELATED TO THE SERVICES AND ANY DELIVERABLE UNDER THIS AGREEMENT.

7. OWNERSHIP.

7.1 Work Product. Except as provided in Section 7.2, the parties hereby agree that any and all Customer-specific work product (the "**Work Product**") which is produced as a result of the Services performed by Spinnaker under this

Agreement, including any Intellectual Property Rights therein, shall be the property of Customer.

7.2 **Spinnaker Property.** Notwithstanding the foregoing in Section 7.1, as between the parties, Spinnaker shall retain all Intellectual Property Rights in and to any and all Spinnaker Tools which have general applicability apart from the Work Product (collectively, the "**Spinnaker Property**"). Subject to Customer's payment of all applicable fees, Spinnaker grants Customer a non-exclusive, non-transferable license, without rights to sublicense, to use the Spinnaker Property that is incorporated into a Deliverable solely for Customer's own internal business purposes in connection with the use of such Deliverable.

7.3 **Third Party Products.** Notwithstanding anything contained herein to the contrary, Spinnaker acknowledges and agrees that it has no claim of ownership in and to any Third Party Products or any Intellectual Property Rights therein.

8. **LIMITATION OF LIABILITY.** SPINNAKER'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH ANY SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO SPINNAKER UNDER THE STATEMENT OF WORK UNDER WHICH SUCH SERVICES ARE PERFORMED DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL THE LIMITATION OF LIABILITY UNDER THIS SECTION APPLY TO (A) CUSTOMER'S BREACH OF SECTION 4.2, (B) SPINNAKER'S OBLIGATIONS UNDER SECTION 6 OR (C) SPINNAKER'S INDEMNITY OBLIGATIONS UNDER THE TERMS AND CONDITIONS ADDENDUM ATTACHED HERETO.

9. **CONFIDENTIALITY.**

9.1 **Protection of Confidential Information.** Each party (the "**Disclosing Party**") may from time to time disclose to the other party (the "**Receiving Party**") certain information regarding the business of the Disclosing Party and its suppliers, including technical, marketing, financial, employee, planning and other confidential or proprietary information ("**Confidential Information**"). Any information that the Receiving Party knew or should have known, under the circumstances, is considered confidential or proprietary by the Disclosing Party will be considered Confidential Information of the Disclosing Party. Without limiting the generality of the foregoing, the Spinnaker Tools shall be considered Spinnaker's Confidential Information.

9.2 **Protection of Confidential Information.** The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access and disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

9.3 **Exceptions.** The Receiving Party's obligations under Section 9.2 with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) was disclosed to the Receiving Party by a third-party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) was independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

9.4 **Return of Confidential Information.** The Receiving Party will return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the Disclosing Party and/or upon the expiration or termination of this Agreement (except for any computer records or files that have been created pursuant to the Receiving Party's automatic archiving and back-up procedures and the removal of which is not technically reasonable). Upon request from the Disclosing Party, the Receiving Party will certify in writing signed by an officer of the Receiving Party that it has fully complied with its obligations under this Section 9.4.

9.5 **Confidentiality of Agreement.** Except as expressly permitted hereunder, neither party will disclose any terms of this Agreement to anyone other than its attorneys, accountants and other professional advisors except (a) as required by law, or (b) pursuant to the mutual agreement of the parties, or (c) in connection with a financial investment in such party's business or (d) in connection with a contemplated transfer of such party's business permitted by Section 12.3 (provided that

any third-party to whom the terms of this Agreement is to be disclosed is under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder).

10. TERM AND TERMINATION.

10.1 Term. This term of this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year.

10.2 Termination. Either party may terminate this Agreement or any uncompleted Statement(s) of Work if the other party (a) breaches any material provision of this Agreement or the applicable Statement(s) of Work and does not cure such breach within thirty (30) days after receiving written notice thereof; (b) shall formally declare bankruptcy, insolvency, reorganization, liquidation or receivership; or (c) shall have instigated against it bankruptcy, insolvency, reorganization, liquidation or receivership proceedings, and shall fail to remove itself from such proceedings within ten (10) days from the date of institution of such proceedings. Notwithstanding the foregoing, Spinnaker may also terminate this Agreement or any uncompleted Statement(s) of Work immediately upon written notice in the event Customer breaches Section 4.2. The termination or expiration of a single Statement of Work shall not cause the automatic termination of any other Statement of Work.

10.3 Effects of Termination. Expiration or termination of this Agreement for any reason shall not release either party from liability which at said time has already incurred to the other party. In the event a Statement of Work is still in effect upon the expiration of this Agreement, such Statement of Work shall remain in effect and shall continue to be governed by the terms and conditions of this Agreement unless and until such Statement of Work is completed or otherwise terminated in accordance with this Agreement. Except as otherwise expressly set forth herein, the following provisions will survive expiration or termination of this Agreement pursuant to their terms, together with any other provisions necessary for their construction and enforcement: Sections 1, 3, 4.2 (with respect to Customer's representations, warranties and obligations), 5, 6, 7, 8, 9, 10.3 and 12, together with any accrued payment obligations. Without limiting the foregoing, upon termination or expiration of this Agreement or any Statement(s) of Work for any reason, any amounts owed to Spinnaker under this Agreement or the applicable Statement(s) of Work before such termination or expiration will be immediately due and payable, including any amounts due for Services performed and expenses incurred prior to such termination or expiration and any reasonable and necessary travel or out-of-pocket expenses incurred after such termination or expiration, without regard to whether any invoices had or had not been issued.

11. SUPPORT SERVICES. In the event the Services hereunder include software support for any Third Party Products ("**Support Services**"), the terms and conditions set forth in this Section (in addition to the other terms and conditions contained herein) shall apply to such Support Services.

11.1 Supported Products. As used in this Section or any Statement of Work, "**Supported Product(s)**" means any Third Party Product(s) for which Spinnaker agrees to provide Support Services pursuant to a Statement of Work, including all fixes and updates thereto provided to Customer by the applicable Licensor as part of the standard delivered core product. Except as otherwise stated in the applicable Statement of Work, Supported Products do not include any customizations, modifications or any country or region specific functionality or localizations that were not provided to Customer by the applicable Licensor as part of the standard delivered core product.

11.2 Customer Obligations. In addition to those obligations of Customer set forth in Section 4, Customer acknowledges and agrees that Customer's obligations with respect to Support Services include the following:

(a) Personnel. Customer shall provide sufficient, qualified and knowledgeable personnel capable of (a) facilitating the testing of software fixes, updates and workarounds for the Supported Products (if applicable) and (b) customizing, installing and configuring code fixes and updates provided by Spinnaker or a third-party as needed for use with the Supported Products (if applicable).

(b) Final Testing of Fixes and Updates. For any Spinnaker-provided fixes and/or updates to Supported Products, Customer shall be solely responsible for all final system testing to ensure that such fixes and updates perform as documented with the applicable Supported Products, and Customer shall not move any fixes or updates into a production environment unless and until Customer has successfully completed all such final system testing.

(c) No Back-Ups. Customer acknowledges and agrees that Spinnaker will not make or store copies of any Supported Products for Customer. Customer shall be solely responsible for making and storing emergency backups of the Supported Products.

11.3 Remote Access to Deliverables and Spinnaker Tools. Notwithstanding anything contained herein to the contrary, Customer acknowledges and agrees that in the event Spinnaker, as part of any Support Services, provides Customer with remote access to Deliverables or Spinnaker Tools, such access and right to use shall immediately cease upon the expiration or termination of this Agreement or the applicable Statement of Work.

12. GENERAL.

12.1 Publicity. Spinnaker may, subject to Customer's approval of content (if applicable), not to be unreasonably withheld or delayed, (a) create a general contract announcement press release indicating that the parties have entered into this Agreement, (b) use Customer's business name and logo in written materials identifying Spinnaker's customers and in other appropriate promotional materials, (c) identify Customer in applicable case studies and (d) identify Customer as a reference for prospective customers and the media (provided that Customer shall not be obligated to comment in any way).

12.2 Compliance. Customer shall comply with all applicable laws and regulations in its use of the Services and

Deliverables, including any such laws and regulations related to export and import controls.

12.3 Assignments. Neither party may assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third-party without the other's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. Notwithstanding the foregoing, each party shall have the right, upon providing notice to the other party (but not requiring the other party's consent), to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.

12.4 Force Majeure. Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

12.5 Notices. All notices required in connection with this Agreement will be in writing and deemed effectively given: (a) upon personal delivery to the party to be notified; (b) on the date on which such notice is delivered by email with confirmation that the email has been received and read; or (c) one (1) business day after deposit with a nationally/internationally recognized overnight courier that provides tracking and verification of delivery. All notices shall be sent to the address set forth on the cover page of this Agreement. Either party may change its address by giving notice of the new address to the other party in writing.

12.6 Remedies. Except as provided in Sections 5 and 6, the parties' rights and remedies under this Agreement are cumulative. Each party acknowledges that any breach of Sections 4.2, 7, 9 and/or 12.12 of this Agreement would cause irreparable injury to the other party for which monetary damages would not be an adequate remedy, and therefore, the other party will be entitled to injunctive relief. If any legal action is brought by a party to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive.

12.7 Waivers. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.8 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be deemed modified and will be interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect.

12.9 Subcontractors. Customer acknowledges and agrees that Spinnaker may hire subcontractors to perform certain Services hereunder. Spinnaker will be responsible for the direction and coordination of the services of each subcontractor and Customer will have no obligation to pay any subcontractor directly.

12.10 Relationship of Parties. The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent or joint venture partner of or with the other, and neither party has the right or authority to assume or create any obligation on behalf of the other party.

12.11 Construction. The headings used for the sections of this Agreement are for information purposes and convenience only and in no way define, limit, construe or describe the scope or extent of the sections. The word "including" or any variation thereof means "including, without limitation" and will not be construed to limit any general statement that such word or variation thereof follows. The language used in this Agreement will be deemed to be the language chosen by the parties to express the parties' collective mutual intent, and no rule of strict construction will be applied against any party.

12.12 Non-Solicitation of Personnel. Customer recognizes that the employees and independent contractors of Spinnaker, and such employees' and independent contractors' loyalty and service to Spinnaker, constitute a valuable asset of Spinnaker. Accordingly, Customer hereby agrees, during the term of this Agreement and for two (2) years thereafter, not to make any offer of employment to, nor enter into a consulting relationship with, any person who was employed or retained by Spinnaker during the previous two (2) years. Any violation of this provision shall constitute a material breach of this Agreement.

12.13 Entire Agreement. This Agreement, together with any attachments and exhibits hereto (including all Statements of Work), constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous agreements, understandings and communication, whether written or oral. This Agreement and each Statement of Work shall not be modified except by a subsequently dated written amendment signed on behalf of Spinnaker and Customer by their duly authorized representatives.

Customer (City of Santa Fe) and Spinnaker TERMS AND CONDITIONS ADDENDUM

13. TERMINATION

This Agreement may be terminated by either party upon 30 days written notice to the other party. Spinnaker shall render a final report of the services performed up to the date of termination and shall turn over to the Customer original copies of all work product, research, or Deliverables prepared under this Agreement to the extent such Deliverables were not previously provided to Customer.

14. INDEMNIFICATION

Subject to the Defense Conditions, Spinnaker shall indemnify, hold harmless and defend the Customer from all losses, damages, claims or judgments, including payments of all reasonable attorneys' fees and costs on account of any suit, claim, action or demand brought by a third party to the extent arising from Spinnaker's breach under this Agreement and/or Spinnaker's negligent performance under this Agreement as well as the negligent performance of Spinnaker's employees, agents, representatives and subcontractors.

15. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Customer in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The Customer and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

16. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Customer for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Customer, this Agreement shall terminate upon written notice being given by the Customer to the Spinnaker. The Customer's decision as to whether sufficient appropriations are available shall be accepted by the Spinnaker and shall be final.

17. RELEASE

Spinnaker agrees not to purport to bind the Customer to any obligation not assumed herein by the Customer unless the Spinnaker has express written authority to do so, and then only within the strict limits of that authority.

18. INSURANCE

Spinnaker shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. Spinnaker shall furnish the Customer with proof of insurance of Spinnaker's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

19. RECORDS AND AUDIT

Spinnaker shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the Customer, the Department of Finance and Administration, and the State Auditor, upon at least 30 days prior written notice (unless a shorter period is required by law). The Customer shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Customer to recover excessive or illegal payments. Any such audit shall be conducted at Spinnaker's offices, during Spinnaker's normal business hours, and no more frequently than once during any 12 month period.

20. CHOICE OF LAW

This Agreement shall be deemed to be made, governed by, and construed in accordance with the laws of the Municipality and the State of New Mexico, without giving effect to the conflict of law principles thereof.

ACCEPTED AND AGREED TO:

CUSTOMER: CITY OF SANTA FE	**SPINNAKER SUPPORT, LLC**
Signed:	Signed: Kurt Moydell
Printed: Brian K. Snyder	Printed: Kurt Moydell
Title: City Manager	Title: Vice President
Date: 9/12/14	Date: 9-18-14
	Business License # 1400128376

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

for TERESITA GARCIA, ASSISTANT FINANCE DIRECTOR

SPINNAKER SUPPORT

STATEMENT OF WORK #_1_

MAINTENANCE SUPPORT SERVICES

This Statement of Work is attached to, and is made a part of, that certain Master Services Agreement between Spinnaker Support, LLC ("Spinnaker"), and City of Santa Fe ("Customer") dated August 30, 2014 (the "Agreement"). Unless explicitly stated otherwise in this Statement of Work, any capitalized terms shall have the meaning given to them in the Agreement.

1. Supported Products

A. **Production System.** The Production System components in scope for support have been identified by the Customer as follows:

Production Environment #1	
JD Edwards Software Release:	8.12
E1 Update or World Cume Level:	
E1 Service Pack/Tools Release:	8.98.3
Customer's System Physical Location:	USA, Santa Fe NM 87505
Customer's System Hosted by 3rd Party? If Yes, please list hosting company.	No
Customer's Support Team Location(s):	USA, Santa Fe NM 87505
Customer's Support Team Spoken Language(s):	English
E1 Enterprise Server Platform:	iSeries 7.1
E1 Database Server Platform:	iSeries, 7.1 DB2 7.1
E1 Batch Server Platform:	
E1 Deployment Server Platform:	Websphere
E1 JAS Server Platform:	
Remote System Access Method: (Spinnaker's Method to Customer System)	Secure Access VPN, FOB, Other Team Viewer or Equivalent, Version/Release
Supported Runtime Languages:	English
Customizations:	Customer remains responsible for maintenance of their JDE customizations. Spinnaker will provide troubleshooting and debugging support for JDE customizations and will make recommendations for issue resolution.
3rd Party Integrations and Interfaces:	Active Payment Manager, Bottom Line Technologies, Reports Now
Licensor Maintenance End Date:	09/30/2014

B. Supported Product Modules. The Supported Product Modules are the application modules identified by Customer and listed in the table below, limited to the Production System specified in Section 1.A., with Tax and Regulatory Coverage as specified in Table B-2 below and as consistent with the standard product as delivered by the Licensor. Customer acknowledges and agrees that Spinnaker will limit its Services under this Statement of Work to the listed Supported Products and Tax and Regulatory Coverage listed in Tables B-1 and B-2.

Table B-1

Supported JD Edwards Product Modules (List application modules requiring support)	Production Environment(s) In Scope
Foundation: Foundation environment runtime applications including Address Book. See Section 2.A. for more information regarding Foundation Code and Tools.	1

Financials: A/R, Credit Management, A/P, General Accounting, Financial Reporting,Fixed Assets, Modeling, Planning and Budgeting, Service Billing, Job Cost Accounting, Contract Billing, Enterprise Report Writer	1
HR/Payroll: Time Accounting, Time Entry, HR and PR Foundation, Employee Information, Human Resources, Benefits Administration, Payroll	1
Distribution: Inventory Management, Sales Order Management, Procurement	1
Manufacturing: Work Order Processing	1

Table B-2

Tax and Regulatory Scope by Country (Covered Applications) List all applications requiring tax and regulatory support	Country (Supported Country)	Current or other Vendor Providing Support	Regulatory Requirement (1099, W2, etc...)	Production Environment Number
Financials: Accounts Payable	USA		1099 and related forms	1
HR/Payroll: Payroll	USA		W2 and related forms	1

2. Services

Customer acknowledges and agrees that Spinnaker will provide Services under this Statement of Work to Customer under Customer's license agreement with the Licensor as a service provider working on Customer's behalf, and that Spinnaker may make customizations, modifications, and recommendations for changes to the Supported Products on Customer's behalf. Services provided pursuant to this Statement of Work shall include:

A. **Product Maintenance.** Spinnaker will provide product diagnostic services, product fixes, and/or operational workarounds for Software Issues (as defined herein) identified for the Supported Products.

i. **Software Break-Fix Support.** Spinnaker will only attempt to diagnose and create fixes and/or workarounds for Software Issues reported for the Supported Products defined in Table B-1. A **"Software Issue"** is defined as a code defect that meets all of the following criteria: the code defect is (i) found by Customer in the online or batch code of the Supported Products in a production, test, development, or production equivalent environment or in updates and fixes provided to Customer by the Licensor up through the date that Customer terminates its support services agreement with the Licensor for the Supported Products; (ii) is reported by Customer to Spinnaker during the Support Period; (iii) materially impacts Customer's ability to process data within the Supported Products; and (iv) causes the failure of a material feature or function of the Supported Products.

ii. **Use of Fixes and Updates.** Fixes and updates provided by Spinnaker pursuant to this Statement of Work may only be used in the number of production environments listed in the Supported Products. Customer may use the provided fixes and updates in other environments as needed to test fixes and updates prior to moving the fixes and updates into production.

iii. **Foundation Code, EnterpriseOne Toolset, Third Party Products, and Language Support.** If listed as a Supported Product under this Statement of Work, Spinnaker will provide support for software foundation code and middleware. However, Customer understands and acknowledges that Spinnaker is not able to, and will not provide any fixes or updates for, the Licensor's proprietary: Foundation Code, software toolsets, middleware, or any Third Party Products used, integrated or bundled with or embedded in the Supported Products since neither Customer nor Spinnaker have source code for these Third Party Products. For purposes of example only, such Third Party Productsinclude, but are not limited to, operating systems, database systems, application servers, web servers, compilers, Citrix, online and batch processing tools, reporting tools, tax processing updates, and analytic tools. Additionally, this Statement of Work expressly excludes any support for any Software Issues related to language runtime objects other than English, unless otherwise specified above.

iv. **General Inquiry Support.** For the Supported Products, Spinnaker will provide support for general inquiries related the usage and configuration of standard (out-of-the-box) software, tools and applications and used in a manner consistent with the Licensor's published technical documentation.

B. **Tax and Regulatory Support.** During the Support Period and in countries where tax and regulatory updates are developed by and delivered directly from the Licensor as base code; (i) Spinnaker will provide tax and regulatory updates for the Supported Countries and related Covered Applications listed in Table B-2; (ii) such updates will include data collection and mandatory regulatory reporting for the base code of the Supported Products; and (iii) such updates may

only be used as an adjunct to the Supported Products in order for the software to operate in accordance with the Licensor's published technical documentation for the Supported Products.

For Supported Countries and jurisdictions where the Customer, while receiving maintenance from Licensor for the Supported Product, has been solely responsible for engaging third-party vendors to support tax and regulatory processing, Customer will remain solely responsible for purchasing and licensing said tax and regulatory update software from a third-party vendor to provide such software to enable proper payroll, sales, property, Internet, VAT, and use tax processing with the Supported Products during the Support Period. Customer understands and agrees such costs and fees paid to the third-party vendor are separate from the Fees defined under this Statement of Work, and Customer is responsible for contracting directly with the third-party for such updates.

Customer also represents and warrants that its tax and regulatory software, whether provided by the Licensor or another third-party vendor, is currently implemented and at its most current version level; Company tax and regulatory updates are limited to Licensor applications in use at the time of maintenance service transition to Spinnaker; new tax and regulatory requirements within a Supported Country or jurisdiction in which the Customer operates are limited to data updates, form changes, and minor configuration adjustments; and, tax and regulatory changes dictated by the authorities in a Supported Country or jurisdiction requiring that net new functionality be developed, are considered out of scope of this Statement of Work.

3. Service Level

Customer will be entitled to receive emergency support for the Supported Products during the Hours of Support. Response time commitment for a first live conversation between Spinnaker and Customer after Customer contacts Spinnaker for support is based on the Severity/Priority of the issue as entered into Spinnaker's Ticket Tracking System by the Customer, and defined as follows:

A. Response Time Commitment. Customer will alert Spinnaker of a support request by submitting a ticket using Spinnaker's Ticket Tracking System. The Customer-assigned Severity/Priority for each ticket will dictate the appropriate Service Level for the ticket. After Customer submission, Spinnaker resources will receive automatic alerts for P1-Critical or P2-High Priority tickets. The first live conversation between Spinnaker and Customer will occur based on the following table.

Severity/Priority Level	Response Time for First Live Contact After Ticket Entry	Resolution Actions and Target Resolution Times*
P1 – Critical Priority An urgent ticket that requires immediate assistance. No work-around is available.	**Within 30 Minutes**	P1 and P2 tickets receive Spinnaker's highest priority. Following first contact, action continues until resolution. Spinnaker's support teams will engage higher level knowledge resources, escalating until resolved. Target Resolution Times* are: • P1 – Critical Priority: Less than 2 Days • P2 – High Priority: Less than 5 Days
P2 – High Priority A serious ticket that requires immediate assistance. A work-around may be available.		
P3 – Medium Priority A non-urgent ticket that requires assistance within the Hours of Support.	**Same Day or Within 1 Business Day**	Work begins on P3 and P4 tickets within one Business Day of receipt. Following first contact, Spinnaker's support teams work these tickets each Business Day, until completion, and as needed, higher level knowledge resources are called upon to achieve resolution. Target Resolution Times* are: * P3 – Medium Priority: Less than 7 Days * P4 – Low Priority: Less than 10 Days
P4 – Low Priority A minor ticket, a question or ticket that requires minor research or low-priority assistance within the Hours of Support.		

* Target Resolution Times depend on the Severity/Priority Level of each Ticket. Resolution Time or Severity/Priority may be adjusted if a workaround has been established, or if Customer agrees the Severity/Priority of a Ticket can be reduced. Delays in final resolution times may occur depending on the complexity of a ticket, responsiveness of Customer users or other resources, and other prevailing matters.

B. Service Coverage.

Spinnaker will provide coverage for Services as follows.

1. **Hours of Support**. Standard business work-day coverage will be available, five (5) days per week, Monday through Friday. The Services will be available to the Customer from 8:00 AM until 5:00 PM U.S. Mountain Time, Monday through Friday.

2. **After Hours Support**. Customer will have access to Spinnaker's Ticket Tracking System before and after standard business work days, 24x7x365. Depending on Customer-assigned Severity/Priority, a ticket created after Hours of Support will be addressed during the Hours of Support the next business day, or within the times specified in section 3.A. Response Time Commitment.

3. **Spinnaker Ticket Tracking System**. Customer will use Spinnaker's Ticket Tracking System to report all service requests. Spinnaker's Ticket Tracking System will be monitored by Spinnaker resources 24x7x365. Customer will limit reported tickets to the Services described for the Supported Products.

4. **Regions of Support**. The Services will be available for all regions during the timeframes specified in the Hours of Support.

4. Term

The initial term for the Services under this Statement of Work shall commence on September 1, 2014 and shall continue for a period of one (1) year. Unless otherwise terminated pursuant to the Agreement, the Services may continue for one or more renewal terms upon the mutual written agreement of the parties. The initial term and all renewal terms of this Statement of Work shall be referred to as the "**Support Period**".

5. Fees

The fees applicable for Services under this Statement of Work shall be as follows:

Term of Support Period	Amount
Year 1: 9/1/2014 to 9/30/2015	$49,995

Fees for any subsequent year(s) of the Support Period shall mutually agreed on by Spinnaker and Customer.

6. Delivery of Software and Maintenance & e-Delivery Taxability

Spinnaker will use commercially reasonable efforts to deliver any product or operational fixes, tax or regulatory updates or other electronic or hard copy deliverables provided under this Statement of Work ("Deliverables") by making it available at the Customer location in: **Santa Fe, NM.**

Customer agrees that in the event any physical delivery of Deliverables should occur, such delivery shall be rejected by Customer. Customer additionally acknowledges that should any Deliverables be unavailable electronically, a delay in receipt of such software or maintenance deliverable may extend until electronic delivery is available or until Spinnaker and Customer agree contractually on another form of delivery.

7. Transition Period

If Customer is currently on a software maintenance contract with the Licensor, Customer acknowledges that Spinnaker requires at least a thirty (30) day period of overlap with the Licensor's software maintenance period in order to conduct an effective on-boarding process. Customer shall participate in the on-boarding process to assess and document Customer's operational use of the Supported Products, implementing system access methods and assessment of Customer's environment in order to facilitate an effective transition process for Spinnaker to perform the Services under this Statement of Work.

8. Customer Contacts

Primary Business Contact		Primary Accounts Payable Contact	
Name:	Caryn Fiorina	**Name:**	
Address1:	2651 Siringo Rd. Bldg F	**Address1:**	
Address2:		**Address2:**	
Country:	USA	**Country:**	
City, St, Zip:	Santa Fe, NM 87505	**City, St, Zip:**	
Phone:	505 955-5573	**Phone:**	
Fax:		**Fax:**	
Email:	cyfiorina@ci.santa-fe.nm.us	**Email:**	

ACCEPTED AND AGREED TO:

CUSTOMER: CITY OF SANTA FE	SPINNAKER SUPPORT, LLC
Signed:	Signed: Kurt Moydell
Printed: Brian K. Snyder	Printed: Kurt Moydell
Title: City Manager	Title: Vice President
Date: 9-12-14	Date: 9-18-14

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Kelley A. Brennan
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

for
TERESITA GARCIA, ASSISTANT FINANCE DIRECTOR