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PB System™
SUPPORT SERVICES AGREEMENT

This SERVICE SUPPORT AGREEMENT, which describes the terms and conditions applicable to your use of the PlanetBids Online Support Services, is made and entered as of into the 8th day of January, 2015, by and between PLANETBIDS, INC., a California corporation, ("PlanetBids") and the following customer ("Customer") for the period from February 3rd, 2015 to February 2nd, 2020:

Customer Name:	<u>City of Redlands</u>
Street Address	<u>1270 W. Park Ave., Bldg. A</u>
City, State ZIP	<u>Redlands, CA 92373</u>
Department/Division:	<u>Purchasing</u>
Principal Contact:	<u>Dana Abramovitz-Daniel</u>
Title:	<u>Purchasing Services Manager</u>
Phone/Email:	<u>(909) 798-7525 x2, dabramovitz@cityofredlands.org</u>
Method of Payment:	<u>Net 30 Days, from July 1st per year</u>

THEREFORE, PlanetBids and the Customer agree as follows:

1. PlanetBids Services. Upon acceptance of this Agreement, PlanetBids shall provide the following Support Services to Customer, subject to the terms and conditions of this Agreement.

a) "Services" shall include the following: 1) use of the PlanetBids "PB System™" Vendor and Bid management system (a.k.a. BidsOnline™) for the purpose of vendor registration, posting and tracking Bid Requests and other information on Customer's website or private internet network; 2) Up to six (6) licensed users access to and use of the PB System™ by the Customer; 3) the option, at Customer's discretion, to process and distribute Bid Requests to additionally available PlanetBids suppliers within their selected categories at no additional cost; and 4) an optional Reverse Auction feature that enables the Customer to solicit bids from Customer and/or PlanetBids registered suppliers selected by Customer in a price only based blind bidding process, which can be activated by giving notice thereof to PlanetBids in writing or by email.

b) PlanetBids shall have access and the right to market or otherwise promote its services to any vendor or supplier of Customer that registers with PB System™ via Customer's

website. PlanetBids will not sell any Customer data to any third parties without a written consent from Customer.

c) Internet related equipment by its nature, is not fault tolerant, but PlanetBids (1) will use reasonable efforts to make the Services available 24 hours per day, 7 days per week, excluding downtime for scheduled and unscheduled maintenance, and (2) will promptly investigate any technical problems that Customer reports. **PlanetBids cannot, however, guarantee continuous service, service at any particular time or the integrity of data transmitted via the Internet. Further, PlanetBids shall not be responsible for the inadvertent disclosure, corruption or erasure of data transmitted, received or sorted on the PB System™.**

d) PlanetBids may make improvements and/or amendments to the PB System™ at any time, and may provide other optional services, including enhanced versions of standard features or functions, for an additional fee as agreed in advance by the Customer. Any and all relevant portions of these terms and conditions will automatically apply to all improvements, amendments and/or optional services as they appear.

PlanetBids does not guarantee that use of the Services will produce any quotes, business opportunities or other information helpful to the business of Customer, nor does it guarantee that any contact provided will be adequate or best suited for any transaction.

2. Fees and Payments.

a) **Support Fees.** Customer agrees to pay PlanetBids a total of \$24,775.00 for Year 1 and respectively as outlined in Table (A) for Year 2, Year 3, Year 4 and Year 5. Payment shall be due and payable 30 days from the time of execution of this Agreement and each year thereafter.

1) **Set-Up Fee.** Customer shall pay a one-time total fee of \$4,500.00 as outlined herewith and referred to in Exhibit "A" of this Agreement

- a) \$3,500.00 for the installation, configuration and testing of the PB System™ portal link to Customer's website, plus administrator set-up and a one-time online user training for up to; Six (6) licensed users for the Vendor and Bid Management modules.
- b) \$500.00 for the set-up and a one-time online user training initially for up to; Six (6) licensed users for the Contract Management module.
- c) \$500.00 for the set-up and a one-time online user training initially for up to; Six (6) licensed users for the Evaluation Management module.

2) **Service Fee Payment.** Customer agrees to pay an annual service fee of \$20,275.00 for the initial year of the Agreement for the use of the PB System™. A Three (3) percent increase applies upon renewal for Year 2, Year 3, Year 4 and Year 5.

Table (A)

PB System™ MODULES	SETUP	YEAR 1 Feb. 3, 2015 to Feb. 2, 2016	YEAR 2 Feb. 3, 2016 to Feb. 2, 2017	YEAR 3 Feb. 3, 2017 to Feb. 2, 2018	YEAR 4 Feb. 3, 2018 to Feb. 2, 2019	YEAR 5 Feb. 3, 2019 to Feb. 2, 2020
Vendor & Bid Management (Up to 6 User Licenses)	\$ 3,500.00	\$ 13,275.00	\$ 13,673.00	\$ 14,083.00	\$ 14,505.00	\$ 14,941.00
Contract Management (Up to 6 User Licenses)	\$ 500.00	\$ 3,500.00	\$ 4,500.00	\$ 4,635.00	\$ 4,774.00	\$ 4,917.00
Evaluation Management (Up to 6 User Licenses)	\$ 500.00	\$ 2,500.00	\$ 3,500.00	\$ 3,605.00	\$ 3,713.00	\$ 3,825.00
Quick Quote (up to 2 User Licenses)	N/A	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Sub-Total	\$ 4,500.00	\$ 20,275.00	\$ 21,673.00	\$ 23,323.00	\$ 23,992.00	\$ 24,684.00
TOTAL	\$24,775.00		\$ 21,673.00	\$ 23,323.00	\$ 23,992.00	\$ 24,684.00

3) **Reverse Auction.** If the customer chooses to activate the Reverse Auction feature and conduct Reverse Auctions through the Services, Customer does not have to purchase an additional license, but is required to pay a transaction fee for each event/solicitation transaction conducted through the Reverse Auction feature. Once activated, the Reverse Auction feature will remain activated for the balance of the term of this Agreement, including any extensions or renewals. The transaction fee for Reverse Auctions shall be 1% of the total amount of each Reverse Auction transaction, excluding shipping and handling costs; provided that the minimum transaction fee payable for any event/solicitation transaction shall be \$25.00. Within 10 days following the end of each calendar quarter, PlanetBids will invoice the Customer for the total amount of fee(s) payable for all event/solicitation transactions completed during such quarter, which amounts shall be due and payable within 30 days of the date of invoice. It shall be the responsibility of Customer to collect from the supplier any portion of the transaction fee to be paid by such supplier, and to pay any taxes, duties, imports or tariffs that are applicable to purchases via the Services.

b) **Additional Services; Fees.** If requested by Customer, PlanetBids will provide any or all of the following additional services:

- 1) Special customization work -up shall be provided at PlanetBids' current standard rates pursuant to an estimate provided by PlanetBids.
- 2) Training to Customer's designated users, in addition to that provided pursuant to Section 2(a)(1), is available as of today at \$500.00, for up to 2 hours online, or a rate of \$2,375.00 for up to 4 hours onsite per class plus reasonable travel, living and parking expenses of the instructor, as applicable.
- 3) For its own internal retrieval and restoration purposes, PlanetBids will record and maintain for a limited time a back-up copy of all data appearing on Customer's website on a daily basis. The duration such data is retained will be determined by PlanetBids in its sole discretion. However Customer may, during the term of this Agreement, access and retrieve data in text delimited Microsoft Excel format and documents, at no cost. Additional Services related to the retrieval or restoration of any of Customer's data from such back-up files are available if necessary at

PlanetBids current standard rates, which will vary depending on the level of services required, but not less than \$125.00 per hour.

c) **Purchase Orders/Billing.** Purchase orders, billing or any related matters must be emailed to alan@planetbids.com or mailed to the following address;

PlanetBids, Inc.
5850 Canoga Avenue, Suite 301
Woodland Hills, CA 91367
Attn: Alan Zavian

3. Use of Services.

a) PlanetBids is not responsible for the content and/or transactions on Customer's website. Notwithstanding the foregoing, PlanetBids reserves the right to monitor content that uses the Services and to remove content which PlanetBids determines to be illegal, offensive, harmful or otherwise in violation of its operating policies and terminate this Agreement.

1) PlanetBids shall have the right to impose from time to time reasonable rules and regulations regarding the use of the Services. Customer agrees to comply with all such rules and regulations and with applicable laws, ordinances and regulations related to the use of Services; and not make any unauthorized commercial use of the Services or of the PlanetBids name, marks or logos. Further, Customer agrees to not use the PlanetBids websites to (i) post information anonymously or under a false name; (ii) post any unlawful, threatening, abusive, harassing, libelous, defamatory, obscene, pornographic, profane or otherwise objectionable information of any kind, such as inducements to conduct that would constitute a criminal offense or give rise to civil or other liability, (iii) post the name of or otherwise identify or reference any service or entity that provides a service competitive to the Services.

2) If Customer uses standard identification codes, PlanetBids shall have the right to request for inspection an original copy of such codes and any necessary authorizations for use. If such identification codes are proprietary codes of third parties, such as NIGP, SIC or CSI, it shall be the responsibility of Customer to obtain the necessary licenses and Customer indemnifies and holds harmless PlanetBids from the unauthorized use or publication of any such identification codes with respect to the Services.

3) Customer represents and warrants (a) the Customer information provided is current, complete and accurate, (b) that the person signing this Agreement is authorized to bind Customer, (c) Customer will update the information (including credit card information, if applicable) as required to keep such information current, complete and accurate. PlanetBids may, in its sole discretion, cancel or terminate this Agreement if Customer has willfully violated its obligations hereunder.

4) In addition, Customer agrees to use information obtained through the Services only as necessary to the transaction of Customer and shall not use the Services for the benefit of any third party.

6) It shall be the responsibility of Customer to collect and pay any taxes, duties, imposts or tariffs that are applicable to sales via the Services.

b) It is the responsibility of the Customer to (i) pre-qualify all bidding participants in a Reverse Auction, and (ii) limit access to the Services so that only Customer authorized personnel have the capability of activating the Reverse Auction feature and/or conducting Reverse Auctions. "Open to the Public" Reverse Auctions on Customer's website are not permitted. PlanetBids shall have no obligation or involvement in the conduct of any Reverse Auction or responsibility for verifying that the users are authorized by Customer to conduct such transactions.

c) THE SERVICES ARE PROVIDED "AS IS." PLANETBIDS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY OR OTHER VIOLATION OF RIGHTS, EVEN IF PLANETBIDS HAS BEEN MADE AWARE IN ADVANCE OF SUCH POTENTIAL RISK. FURTHER, PLANETBIDS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE ACCURACY, LIKELY RESULTS, OR RELIABILITY OF THE USE OF THE SERVICES OR SITES LINKED THERETO.

d) PlanetBids does not at any time come into possession of the products or services acquired through the Services and is not aware of the specific use to which those items will be put. In using the Services, Customer hereby releases, indemnifies, and holds harmless PlanetBids and its agents, employees, and affiliates harmless from all claims, demands, costs and damages (actual and consequential) of every kind and nature arising out of, or in any way connected with, Bid Requests and uncompleted or completed transactions related to the Services.

4. Termination.

a) Termination for Cause.

This Agreement may be terminated by either party by providing the non-terminating party with no less than forty five (45) business days written notice (and reasonable opportunity to cure) upon the occurrence of any breach of any material term or condition of this Agreement or any representation or warranty herein;

b) Termination for Convenience.

This Agreement may be terminated by Customer by providing PlanetBids with no less than sixty (60) days written notice prior to the end of the actual or current fiscal year of the Agreement term for cancellation of services. PlanetBids will not refund Customer any amounts that have been prepaid for actual or successive year(s) of services.

5. Confidentiality. PlanetBids will take reasonable measures not to disclose website communications or information about its Customers, except to the extent that PlanetBids believes in good faith that such action is within the scope of the Services or reasonably necessary to (a) comply with the law or the directives of courts or governmental agencies; (b) enforce this Agreement; (c) respond to claims of any third party; or (d) protect the legitimate interests of PlanetBids or its customers. Notwithstanding the foregoing, all communications directed to PlanetBids via the website such as questions, comments, inquiries, shall be deemed to be not confidential, unless specifically agreed otherwise in advance by PlanetBids. Further, PlanetBids will have the right to use any Customer's name in connection with the advertising or promotion of the Services.

6. Copyright Protection. The PB System™ and all materials appearing on the PlanetBids website are protected by worldwide copyright laws and related international treaties. None of the materials may be copied, reproduced, modified, published, uploaded, posted, transmitted, or distributed in any form or by any means other than as described herein. All rights not expressly granted herein are reserved. Any unauthorized use of the materials appearing on PlanetBids website may violate copyright, trademark and other applicable laws and could result in criminal or civil penalties.

a) Customer shall not reproduce, duplicate, copy, sell, resell or exploit for any commercial purpose the Services, website content, the PB System™ or any other PlanetBids tools. Customer shall not reverse engineer, decompile, or otherwise attempt to derive source code from any software or tools accessible or available through the Services.

b) Special use requests should be sent to customerservice@PlanetBids.com. Permission to use shall be granted in the sole discretion of PlanetBids.

7. Security.

(a) The PlanetBids ordering and posting processes are protected by the Secure Sockets Layer (SSL) protocol, which encrypts your information and confirms the identity of the PlanetBids server before allowing a transaction to be completed. Firefox 3.5+ (or better) and Internet Explorer 8.0+ (or better) support the SSL protocol are acceptable, but we recommend that you use the latest browsers to ensure that you are protected by advances in security technology. For more detailed information, please refer to the PlanetBids Privacy Policy.

(b) Password-protection techniques will be provided to restrict access under Customer's account to authorized individuals. REGISTRANT ACKNOWLEDGES, HOWEVER, THAT ACCESS RESTRICTIONS, BY THEIR NATURE, ARE CAPABLE OF BYPASS AND PLANETBIDS DOES NOT GUARANTEE THAT THE SERVICES CANNOT BE ACCESSED BY UNAUTHORIZED PERSONS. Customer shall at all times maintain as confidential its user names and passwords. If Customer is a corporation or other business entity, then it may allow employees to use its user name and password, but the Customer shall be responsible for all activity and charges incurred by such employees and any fees resulting from the activation of the Reverse Auction feature. Permitting third parties to use the Services is prohibited and a violation of this Agreement.

(c) If a security breach occurs with respect to any account, the Customer must immediately change its password and notify PlanetBids at customerservice@PlanetBids.com. Customer shall be liable for any unauthorized use of the Services until PlanetBids is notified of the security breach.

8. Other Provisions.

a) **Notices.** PlanetBids shall provide notice to Customer via email, or (at its discretion) via certified U.S. Mail, to the address provided on the membership registration or such other address provided by Customer to PlanetBids. Customer shall provide notice to PlanetBids via email to customerservice@PlanetBids.com, with a copy sent via certified U.S. Mail to the address on the membership registration. Notices will be effective 6 hours after sending if sent via email (unless the sender receives a response indicating that the message was undelivered) or 3 business days after the mailing date, whether or not received.

b) **Assignment.** Customer shall not assign this Agreement or any of its rights or obligations without the prior written consent of PlanetBids, and any such attempted assignment will be void. Subject to the above, this Agreement will be binding upon the parties' respective successors and permitted assigns.

c) **No Waiver.** The failure of PlanetBids to exercise or enforce any right or provision under this Agreement will not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the these terms and conditions shall remain in full force and effect.

d) **Governing Law.** The interpretation and enforcement of this Agreement shall be governed by laws of the United States of America and the State of California, excluding its choice of law rules and subject to the exclusive jurisdiction of the court located in Los Angeles County, California.

e) **Force Majeure.** PlanetBids will not be liable in any amount for failure to perform any obligation under this Agreement if such failure is caused by Internet outages or delays, unauthorized access (hacking), earthquakes, communications outages, fire, flood, war, an act of God, or the occurrence of any other unforeseen contingency beyond the reasonable control of PlanetBids.

AGREED effective as of the date first written above.

PLANETBIDS, INC.

CUSTOMER: City of Redlands

By: 
Alan Zavarian, Chief Executive Officer

By: 
Paul Foster
Mayor

1-24-15
(Date)

2/3/15
(Date)

ATTEST:

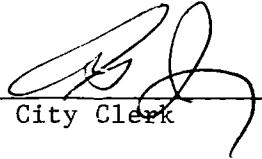

Sam Irwin, City Clerk

EXHIBIT "A"

STATEMENT OF WORK FOR SETUP, IMPLEMENTATION AND TRAINING

1. PB System™ Access Services:

PlanetBids rate for maintaining the PB System™ vendor and bid management is based upon an unlimited number of monthly transactions (Bids) and six (6) licensed users. PB System™ Access Services include the following:

- System Administration – PlanetBids will be responsible for system and data back-ups, disaster recovery, system reliability, availability, privacy, and security
- Hosting Infrastructure – PlanetBids will be responsible for hosting PB System™, maintaining the network, hardware and software infrastructure
- Customer Service – "Level 2" customer service is available from 7:00 a.m. to 5:00 p.m. PST, Monday through Friday (see Help Desk definition below)
- Account Management – PlanetBids will provide a dedicated Account Executive manager for post-sales support, PB System™ questions

Note: User Licenses are assigned to authorized Customer fulltime employees only.

2. PB System™ Set-up, Implementation and Training:

- PlanetBids will initially load up to six (6) licensed users, for the Vendor and Bid Management modules for Customer
- PlanetBids will provide an up to 2-hours online training for PB System™ user administration for the Vendor and Bid Management modules, including the two (2) licensed users for Quick Quotes
- PlanetBids will provide an up to 1-hour online training for PB System™ user administration for the Contract Management module
- PlanetBids will provide an up to 1-hour online training for PB System™ user administration for the Evaluation Management module

Thereafter initial online training, it is the responsibility of the Customer to maintain and to provide an overview/training to all Licensed Users.

Note: Additional online training is available for a fee as outlined in the Support Services Agreement, and must be requested in writing from authorized personnel of Customer.

PB System™ set-up, implementation and training consists of the following:

A. Initial program definition

The PlanetBids implementation manager will work with one (1) designated Customer project manager to develop a roadmap for system implementation. The implementation manager will define and present a project management schedule to the Customer project manager. Customer will be required to submit information according with the project management schedule. Upon completion and review of the PB System™ by Customer, PlanetBids will train all assigned users online at the Customer's training facility.

B. System implementation and administration

PlanetBids will enter and configure Customer requirements into PB System™ for up to: six (6) licensed users for the Vendor and Bid Management.

The following implementation services will be provided:

- a. Link to Customer's procurement web page.
- b. Online vendor registration form and ability to have vendors maintain their profiles.
- c. Complete management tools access to all users (i.e. buyers, project managers...).
- d. Customer specific database.
- e. Complete bid management from bid submission to awarding.
- f. Electronic bidding - Vendors submit bid quotes/responses online; Buyers analyze bid responses and award.
- g. Daily backups.
- h. PB System™ users and vendor support for the duration of the contract.

3. Professional Services

PlanetBids will provide consulting services for custom reports or PB System™ customizations, specific to Customer, not covered by this Statement of Work at an additional charge. Additional consulting services requested in writing by Customer will be billed at a rate of \$125/hour, billed in 1 hour increments. No work will begin on professional services before a mutually agreed-upon statement of work is completed. All on-site travel expenses will be passed-through to Customer. No travel will be expensed without the prior approval of Customer's management.

4. Help Desk

The PlanetBids Help Desk is available for "Level 2" support (as defined below) via our toll-free telephone number from 8:00am to 5:00pm Pacific Standard Time (PST), Monday through Friday. Email Support, support@PlanetBids.com as well as on-line help services are also available.

Customer will be responsible for all "Level 1" support:

- A level 1 support representative will attempt to answer most or all questions, including help to vendors with simple problems (edit profile, etc.) or general "how-to" questions (search functionality, bidding, etc.). More complex, technical questions should be directed to a PlanetBids level 2 support representative.

A PlanetBids representative will be responsible for "Level 2" support:

- A Level 2 support is more technical in nature. Level 2 questions may, for example, deal with Customer users (i.e. PB System™ administrative users including buyers, project administrators, etc.) or with password issues requiring special assistance, or with possible product bugs or failures. In this case, some research and investigation may be required.

5. Additional Modules

Customer has purchased Contract Management and Evaluation Management modules as well as the quick quote user licenses as outlined in Table (A) of the Support Services Agreement.