

AGREEMENT FOR SERVICES

This Agreement is made and entered into this 17 day of April, 2023, by and between **THE CITY OF LA HABRA**, (hereinafter referred to as the “**CITY**”), and Information Management Technologies, Inc., a California corporations, (hereinafter referred to as the “**FIRM**”).

RECITALS

WHEREAS, **CITY** requires professional services for support of CITY’s Payroll Software System; and,

WHEREAS, **FIRM** has submitted to **CITY** a proposal dated February 28, 2023, a copy of which is attached hereto as Exhibit “A” and is incorporated herein by this reference (“Proposal”); and

WHEREAS, based on its experience and reputation in having provided past services to the **CITY**, Firm is qualified to provide the necessary technology professional services and desires to provide such services.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions herein contained, **CITY** and **FIRM** hereby agree as follows:

ARTICLE I **SCOPE OF SERVICES; TERM**

1.1 General Scope of Services.

A. **CITY** hereby engages **FIRM**, and **FIRM** hereby accepts such engagement, to perform the various services set forth in the Firm’s proposal in Attachment A” (the documents contained in Attachment “A” shall be hereinafter referred to as the “Proposal”).

B. All professional services to be provided by **FIRM** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence, and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices.

C. Warranty: **FIRM** warrants that it shall perform the professional services required by this Agreement in compliance with the federal and California laws related to minimum hours and wages, including but not limited to, 40 U.S.C.A. §§3141, et seq., California Labor Code, §§ 1171, et seq. and California Labor Code, §§ 6300, et seq.; fair employment practices, including but not limited to, 29

U.S.C. 651, et seq.; and fair employment, including but not limited to, 29 U.S.C. 201, et seq., The California Fair Employment and Housing Act California Government Code, §§ 12900, et seq., Title VI of the Civil Rights Act of 1964, as amended, 49 CFR 21 through appendix H and 23 CFR 710.405 (b); and all other federal, state and local laws and ordinances applicable to the work required under this Agreement.

D. Non-exclusive Agreement. **Firm** acknowledges that CITY may enter into agreements similar to this Agreement with other consultants.

1.2 Term.

The term of this Agreement shall begin on January 1, 2023 and continue until December 31, 2024, with the option to renew the contract on a month-to-month basis. The option to renew the contract for the subsequent months is at the discretion of the **CITY**. The term of this Agreement shall begin on the Effective Date and continue until December 31, 2024 or until such time as it is earlier terminated pursuant to Article V of this Agreement.

ARTICLE II **RESPONSIBILITIES OF FIRM**

2.1 Control and Payment of Subordinates.

CITY retains **FIRM** as an independent contractor and not an employee of **CITY**. All personnel to be utilized by **FIRM** in the performance of this Agreement shall at all times be under **FIRM'S** exclusive direction and control. **FIRM** shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. **FIRM** shall be responsible for all reports and obligations with respect to such personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

2.2 Conformance to Applicable Requirements.

All services provided by **FIRM** shall be subject to the approval of the **CITY**.

2.3 Standard of Care; Licenses.

All professional services to be provided by **FIRM** pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar circumstances in accordance with sound professional practices. **FIRM** represents and warrants to **CITY** that it has all licenses, permits, qualifications and approvals that are legally required to practice its profession and to provide the services hereunder. **FIRM** further

represents and warrants that it shall keep in effect all such licenses, permit, and other approvals during the term of this Agreement.

2.4 Project Representatives.

The City Manager or his designee shall be the Project Representative of **CITY** for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of **CITY**, called for by this Agreement except as otherwise expressly provided in this Agreement. **FIRM** shall coordinate all phases of this project and shall be available to **CITY** at all reasonable times.

2.5 Accounting Records.

FIRM shall maintain complete and accurate records with respect to hours worked, costs and expenses incurred in the performance of this Agreement. All such records shall be clearly identifiable as being associated with this Agreement. **FIRM** shall allow an authorized representative of **CITY**, during normal business hours, to examine, audit, and make transcripts of copies of such records. **FIRM** shall allow **CITY** to inspect all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment (or completion of work) under this Agreement.

ARTICLE III **COMPENSATION**

3.1 Compensation.

Except as provided in this section, **FIRM** shall receive compensation for all Services rendered under this Agreement at the rates set forth in the Schedule of Hourly Billing Rates attached hereto as Exhibit "B", and incorporated herein by reference. Total compensation shall not exceed \$50,000 in a calendar year, without written approval of **CITY'S** Project Representative. **FIRM** shall not receive compensation for any services provided outside the Scope of Work unless such additional services (hereinafter "Extra Work") are approved in writing by **CITY** or its appointed representative prior to **FIRM** performing the "Extra Work".

3.2 Payment of Compensation.

FIRM shall provide **CITY** an itemized monthly statement which indicates work completed, hours of service rendered and units of supplies provided to the Project by **FIRM**, from the Effective Date, or the start of the subsequent billing periods, as appropriate, through the date of the statement. **CITY** shall make any payment due within forty-five (45) days after approval of the invoice by **CITY**.

3.3 Extra Work.

At any time during the term of this Agreement, **CITY** may request that **FIRM** perform Extra Work. As used herein, "Extra Work" means any work which is determined by **CITY** to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. **FIRM** shall not perform Extra Work until receiving prior written authorization from **CITY'S** Project Representative. It is specifically understood and agreed that oral requests and/or approvals of "Extra Work" shall be barred and are unenforceable.

3.4 Amendment of Scope of Work.

CITY shall have the right to amend the Scope of Work within the Agreement by written notification to the **FIRM**. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Failure of **FIRM** to secure **CITY'S** written authorization for "Extra Work" or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate **CITY** authorization.

3.5 Reimbursement for Expenses

FIRM shall not be reimbursed for any expenses unless prior written authorization is obtained from **CITY**.

ARTICLE IV INSURANCE

4.1 Insurance Requirements.

The **CITY** reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the existing policies do not meet the Insurance Requirements set forth herein, **FIRM** agrees to amend, supplement or endorse the policies to do so.

Without limiting the indemnity provisions of the Contract, the **FIRM** shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance.

4.2 Minimum Scope of Insurance.

Coverage shall be at least as broad as:

- (a) **Commercial General Liability (CGL)** which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and

completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- (b) **Workers' Compensation** as required by the State of California with statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease.
- (c) **Errors & Omissions Cyber Security Liability Insurance** in an amount not less than \$1,000,000 per claim and annual aggregate, covering (1) all acts, errors, omissions, negligence, infringement of intellectual property; (2) network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or negligence in the handling of confidential information, privacy perils, including coverage for related regulatory defense and penalties; (3) data breach expenses payable whether incurred by City or Firm, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for City or on behalf of City hereunder.

The policy shall contain an affirmative coverage grant for continent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.

If a sub-limit applies to any elements of coverage, the certificate of insurance evidencing the coverage above must specify the coverage section and the amount of the sub-limit.

If the **FIRM** maintains broader coverage and/or higher limits than the minimums shown above, the **CITY** requires and shall be entitled to the broader coverage and/or higher limits maintained by the **FIRM**.

4.3 Endorsements.

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the **CITY** for approval. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) Commercial General Liability

- (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Firm including materials, parts or equipment furnished in connection with such work or operations.

Additional Insured Endorsements shall not:

1. Exclude "Contractual Liability"
2. Restrict coverage to the "Sole" liability of Firm
3. Exclude "Third-Party-Over Actions"
4. Contain any other exclusion contrary to the Contract

Additional Insured Endorsements shall be at least as broad as ISO Form(s) CG 20 10 11 85; or CG 20 10 and CG 2037.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

- (1) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(b) Workers' Compensation

- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

4.4 Insurance Obligations of Firm.

The Insurance obligations under this agreement shall be: (1) all the Insurance coverage and/or limits carried by or available to the **FIRM**; or (2) the minimum Insurance coverage requirements and/or limits shown in this agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the **CITY**. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the **FIRM** under this agreement.

4.5 Notice of Cancellation.

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the **CITY** except ten (10) days shall be allowed for non-payment of premium.

4.6 Waiver of Subrogation.

Required insurance coverages shall not prohibit **FIRM** from waiving the right of subrogation prior to a loss. **FIRM** shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the **CITY** has received a waiver of subrogation endorsement from the insurer.

4.7 Evidence of Insurance.

All policies, endorsements, certificates, and/or binders shall be subject to approval by the **CITY** as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the **CITY**. The **CITY** reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the **CITY**. If such coverage is cancelled or reduced, **FIRM** shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the **CITY** evidence of insurance showing that the required insurance has

been reinstated or has been provided through another insurance company or companies.

4.8 Deductible or Self-Insured Retention.

Any deductible or self-insured retention must be approved in writing by the **CITY** and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The **CITY** may require the **FIRM** to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

4.9 Contractual Liability.

The coverage provided shall apply to the obligations assumed by the **FIRM** under the indemnity provisions of this contract.

4.10 Failure to Maintain Coverage.

FIRM agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the **CITY**. The **CITY** shall have the right to withhold any payment due until **FIRM** has fully complied with the insurance provisions of this Contract.

In the event that the **FIRM'S** operations are suspended for failure to maintain required insurance coverage, the **FIRM** shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

4.11 Acceptability of Insurers.

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the **CITY**.

4.12 Claims Made Policies.

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial **FIRM'S** Contract with the **CITY** and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this Contract.

4.13 Insurance for Subcontractors.

FIRM shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Contract/Agreement, including adding the **CITY** as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractor's policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as broad as CG 20 38 04 13.

4.14 Additional Insurance.

Further, **FIRM** shall obtain any additional kinds and amounts of insurance which, in its own judgment, may be necessary for the proper protection of any of its officers', employees', or authorized sub-consultants' own actions during the performance of this Agreement.

ARTICLE V **TERMINATION AND INDEMNIFICATION**

5.1 Notice of Termination.

CITY may terminate the whole or any part of this Agreement at any time and without cause by giving thirty (30) days written notice to **FIRM** of such termination, and specifying the effective date thereof. **FIRM** shall discontinue all services affected by such termination within thirty (30) days of receipt of such notice, unless otherwise instructed by **CITY** in writing. **FIRM** shall not terminate this Agreement except for cause.

5.2 Termination Without Cause.

If **CITY** terminates this Agreement without cause, **FIRM** shall be paid for services performed through the date of termination, upon receipt of written documentation of said services by **CITY**. Such payment shall include a pro-rated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed services.

5.3 Termination for Cause.

Should **FIRM** default in the performance of any covenant, condition, or agreement contained in this Agreement and the default is not cured within thirty (30) days after written notice of the default is served on **FIRM** by **CITY** then **CITY**, in addition to any other remedies at law or equity, may terminate this Agreement. **FIRM** shall be compensated for services, which have been completed and accepted by **CITY**.

5.4 Procurement of Similar Services.

In the event this Agreement is terminated as provided by this Article, with cause, **CITY** may procure any and all services as may be necessary to complete the Project.

5.5 Work Product.

In the event of termination of this Agreement, all finished or unfinished design, development and construction documents, data studies, drawings, maps and reports prepared by **FIRM** shall be delivered to the **CITY** within seven (7) days of **FIRM**'s receipt of termination notice, and at no additional cost to **CITY**. Any use of uncompleted documents without specific written authorization from **FIRM** shall be at **CITY**'s sole risk and without liability or legal expense to **FIRM**.

5.6 Indemnification and Hold Harmless.

These Indemnification provisions are independent of and shall not in any way be limited by the Insurance Requirements of this Agreement. CITY approval of the Insurance contracts required by this Agreement does not in any way relieve the FIRM from liability under this section.

Notwithstanding the existence of insurance coverage required of **FIRM** pursuant to this contract, **FIRM** shall save, keep defend, indemnify, hold free and harmless **CITY**, its officers, officials, employees, agents and volunteers from and against any and all damages to property or injuries to or death of any person or persons, and shall defend, indemnify, save and hold harmless **CITY**, its officers, officials, employees, agents and volunteers from any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, and all other claims resulting from or arising out of the acts, errors or omissions of **FIRM**, its employees and/or authorized sub-consultants, whether intentional or negligent, in the performance of this Agreement.

ARTICLE VI **GENERAL PROVISIONS**

6.1 Notices.

All notices and written communications sent by one party to the other shall be personally delivered or sent by registered or certified U.S. Mail postage prepaid, return receipt requested to the following addresses indicated below:

IF TO CITY: DIRECTOR OF FINANCE
 CITY OF LA HABRA

110 E. La Habra Blvd.,
La Habra, CA 90631

TO FIRM: CEO
Information Management Technologies
2696 Hudson Avenue
Corona, CA 92881-3568

The effective date of any notice or written communications sent by one party to the other shall be the date received if by personal service, or 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark.

6.2 Entire Agreement.

This Agreement, including the attached proposal provided by Information Management Technologies, Inc. dated February 28, 2023 contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreement whether verbal or written, concerning the same subject matter. This Agreement may be modified only by a writing signed by both parties.

6.3 Successors and Assigns.

This Agreement shall be binding on the successors and assigns of the parties. This Agreement may not be sold, transferred or assigned by either party, or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such sale, transfer or assignment, or attempted sale, transfer or assignment without written permission, may be deemed by the other party to constitute a voluntary termination of this Agreement and this Agreement shall thereafter be deemed terminated and void.

6.4 Subcontracts.

FIRM shall not subcontract any portion of the work required by this Agreement without prior written approval of **CITY**. All approved subcontracts, if any, shall be accomplished by a written instrument. Such instrument shall contain an expressed assumption by the subcontractor of all conditions and terms and covenants contained in this Agreement.

6.5 Equal Opportunity Employment.

FIRM represents that it is an equal opportunity employer and shall not discriminate either directly or indirectly against an employee or applicant for employment with **FIRM** on the basis of race, color, religion, national origin, ancestry, sexual preference, sex or age. **FIRM** shall also take affirmative steps to

ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, national origin, ancestry, sexual preference, sex, age, or other prohibited grounds.

6.6 Attorney's Fees.

If either party commences a legal action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover reasonable attorney's fees and costs of suits.

6.7 Governing Law.

This Agreement shall be governed by and construed with the laws of the State of California. Any Action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Orange.

6.8 Time of Essence.

Time is of the essence for each and every provision of this Agreement.

6.9 Right to Employ Other Consultants.

CITY reserves the right to employ other consultants in connection with this Project.

6.10 Covenant Against Contingent Fees.

FIRM warrants that he/she/it has not employed or retained any company or person, other than a bona fide employee working with **FIRM**, to solicit or secure this Agreement, and that he/she/it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, **CITY** shall have the right to annul this Agreement without liability or, in its discretion to deduct from **FIRM'S** compensation provided under this Agreement, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

6.11 Conflict of Interest.

FIRM covenants that he/she/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 its Services hereunder. **FIRM** further covenants

that in the performance of this Agreement, no person having any such conflict of interest shall be employed by **FIRM**.

6.12 Statement of Economic Interest.

If **CITY** determines **FIRM** comes within the definition of **FIRM** under the Political Reform Act (Government Code §87100 et. seq.), **FIRM** shall complete and file and shall require any other person doing work under this Agreement, to complete and file a "Statement of Economic Interest" with the City Clerk of the **CITY** disclosing **FIRM** and/or such other person's financial interests.

6.13 No Waiver of Breach; Time.

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.14 Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

6.15 Taxes.

FIRM agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. **FIRM** agrees to indemnify and hold **CITY** harmless from any liability which it may incur to the United States or to the State of California as a consequence of **FIRM'S** failure to pay, when due, all such taxes and obligations.

6.16 Compliance With Law.

FIRM shall comply with applicable federal, state and local laws, rules and regulations affecting the **FIRM** and his/her/its work hereunder.

6.17 Title to Documents.

Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by **FIRM** under the Agreement shall be vested in **CITY**, none of which shall be used in any manner

whatsoever, by any person, firm, corporation, or agency without the expressed written consent of **CITY**. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to **CITY** without restriction or limitations on their use. **FIRM** may retain copies of the above described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of **CITY** during the term of this Agreement or until ninety (90) days after receipt of final payment from **CITY**. The terms and conditions specified in the Firm's proposal attached hereto as Exhibit "C" shall also apply.

6.18 Validity.

The validity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provisions of this Agreement.

6.19 Headings.

Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

6.20 Counterparts.

This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

6.21 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provision of this Agreement.

6.22 Confidentiality.

All findings, reports, information and exhibits prepared or assembled by **FIRM** in connection with the performance of its professional services pursuant to this Agreement are confidential and **FIRM** agrees that they shall not be made available to any individual or organization without the prior consent of **CITY**. All findings, reports, information and exhibits shall become the property of **CITY**. The terms and conditions specified in the Firm's proposal attached hereto as Exhibit "A" shall also apply.

6.23 Responsibility for Errors.

FIRM shall be responsible for its own work and results under this Agreement, and shall not be responsible for any work by **CITY** performed prior to the date of this Agreement or for any other acts or omissions directly attributable to **CITY**. **FIRM**, when requested, shall furnish clarification and/or explanation as may be required by **CITY** regarding any services rendered under this Agreement at no additional cost to **CITY**. In the event that an error or omission attributable to **FIRM** occurs, then **FIRM** shall, at no cost to **CITY**, provide all necessary design drawings, estimates and other **FIRM** professional services, as authorized by this Agreement necessary to rectify and correct the matter to the sole satisfaction of **CITY** and to participate in any meeting required with regard to the correction. The terms and conditions specified in the Firm's proposal attached hereto as Exhibit "C" shall also apply.

6.24 Independent Contractor.

The parties hereto acknowledge and agree that the relationship between **CITY** and **FIRM** is one of principal and independent contractor and no other. Nothing contained in this Agreement shall create or be construed as creating a partnership, a joint venture, employment relations, or any other relationship except as set forth between the parties. The parties specifically acknowledge and agree that **FIRM** is not a partner with **CITY**, whether general or limited, and no activities of **CITY** or **FIRM** or statements made by **CITY** or **FIRM** shall be interpreted by any of the parties hereto as establishing any type of business relationship other than an independent contractor relationship.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the date and year first above written.

CITY OF LA HABRA:

APPROVED AS TO FORM:

CITY ATTORNEY

ATTEST:

CITY CLERK

FIRM:

Information Management Technologies, Inc.

EXHIBIT “A”

PROPOSAL TO PROVIDE PAYROLL SOFTWARE MAINTENANCE AND SUPPORT TO CITY OF LA HABRA

INFORMATION MANAGEMENT TECHNOLOGIES, INC. proposes to provide support to the City of La Habra for the use of their Payroll software as follows:

Information Management Technologies agrees to provide continued support for a base fee of \$3,000 per month where hours worked for any City of La Habra requests will be billed at our going rates in addition to this amount. This base fee is designed to ensure that we have proper funding to ensure that we can do proper maintenance on your software and maintain availability and readiness to serve.

State and condition of software previously installed by IMT and currently running on City of La Habra production servers prior to this agreement

- City of La Habra (herein after referred to as CITY OF LA HABRA and/or client) and Information Management Technologies, Inc. (hereinafter referred to as IMT) agree that upon entering into this agreement, any and all software installed on City of La Habra live production servers prior to the date of this agreement is deemed as having been “accepted” by City of La Habra. If any defects to software installed prior to this agreement are noticed and reported to IMT, IMT will make adjustments as requested and/or directed by City of La Habra using our normal software development policy and practices.

IMT Software Development Policy

City of La Habra understands and accepts that IMT utilizes a formal Software Development Life Cycle process for any and all software changes or enhancements including corrections to software defects that were not noticed during user testing prior to user acceptance as described here:

Overview of the process:

- Client notifies IMT of request or need for programming change (including correction to software defect in the live system that was not noticed during user testing).
- IMT reviews request, does research and analysis, asks client additional questions, does design and provides client with a proposed method of addressing client request for enhancement.
- User must accept IMT proposed method for handling change before IMT can begin programming. IMT will need to receive an email or written

direction from client that the proposed method/design is acceptable to the client before programming can begin.

- IMT will only make programming changes on a completely separate development server copy of the live/production environment.
- User testing. Once IMT has completed programming changes, IMT will need access to a TEST server, which IMT will refresh from the live/production server and then install programming changes for user review and testing.
- User acceptance. IMT will not schedule “go live” for programming updates until user acceptance has happened. IMT will need to receive an email or other written direction from client that users have “accepted” that the programming changes are working as requested by the client. User acceptance indicates that the user agrees that the programming changes are working as requested by client.
- Requirement for additional user testing. In the event that substantial programming changes are needed or requested during the user testing/review process, and/or if any other projects or requests are received that result in other concurrent programming changes or development and/or if a long period of time elapses, or due to other circumstances as deemed necessary by IMT, IMT may mandate that another test “go live” happen including user acceptance prior to IMT agreeing to schedule a “go live”.
- Scheduling “go live”. IMT will work together with client to determine a mutually acceptable date and time for “go live” when IMT staff are available to perform the “go live” and where IMT and CITY OF LA HABRA staff are available for post “go live” support. IMT recommends that CITY OF LA HABRA NOT schedule a “go live” immediately prior to a weekend, holiday or time when CITY OF LA HABRA and IMT staff are not regularly scheduled to work.

Other Software Development policies and provisions

- IMT’s policy that programming changes are completed one at a time, in order. IMT requests that CITY OF LA HABRA work together with IMT to test, debug, finalize and “go live” with programming changes in the order that CITY OF LA HABRA has submitted them.
- IMT’s policy for how urgent, unexpected programming changes will be handled. In the event that CITY OF LA HABRA has an urgent need for other programming changes, CITY OF LA HABRA understands that this will result in IMT needing to do the following: New separate development and test servers containing a fresh copy of the live/production server will be needed

for the priority project. The standard process of development, testing and user acceptance will need to happen. Once the priority project has been completed and “live”, IMT will need to be allowed sufficient time to create another, new, separate development server, which is a copy of the live/production server. IMT will then need to be allowed sufficient time to perform source code review to identify and incorporate overlapping code changes into the updates on the new development server.

- IMT’s policy regarding software defects not noticed during user testing. In the event that a software defect is noticed after user acceptance and after “go live”, IMT will work with client to try to identify a “work around” to allow sufficient time for the software defect to be properly corrected and accepted by the user before the fix is installed in the live system.
- IMT is available for development and programming during normal CITY OF LA HABRA administrative business days/hours.

Support, Backups, Disaster recovery, after hours, weekend, holiday support and other support provisions:

- Client assumes responsibility for front-line support of application software developed and provided by IMT.
- Backups. It is CITY OF LA HABRA’s responsibility to ensure that software and data are backed up. IMT recommends that CITY OF LA HABRA perform periodic restores on a regular basis to ensure that the backups are in fact usable in the event needed.
- Disaster recovery. CITY OF LA HABRA is responsible for DR (Disaster Recovery). In the event of a system outage (examples include power outage, internet outage, earthquake, Fire, SAN failure, Ransomware, software defect that was not noticed during user testing, etc.), Client is responsible for DR including bringing servers back online, restoring data and software, etc. IMT recommends that client push data and software out to remote locations on a regular basis.
- Scheduled “On Call” support. If client needs IMT to be available to provide support during off hours, CITY OF LA HABRA’s 4/10 day off, weekends and/or holidays, client should make this request in advance for the specific dates that “on call” support is needed. If IMT is available to provide this type of support, IMT will agree to have a person “on call” for a rate of 25% our normal rate. In the event the IMT support person provides support. Support

will be billed as follows: remote support 2-hour minimum. Onsite support (including charge for travel time portal to portal) 4-hour minimum.

- Unscheduled, emergency after hours support. IMT is normally not available for development or support during CITY OF LA HABRA 4/10 days off, non CITY OF LA HABRA business hours, weekends or holidays including scheduled days off for specific IMT staff that CITY OF LA HABRA has been previously notified about and where other IMT staff have been made available to provide support to CITY OF LA HABRA. However, in the event IMT or a specific IMT staff person who is on a scheduled day off is contacted during off hours periods and assuming that IMT is able to respond, A surcharge of 1.5 applies for work performed by IMT after 6pm and before 7am on non CITY OF LA HABRA business days including 4/10 days off, weekends and holidays. Also, a minimum charge of 2 hours for remote support. Onsite support (including charge for travel time portal to portal) 4 hour minimum will apply.
- IMT recommended upgrades and maintenance. Periodically, IMT will recommend maintenance and/or upgrades (examples Windows server OS upgrades, database defragmentation or archival, etc.). If CITY OF LA HABRA opts not to do the recommended maintenance or upgrades, CITY OF LA HABRA agrees to accept responsibility for consequences of not performing the maintenance or upgrades recommended by IMT.
- Responsibility for managing documentation provided to CITY OF LA HABRA by IMT. IMT provides documentation for each and every update, enhancement and/or software change requested by CITY OF LA HABRA. CITY OF LA HABRA agrees to assume responsibility for managing this documentation including updating user desk procedures based on software updates that may cause impact to procedures and/or documentation prepared based on previous updates.
- IMT's policy regarding client requests to have IMT do data entry. IMT's policy is that we do not enter data in the live, production environment. In the event that IMT receives direction from the CITY OF LA HABRA to enter data on live/production CITY OF LA HABRA servers, IMT will provide screen shots to CITY OF LA HABRA showing the before/after and CITY OF LA HABRA agrees to review, verify and accept full responsibility for the accuracy and validity of the data entry changes that were made or if found to be incorrect, CITY OF LA HABRA agrees to make any needed changes.

Software Source Code Disclosure Policy

City of La Habra understands and agrees that IMT is a software development company and that software designed and developed for CITY OF LA HABRA by IMT is proprietary. IMT agrees to make the software source code available on site at CITY OF LA HABRA for IMT support and development purposes only. CITY OF LA HABRA agrees not to disclose or provide source code or to provide backups of the application or technical designs prepared by IMT to any third party including IMT competitors without the express written consent of Jim Mabey.

IMT Project Management recommendations to make more efficient use of our design and development resources

- IMT encourages CITY OF LA HABRA to identify and involve all stakeholders in software projects in all stages of the Software Development Life Cycle process. This will help ensure that development projects that we are asked to undertake are in fact things that are actually wanted and needed by the CITY OF LA HABRA organization and will actually be implemented and utilized. This will also help ensure that all users of the software are asked to participate in the review and testing of enhancements to help reduce the problem of changes being made for one group of users causing problems for another group of users that were not included in the process.

EXHIBIT “B”
SCHEDULE OF HOURLY BILLING RATES

	Year 1	Year 2	Year 3
	Calendar Year 2023	Caendar Year 2024	Calendar Year 2025
Monthly maintenance fee for continued support	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Hourly rate for additional support	\$ 178.17	\$ 183.52	\$ 189.02

1. Year 3 extension is optional for the City.
2. Year 3 extension is on a month-to-month basis.
3. Surcharge of 1.5 applies for hours after 6pm, before 7am, weekends and holidays.