

AGREEMENT TO PERFORM PROFESSIONAL SERVICES

This agreement for the provision of information technology and telecommunication consulting services ("Agreement") is made and entered in this 2nd day of April, 2013 ("Effective Date"), by and between the City of Redlands, a municipal corporation ("City") and ClientFirst Technology Consulting ("Consultant"). City and Consultant are sometimes individually referred to herein as a "Party" and, together, as the "Parties." In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 – ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to provide information technology and telecommunication assessment and master planning consulting services for City (the "Services").
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing like and similar types of Services.

ARTICLE 2 – SERVICES OF CONSULTANT

- 2.1 The specific Services that Consultant shall perform are more particularly described in Exhibit "A," entitled "Scope of Services," which is attached hereto and incorporated herein by reference.
- 2.2 Consultant shall comply with applicable federal, state and local laws and regulations in the performance of the Services.

ARTICLE 3 – RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that may assist Consultant in performing the Services.
- 3.2 City designates Dana Abramovitz-Daniel, Purchasing Services Manager, as City's representative with respect to performance of the Services, and such person shall have the authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to performance of the Services.

ARTICLE 4 – PERFORMANCE OF SERVICES

- 4.1 Consultant shall perform and complete the Services in a prompt and diligent manner in accordance with the schedule for individual tasks as established from time to time by City. The Services shall commence upon the Effective Date of this Agreement and shall terminate on February 1, 2014.

- 4.2 If Consultant's Services include deliverable electronic visual presentation materials, such materials shall be delivered in a form, and made available to the City, consistent with City Council adopted policy for the same. It shall be the obligation of Consultant to obtain a copy of such policy from City Staff.

ARTICLE 5 – PAYMENTS TO CONSULTANT

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed the amount of Seven Hundred Fourteen Thousand Nine Hundred Fourteen Dollars (\$714,914). City shall pay Consultant on a time and materials basis up to the not to exceed amount, based upon the hourly rates shown in Exhibit "B," entitled "Rate Schedule." Exhibit "B" is attached hereto and incorporated herein by this reference.
- 5.1 Consultant shall submit monthly invoices to City describing the Services performed during the preceding month. Consultant's invoices shall include a brief description of the Services performed, the dates the Services were performed, the number of hours spent and by whom, and a description of reimbursable expenses related to the project. City shall pay Consultant no later than thirty (30) days after receipt and approval by City of Consultant's invoice.
- 5.2 All notices shall be given in writing by personal delivery or by United States Mail, postage prepaid. Notices sent by mail should be addressed as follows:

City

Dana Abramovitz-Daniel
Purchasing Services Manager
City of Redlands
1270 W Park Avenue, Bldg A
Redlands, CA 92373

Consultant

David Krout, Principal
ClientFirst Technology Consulting
1181 California Avenue
Suite 101A
Corona, CA 92881

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section 5.2.

ARTICLE 6 – INSURANCE AND INDEMNIFICATION

- 6.1 Insurance required by this Agreement shall be maintained by Consultant for the duration of its performance of the Services. Consultant shall not perform any Services unless and until the required insurance listed below is obtained by Consultant. Consultant shall provide City with certificates of insurance and endorsements evidencing such insurance prior to commencement of the Services. Insurance policies shall include a provision prohibiting cancellation or modification of the policy except upon thirty (30) days prior written notice to City.
- 6.2 Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout the duration of its performance of the Services in accordance with

the laws of the State of California, with an insurance carrier acceptable to City as described in Exhibit "C," entitled "Workers' Compensation Insurance Certification," which is attached hereto and incorporated herein by this reference.

- 6.3 Consultant shall secure and maintain comprehensive general liability insurance with carriers acceptable to City. Minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
- 6.4 Consultant shall secure and maintain professional liability insurance throughout the term of this Agreement in the amount of One Million Dollars (\$1,000,000) per claim made.
- 6.5 Consultant shall have business auto liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit bodily injury liability and property damage liability. This coverage shall include all Consultant owned vehicles used in connection with Consultant's provision of the Services, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self insurance maintained by City.
- 6.6 Consultant shall defend, indemnify and hold harmless City and its elected officials, employees and agents from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by and negligent act, omission or failure to act by Consultant, its officers, employees and agents in performing the Services.

ARTICLE 7 – CONFLICTS OF INTEREST

- 7.1 Consultant covenants and represents that it does not have any investment or interest in any real property that may be the subject of this Agreement or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's Services. Consultant further covenants and represents that in the performance of its duties hereunder, no person having any such interest shall perform any Services under this Agreement.
- 7.2 Consultant agrees it is not a designated employee within the meaning of the Political Reform Act because Consultant:
 - A. Does not make or participate in:
 - (i) the making or any City governmental decisions regarding approval of a rate, rule or regulation, or the adoption or enforcement of laws;

- (ii) the issuance, denial, suspension or revocation of City permits, licenses, applications, certifications, approvals, orders or similar authorization or entitlements;
- (iii) authoring City to enter into, modify or renew a contract;
- (iv) granting City approval to a contract that requires City approval and to which City is a party, or to the specifications for such a contract;
- (v) granting City approval to a plan, design, report, study or similar item;
- (vi) adopting, or granting City approval of policies, standards or guidelines for City or for any subdivision thereof.

B. Does not serve in a staff capacity with City and in that capacity, participate in making a governmental decision or otherwise perform the same or substantially the same duties for City that would otherwise be performed by an individual holding a position specified in City's Conflict of interest Code under Government Code section 87302.

7.3 In the event City officially determines that Consultant must disclose its financial interests, Consultant shall complete and file a Fair Political Practices Commission Form 700, State of Economic Interests with the City Clerks' office pursuant to the written instructions provided by the City Clerk.

ARTICLE 8 – GENERAL CONSIDERATIONS

8.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for the use of in-house counsel by a Party.

8.2 Consultant shall not assign any of the Services, except with the prior written approval of City and in strict compliance with the terms, and conditions of this Agreement.

8.3 Project related documents, records, drawings, designs, cost estimates, electronic data files, databases and any other documents developed by Consultant in connection with its performance of the Services, and any copyright interest in such documents, shall become the property of City and shall be delivered to City upon completion of the Services, or upon the request of City. Any reuse of such documents, and any use of incomplete documents, shall be at City's sole risk.

8.4 Consultant is for all purposes under this Agreement an independent contractor and shall perform the Services as an independent contractor. Neither City nor of its agents shall have control over the conduct of Consultant or Consultant's employees, except as herein set forth. Consultant shall supply necessary tools and instrumentalities required to perform the Services. Assigned personnel employed by Consultant are for its account only, and in no event shall Consultant or personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of City. Consultant shall have no authority, express by City for the account of, or on behalf of City. Consultant shall have no authority, express or implied, to act on behalf of City in any

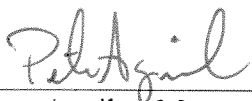
capacity whatsoever as an agent, nor shall Consultant have any authority, express or implied, to bind City to any obligation.

- 8.5 Unless earlier terminated as provided for below, this Agreement shall terminate on February 1, 2014; provided, however this Agreement may be terminated by City, in its sole discretion, by providing ten (10) days prior written notice to Consultant (delivered by certified mail, return receipt requested) of City's intent to terminate. If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed Services, and (2) any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant. Upon receipt of a termination notice, Consultant shall immediately discontinue its provision of the Services and, within five (5) days of the date of the termination notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of project related data, design calculations, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services. Consultant shall be compensated on a pro-rata basis for Services completed up to the date of termination.
- 8.6 Consultant shall maintain books, ledgers, invoices, accounts and other records and documents evidencing costs and expenses related to the Services for a period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement. Such books shall be available at reasonable times for examination by City at the office of Consultant.
- 8.7 This Agreement, including the Exhibits incorporated herein by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein, and any prior negotiations, written proposals or verbal agreements relating to such matters are superseded by this Agreement. Except as otherwise provided for herein, an amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.
- 8.8 This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 8.9 If one or more of the sentences, clauses, paragraphs or sections contained in this Agreement is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate the remaining sentences, clauses, paragraphs or sections contained herein, unless to do so would deprive a Party of a material benefit of its bargain under this Agreement.
- 8.10 In connection with this Agreement, Consultant may have access to or be exposed to information of City that is not generally known to the public, such as information pertaining to software, data, reporting, pricing, and trade secrets, which may be designated as confidential or which, under the circumstances surrounding disclosure,

ought to be treated as confidential (collectively, "Confidential Information"). Confidential Information may not be shared with third parties unless such disclosure is to Consultant's personnel, including employees, affiliates, agents, and subcontractors, on a "need-to-know" basis in connection with this Agreement, so long as such personnel have agreed in writing to treat such Confidential Information under terms at least as restrictive as those herein. Consultant agrees to take the necessary precautions to maintain the confidentiality of City's Confidential Information by using at least the same degree of care as such Party employs with respect to its own Confidential Information of a similar nature, but in no case less than a commercially reasonable standard of care to maintain confidentiality. The foregoing shall not apply to information that Consultant can show through written records (1) was known by it before its receipt from City; (2) is or becomes public knowledge through no fault of Consultant; or (3) is rightfully received by Consultant from a third party without a duty of confidentiality. If Consultant is required by a court or government agency to disclose Confidential Information, Consultant shall, subject to any specific lawful restrictions, provide advance notice to City before making such a disclosure. The obligations with respect to Confidential Information shall survive any termination of the Agreement and continue for five (5) years from the date of disclosure. All Confidential Information relating to City's technological and telecommunications systems that is provided by City to Consultant, or which Consultant obtains as a result of the performance of its Services, shall be held strictly confidential by Consultant and shall not be used for any purpose other than for Consultant's performance of the Services under this Agreement. Consultant hereby acknowledges and agrees that any disclosure or improper use by Consultant of Confidential Information could cause City substantial damages, and also irreparable injury for which there is not an adequate remedy at law. Therefore, in the event of any such action, City shall be entitled in addition to all other remedies which it may have hereunder or at law or in equity, to a temporary and/or permanent injunction with a decree for specific performance of the terms hereof without being required to furnish a bond or other security. Jurisdiction in any action for injunctive relief shall be a court of competent subject matter jurisdiction in California, with venue in San Bernardino, California.

IN WITNESS WHEREOF, duly authorizes representative of the City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

By: 
Pete Aguilar, Mayor

CLIENTFIRST TECHNOLOGY
CONSULTING

By: 
David Krout, Principal

Attest:

Sam Irwin, City Clerk

EXHIBIT “A” – SCOPE OF SERVICES

ClientFirst will provide Management Consulting and Project Management services, as necessary, to help implement the IT Master Plan. The Scope of Services is contained within two distinct categories: IT Management Consulting Services and Project Management Services. These services will be performed for the following projects:

- Data Center Relocation
- Specify/Procure Municipal Area Network to connect all City locations
- Upgrade Email Exchange Server and configuration
- Repair Local Area Network connections to provide fast, reliable connectivity
- Interconnection of surveillance camera systems
- Installation and configuration of the new P6 project management software for MUED
- Staff service training
- Helpdesk ticketing software for measurement and management of workflows
- Create off-site backup mechanism for vital City data, using a cloud model
- Perform a Telecommunications Network Assessment and Inventory
- CityWorks improvements and expansion for increased functionality (Code Enforcement, etc.)
- Implement a Citizen Request Management System Citywide
- Public Safety shift scheduling and tracking
- Consolidate data center into one location
- Restore organization to the City's Active Directory
- Implement several server upgrades
- Procure a Citywide Storage Area Network based on assessment, Upgrade PD's SAN
- Implement IT automation tools
- Create a backup inventory and upgrades for PD
- Implement User Training and Support
- Deploy and Electronic Data Management and Storage System
- Develop enterprise resource planning application improvements
- Implement an Electronic Time Entry System
- Conduct a GIS needs assessment Citywide
- Implement Route Management Software for Solid Waste
- Install a new broadcasting system for Channel 3
- Solid Waste Ticketing System Upgrades
- Perform a complete computer replacement and asset management system
- Implement a comprehensive Microsoft Office Upgrade to Office 2010
- Standardize other software versions Citywide
- City Hall core switch replacement

The consultant shall perform the following tasks for each project:

- **Determine Scope of Work** – Work with all stakeholders to determine what needs to be accomplished.

- **Design** – For larger, more complex projects, the design effort may become a separate project. For smaller projects, design is integrated into budgeting.
- **Collaborate** – Include input and requirements of all stakeholder groups to ensure all requirements are included in specifications and all stakeholders buy-in to final solution.
- **Develop Budget** – Project budgets include hardware, software, and consulting costs. Consulting costs are estimated by outlining the various work steps and estimating the hours required to complete them. We also discuss areas of cooperative effort that have the potential to reduce costs via additional client involvement.
- **Gain Sign-off** – Once the budget is complete, we review the scope of work and costs with the client and gain their approval before continuing.
- **Create Project Plan** – Based on all stakeholder needs, delivery dates, and the tasks to be completed, we develop a project plan and estimated implementation date.
- **Outline Communication Plan** – Outline the process for communicating implementation dates, improvements, and training to appropriate staff members.
- **Document Other Plans** – Other plans may include training, testing, contingency, and back-out. These plans are developed on an as-needed basis.
- **Configure and Implement** – Utilize planning methodologies and technical expertise, we configure the necessary system components and implement the solution with the least possible impact to staff and productivity.
- **Post-Implementation Support** – All implementations that affect multiple users require on-site post-implementation support to eliminate remote response times.
- **Documentation** – Develop any necessary procedures and update our documentation as part of the project.

EXHIBIT "B" – RATE SCHEDULE

Time & Materials / Special or Ad Hoc Projects **Staff Level & Hourly Rate**

Desktop Support	\$85
Senior Network Engineer	\$115
Trainer	\$90 - \$115
Senior Consultant	\$125
Project Management	\$125
Principal/Consulting Manager	\$150

Note:

1. There will be no different rate for after-hours work
2. T&M On-Site IT support services may incur a 30 trip charge

EXHIBIT "C"

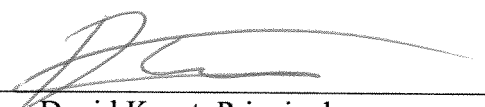
WORKERS' COMPENSATION INSURANCE CERTIFICATION FOR INFORMATION TECHNOLOGY AND TELECOMMUNICATION CONSULTING SERVES

Every employer, except the State, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurer duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code §1861).

CLIENTFIRST TECHNOLOGY CONSULTING:

By: 
David Krout, Principal

4/3/2013
Date: