



AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of February, 2016, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “**CITY**,” and Routeware, Inc., of Portland, Oregon, hereinafter referred to as “**VENDOR**.”

WITNESSETH:

WHEREAS, the **CITY** proposes to purchase hardware and software required for a solid waste fleet/route management system and desires to hire **VENDOR** as an independent contractor to supply the hardware and software and perform the services for installation, interfacing with the **CITY**'s billing system, project management, training, and ongoing support services as described in the attached Exhibit “A” and by this reference made a part hereof.

WHEREAS, the **CITY** has authority to contract for such services, and;

WHEREAS, the **VENDOR** represents that he/she is fully qualified to perform such services personally and is in compliance with the Montana Statutes relating to the provisions of such services.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. PURPOSE: **CITY** agrees to hire **VENDOR** as an independent contractor to perform the services and supply the hardware and software as described in the attached Exhibit “A” and by this reference made a part hereof. In performing these services, the **VENDOR** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

2. TERM: This **AGREEMENT** shall be for a period of three years, from the execution of this **AGREEMENT**. This **AGREEMENT** may be extended for two (2) one year options by mutual agreement of both parties, in writing, thirty (30) days prior to termination.



3. **PAYMENT:** In consideration of the services provided by the **VENDOR** under this **AGREEMENT**, the **CITY** agrees to pay **VENDOR** per the prices specified in Exhibit “A.” **CITY** agrees to pay **VENDOR** 50% of the hardware and software costs upon execution of order and 50% prior to shipment. **CITY** further agrees to pay **VENDOR** for services within 30 days from the invoice date and pay recurring support fees quarterly in advance.

In the event scope of work issues arise, the **VENDOR** shall immediately discuss them with the Project Manager for the **CITY**. It is understood that the Vendor will not perform any work that the **CITY** deems outside the scope prior to receiving written approval from the **CITY**, and at a rate agreed upon by both parties. Any payment for work not agreed upon by the **CITY** shall be denied.

4. **INDEPENDENT CONTRACTOR STATUS:** The parties agree that **VENDOR** is an independent Contractor for purposes of this **AGREEMENT** and is not to be considered an employee of the **CITY** for any purpose. **VENDOR** is not subject to the terms and provisions of the **CITY**'s personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **VENDOR** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **VENDOR** and any third parties.

5. **INDEMNITY AND INSURANCE:**

- A. The Vendor agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Vendor or its agents or employees.
- B. The Vendor shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the **AGREEMENT**.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Vendor, the Vendor shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Vendor's or any subcontractor's wrongful or negligent acts occurring as a result from the Vendor's performance pursuant to this **AGREEMENT**.



- D. The **VENDOR** shall maintain in good standing the insurance described in this Section. Before rendering any services under this **AGREEMENT**, the **VENDOR** shall furnish the **CITY** with proof of insurance in accordance with this Section.

The **VENDOR** shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the **CITY** prior to cancellation.

The **CITY** shall be listed as an additional insured on all policies except Worker's Compensation Policies.

In addition, all policies except Worker's Compensation shall contain a waiver of subrogation against Billings.

VENDOR shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. **VENDOR** shall maintain workers' compensation insurance coverage for all members and employees of **VENDOR**'s business, except for those members who are exempted as independent **VENDORS** under the provisions of §39-71-401, MCA.

VENDOR shall furnish **CITY** with copies showing one of the following: (1) proof of registration as a registered Contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent Contractors.



6. **AGREEMENTS OF VENDOR:** As an inducement to the execution of this **AGREEMENT** by the **CITY** and in consideration of the agreements to be performed by the **CITY**, the **VENDOR** agrees that:

A. Qualifications

The **VENDOR** is qualified to perform the services to be furnished under this **AGREEMENT** and is permitted by law to perform such services, and all personnel engaged in the work shall be qualified and so permitted to do the work they perform.

B. Solicitation of Agreement

The **VENDOR** has not employed any person to solicit this **AGREEMENT** and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, or other compensation in connection with the procurement of this **AGREEMENT**.

C. Facilities and Personnel

The **VENDOR** has and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

D. Subcontracting

None of the work or services covered by this **AGREEMENT** shall be subcontracted without the prior approval of the **CITY**.

E. Affidavits of Compliance

The **VENDOR** will, if requested by the **CITY**, furnish the **CITY** affidavits certifying compliance with the provisions of this Section.

7. **AGREEMENTS OF CITY:**

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the City of Billings' portion of the project as designated in Exhibit "A."

B. Name a Project Manager who shall be the liaison between the Vendor and the City of Billings. For this project, the Project Managers for **VENDOR** designated is George May and Mark Fournier and the Project Manager for **CITY** designated is Jennifer Duray.



8. NONDISCRIMINATION:

- A. The **VENDOR** will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The **VENDOR** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The **VENDOR** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
 - B. The **VENDOR** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
 - C. The **VENDOR** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
 - D. The **VENDOR** shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such sub-consultant or vendor of the **VENDOR** under this **AGREEMENT**.
 - E. The **VENDOR** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- 9. PERMITS, LAWS, AND TAXES:** The **VENDOR** shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this **AGREEMENT**. All actions taken by the **VENDOR** under this **AGREEMENT** shall comply with all applicable statutes, ordinances, rules and regulations. The **VENDOR** shall pay all taxes pertaining to its performance under this **AGREEMENT**.
- 10. NONWAIVER:** The failure of either party at any time to enforce a provision of this **AGREEMENT** shall in no way constitute a waiver of the provision, nor in any way affect the validity of this **AGREEMENT** or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.



11. **SUCCESSORS AND ASSIGNS:** This **AGREEMENT** and all of the covenants hereof shall inure to the benefit of and be binding upon the **CITY** and the **VENDOR** respectively and his partners, successors, assigns, and legal representatives. Neither the **CITY** nor the **VENDOR** shall have the right to assign, transfer, or sublet his interest or obligations hereunder without written consent of the other party.
12. **CHANGES IN WORK:** Any change in the scope of **VENDOR**'s services as stated in this **AGREEMENT** for whatever reason, will be negotiated between the **CITY** and the **VENDOR** and an amendment to this **AGREEMENT** will be issued with the appropriate change of services and **AGREEMENT** fee noted.
13. **LEGAL RELATIONS:** The **VENDOR** shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done.
14. **TERMINATION OF AGREEMENT:** Either party may terminate this **AGREEMENT** at any time upon not less than thirty (30) days written notice to the other party.

In the event the **CITY** terminates this **AGREEMENT**, the **VENDOR** shall be paid for the amount of work performed or services rendered to date of termination per the **AGREEMENT** fee.

In the event the **VENDOR** terminates this **AGREEMENT**, the **CITY** shall be refunded for the amount that has been paid for services not rendered.
15. **ENDORSEMENTS:** The **VENDOR** shall furnish signatures, statements, or other suitable means to signify responsible endorsement of work on all reports furnished by him.
16. **OWNERSHIP OF DOCUMENTS:** All information relating to the project and prepared under the terms of this **AGREEMENT**, including reports, data, recommendations, exhibits, analyses, and plans shall be deemed the property of the **CITY**. Reproducibles of all notes, reports, and plans shall be made available at the **CITY**'S request.
17. **PUBLIC INFORMATION:** The **VENDOR** shall not issue any statements, releases, or information for public dissemination without prior written approval of the **CITY**.



18. **PROPRIETARY RIGHTS:** If patentable discoveries or inventions should result from work required herein, all rights accruing from such discoveries or inventions shall be the property of the **CITY**.
19. **RECORDS:** The **VENDOR** shall maintain accounting records and other evidence pertaining to the cost incurred and to make the records available at all times during the **AGREEMENT** term and for three (3) years from the date of final payment. Such accounting records and other evidence pertaining to the cost incurred will be made available for inspections authorized by the **CITY** and copies thereof shall be furnished if requested.
20. **ATTORNEY'S FEES AND COSTS:** That in the event it becomes necessary for either Party to this **AGREEMENT** to retain an attorney to enforce any of the terms or conditions of the **AGREEMENT** or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney's fees and costs.
21. **LITIGATION LOCATION:** The parties agree that this **AGREEMENT** shall be governed in all respects by the laws of the state of Montana, and the parties expressly agree that venue shall be in the Montana Thirteenth Judicial District County for Yellowstone County and there shall be no other venue for resolution of disputes arising from the **AGREEMENT** or the performance of its terms.
22. **MODIFICATION AND AMENDMENTS:** That any amendment or modification of this **AGREEMENT** or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this **AGREEMENT**.



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

VENDOR (Print Name Above)

By _____
Thomas W. Hanel, Mayor

By _____

Print Name _____

Print Title _____

APPROVED AS TO FORM:

By _____
BRENT BROOKS, CITY Attorney



ROUTEWARE®

AN INTEGRATED TECHNOLOGY SOLUTIONS PROVIDER

SALES PROPOSAL

Prepared For City of Billings
By Bryan Campbell
February 01, 2016



Sales Contact: Bryan Campbell
Phone: (503) 906-8507
Email: bcampbell@routeaware.com

Date: February 01, 2016
 Quote Expires: 30 day(s)

Quotation # 000128-R3

Customer:

City of Billings
 PO Box 1178
 Billings, MT 59103-1178

Contact: Jennifer Duray
Phone: (406) 657-8239
Email: durayj@ci.billings.mt.us

Ship to: **City of Billings**
 2251 Belknap Ave
 Billings, MT 59101

HARDWARE

ITEM #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
RWHDT200-BA	Heavy Duty Tablet (Internal Modem, Accessories)	40	2,810.00	112,400.00
RWCAM100-BA	Camera	40	355.00	14,200.00
RWHDV100-BA	Basic Heavy Duty Vehicle (HDV) Modem, no jBUS	8	140.00	1,120.00
			Hardware Total:	127,720.00

SOFTWARE

ITEM #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
SW License - RCC	RouteWare Command & Control (up to 15 units)	1	19,995.00	19,995.00
SW License - RCC Add	RouteWare Command & Control Additional	25	250.00	6,250.00
SW License - OBC	Perpetual OBC Software License	40	2,500.00	100,000.00
SW License - Camera	Camera License	40	195.00	7,800.00
			Software Subtotal:	134,045.00
			Software Total:	134,045.00

SERVICES

ITEM #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
Prof Svs - PM&T	Project Management and Training	1	10,000.00	10,000.00
Prof Svs - RMS Interf	Third Party Software Interface	1	10,000.00	10,000.00
Prof Svs - Truck Inst	Truck Installation	40	200.00	8,000.00
Prof Svs - Camera Inst	Camera Installation	40	100.00	4,000.00
Prof Svs - Basic Inst	Basic unit Installation	8	29.00	232.00
			Services Total:	32,232.00

Order Total: 293,997.00
Deposit Due: 130,882.50

Payment Terms:

Hardware & Software: 50% due upon execution of order, 50% prior to shipment
 Services: Due 10 days from invoice date
 Monthly Fees: Due quarterly in advance



Sales Contact: Bryan Campbell
Phone: (503) 906-8507
Email: bcampbell@routeware.com

Date: February 01, 2016
 Quote Expires: 30 day(s)

Quotation # 000128-R3

Basic Support & Cellular	29.99	Per Unit, Per Month
On-Board Computer Support Fee	59.00	Per Unit, Per Month
Camera System Fee	5.00	Per Unit, Per Month
Routeware Back Office Software Support Fee	4,986.55	Per Year

Support Fees include the following:

1. CPU support (whether purchased from Routeware or not)
2. Monitor support
3. Camera support
4. Modem support
5. Cabling support
6. One-year warranty on hardware
7. Troubleshooting software in the vehicle
8. Troubleshooting the back office server
9. Routinely updating software in the vehicle with patches and fixes
10. Routinely updating software on the server with patches and fixes
11. Troubleshooting and monitoring the cellular network
12. Providing new functionality to vehicle software at no additional cost
13. Providing new functionality to back office software at no additional cost
14. Providing phone support
15. Imaging hardware with software
16. Performing hardware warranty work (for hardware purchased from Routeware)
17. Years of continuing research on the type of hardware that customers should purchase
18. Supporting and troubleshooting the RMS/billing interface
19. Consulting about best practices in waste fleet automation

This quotation and all products and services herein are subject to and limited to the terms and conditions contained in Routeware’s Master Terms located at <http://www.routeware.com/Clients>. Any purchase orders issued in response to this Quotation, will be deemed acceptance of such terms and any acknowledgement Routeware issues is expressly conditioned on such acceptance.

<http://www.routeware.com/Clients> *Username: CityofBillings* *Password: C1tyOfB1ll1ngs*

Order commitment is for three years of service.
 Prices are exclusive of any federal, state, or local taxes. The customer is responsible for all federal, state, and local taxes.
 This system requires a specific server to operate Routeware software, which may need to be purchased separately.
 This system requires cellular connectivity for each vehicle which will need to be purchased separately.
 Routeware is not a Billing or Route Management System (RMS) expert and does not represent any RMS or Billing company in any way.
 On-Board Computer software is sold as a perpetual license, allowing the license to be activated on replacement hardware.
 Any lapse in support voids perpetual license.
 Pricing does not include freight cost or travel expenses, which will be invoiced as they are incurred.

Customers please read and initial. The customer is responsible for:

_____ A dedicated Routeware Server Running Windows Server 2008/2012 or newer
 _____ SQL 2008/2012 or newer

Quotation # 000128-R3 | Date: February 01, 2016



Sales Contact: Bryan Campbell
Phone: (503) 906-8507
Email: bcampbell@routeware.com

Date: February 01, 2016
Quote Expires: 30 day(s)

Quotation # 000128-R3

I authorize this purchase subject to the terms and conditions of the Master Terms.

City of Billings

Signature

Title

Name (Printed)

Date

Routeware, Inc.

Signature

Title

Name (Printed)

Date

Quotation # 000128-R3 | Date: February 01, 2016