

Meeting Date: 1/14/2014

Report Type: Consent

Report ID: 2014-00032

Title: Cooperative Agreement Purchase: Electronic Citation Software and Maintenance Services (Two-Thirds Vote Required)

Location: Citywide

Issue: The Sacramento Police Department has a need to purchase electronic citation software and maintenance services to comply with requests from the Sacramento County Superior Court to process citations electronically.

Recommendation: 1) Pass a Motion authorizing the City Manager, or City Manager's designee, to execute an agreement for the purchase of electronic citation (E-Citation) software through the use of a United States General Services Administration (GSA) contract, GS-35F-0096X, with Brazos Technology for 300 user licenses, configuration, installation, and training in an amount not to exceed \$227,385; and 2) pass a Resolution a) authorizing the City Manager, or City Manager's designee, to suspend competitive bidding in the best interest of the City for the purchase of E-Citation software maintenance, and b) executing an agreement with Brazos's Technology for a one-year period with three one-year renewal options for the purchase of E-Citation software maintenance in a total amount not to exceed \$228,900.

Contact: Dana Matthes, Deputy Chief of Police, (916) 808-0811, Police Department

Presenter: None

Department: Police

Division: Public Safety Information Tech

Dept ID: 11001381

Attachments:

1-Description/Analysis

2-Resolution Final

3-Software License Agreement

4-Software Maintenance Agreement

City Attorney Review

Approved as to Form
Michael Fry
1/6/2014 9:36:14 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
12/16/2013 12:47:03 PM

Approvals/Acknowledgements

Department Director or Designee: Sam Somers - 1/2/2014 10:15:25 AM

James Sanchez, City Attorney

Shirley Concolino, City Clerk

Russell Fehr, City Treasurer

John F. Shirey, City Manager

Description/Analysis

Issue: In response to the Sacramento County Superior Court request that citations be submitted electronically, the City Council approved the purchase of 300 electronic citation (E-Citation) devices on February 19, 2013 and May 28, 2013 (Motions 2013-0038 and 2013-0129).

Software and maintenance support is required for the devices to upload and edit citation information and subsequently transfer the data into the Sacramento County Superior Court system for processing. The Sacramento Police Department (SPD) evaluated four E-Citation software systems, and through an evaluation process consisting of demonstrations, pricing reviews, reference checks, site visits, product functionality tests, support staff availability, product enhancements, and installation timeline, concluded that Brazos Technology was the most viable vendor for the project. The SPD recommends that the City Council authorize the use of GSA contract GS-35F-0096X for the purchase of the E-Citation software system from Brazos Technology in an amount not to exceed \$227,385.

In addition, annual software maintenance support is necessary to ensure the integrity of the software and provide for periodic upgrades and enhancements, but was not included as part of GSA contract GS-35F-0096X. Therefore, suspension of competitive bidding is recommended to allow for the purchase of software maintenance support for the Brazos Technology E-Citation software system. The SPD also recommends that the City Council authorize the purchase of software maintenance from Brazos Technology in an amount not to exceed \$228,900.

Policy Considerations: The recommendations in this report are in accordance with the provisions of: 1) Sacramento City Code 3.56.240 which allows the purchase of supplies and services through the use of cooperative purchase agreements; 2) Sacramento City Code 3.56.230, when, upon a two-thirds vote of the City Council, it is determined that it is in the best interests of the City to suspend competitive bidding for any purchase or contract; and 3) Sacramento City Code 3.56.090 which requires approval for contracts that are equal to or greater than \$100,000.

Economic Impact: None.

Environmental Considerations:

California Environmental Quality Act (CEQA): The purchase of software and maintenance concerns administrative activities that will not have a significant effect on the environment, and does not constitute a "project" as defined by the California Environmental Quality Act (CEQA), CEQA Guidelines, Sections 15061 (b)(3) and 15378 (b)(2).

Sustainability Considerations: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The Sacramento County Superior Court has struggled to maintain an adequate level of service for processing citations issued by the SPD as well as the surrounding jurisdictions. In an effort to alleviate the problem, the Court implemented an electronic citation receipt system and requested that all jurisdictions provide citations electronically. To comply with the Court's request, the SPD implemented a phased project to purchase and distribute E-Citation devices. The first phase involved a bid process for E-Citation handheld units, printers, chargers, warranties, and associated supplies. These items were subsequently purchased and will soon be distributed to patrol units.

The final phase of the project is to purchase software and maintenance support to connect field device citation data to the Sacramento County Superior Court. After conducting an evaluation, Brazos Technology software will be uploaded to each handheld device and to each printer. This software will allow the field units to download citation data to a primary station which would then transfer the information electronically to the Court for processing.

Financial Considerations: This purchase will be funded out of available Citizen's Option for Public Safety grant funding and the Police Department general fund operating budget.

Local Business Enterprise (LBE): Not applicable.

RESOLUTION NO.

Adopted by the Sacramento City Council

Purchase/Cooperative Agreement: Electronic Citation (E-Citation) Software and Maintenance Services [2/3 vote required]

BACKGROUND

- A. In response to the Sacramento County Superior Court request to submit citations electronically, the City Council approved the purchase of 300 E-Citation devices on February 19, 2013 and May 28, 2013 (Motions 2013-0038 and 2013-0129).
- B. Software and maintenance support is required for the E-Citation devices to upload and edit citation information and subsequently transfer the data into the Sacramento County Superior Court system for processing.
- C. The Sacramento Police Department (SPD) evaluated four E-Citation software systems and through an evaluation process consisting of demonstrations, pricing reviews, reference checks, site visits, product functionality tests, support staff availability, product enhancements, and installation timeline, concluded that Brazos Technology was the most viable vendor for the project. In a separate City Council action the SPD is recommending that the City Council authorize the use of General Services Administration (GSA) contract GS-35F-0096X for the purchase of the E-Citation software system from Brazos Technology in an amount not to exceed \$227,385.
- D. Annual software maintenance support is also necessary to ensure the integrity of the software and provide for periodic upgrades and enhancements, but was not included as part of GSA contract GS-35F-0096X. Therefore, suspension of competitive bidding is recommended to allow for the purchase of software maintenance support for the Brazos Technology E-Citation software system. The SPD recommends that the City Council authorize execution of an agreement with Brazos's Technology for a one-year period with three one-year renewal options for the purchase of E-Citation software maintenance in a total amount not to exceed \$228,900.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. Suspend competitive bidding is in the best interest of the City for the purchase of E-Citation software maintenance.
- Section 2. The City Manager, or the City Manager's designee, is authorized to execute an agreement with Brazos's Technology for a one-year period with three one-year renewal options for the purchase of E-Citation software maintenance in a total amount not to exceed \$228,900.



SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT is entered into as of the last executed date of the parties, (hereinafter referred to as the "Effective Date") by and between Brazos Technology Corporation, a Texas corporation, with its principal offices located at 526 University Drive East, Suite 201-A, College Station, Texas 77840 (hereinafter referred to as "Brazos Technology"), and City of Sacramento, a California Municipality, with its principal offices located at 915 I Street, Sacramento, CA 95814 (hereinafter referred to as "Licensee").

This Agreement is made with respect to the following facts and objectives:

RECITALS:

- A. Brazos Technology has developed a proprietary software product, which is designed to extend data and processes across multiple platforms and technologies (hereinafter referred to as the "Software").
- B. Licensee desires to obtain a non-exclusive license to use the Software and Brazos Technology desires to grant Licensee such a license.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. License. Brazos Technology hereby grants to Licensee a non-exclusive license to use the Software and the documentation, if any, provided in connection therewith (hereinafter referred to as the "Documentation") solely in connection with RDC and eCitation. Licensee may make one copy of the Software and Documentation for back-up and/or archival purposes.
2. Licensee Fee: Licensee agrees to pay Brazos Technology the license fee and services fees identified in Exhibit A to this Agreement. Terms and conditions to reflect government service account (GSA) contract. Invoice shall be submitted to Sacramento Police Department, Fiscal Section, 5770 Freeport Blvd., #100, Sacramento, CA 95822. Payment will be processed within 30 days of receipt of invoice.

2. Limitations of Use. Licensee acknowledges and agrees that Licensee will not timeshare, modify, sublicense, transfer, assign, copy, reverse engineer or decompile the Software, Documentation or any portion thereof except as expressly set forth herein. Licensee further acknowledges and agrees that Licensee will limit its use of the Software and Documentation to the number of users and/or the site location identified in Exhibit A to this Agreement.

3. Non-disclosure. Licensee acknowledges and agrees that the Software and Documentation contain trade secrets and/or confidential information (hereinafter collectively referred to as "Confidential Information") and that Licensee will take reasonable efforts to prevent the disclosure of such Confidential Information to any third party.

4. Ownership. Licensee acknowledges and agrees that Brazos Technology is the sole owner of all right, title and interest in and to the Software and Documentation and that nothing contained herein shall grant Licensee any ownership interest in the Software or Documentation.

5. Upgrades. In the event that Brazos Technology, in its sole discretion, should provide Licensee with any upgrades, corrections or modifications to the Software or Documentation, such upgrades, corrections or modifications shall be considered, as applicable, "Software" or "Documentation" for the purposes of this Agreement. Notwithstanding the foregoing, nothing contained in this Agreement shall be construed as obligating Brazos Technology to provide Licensee with any upgrades, corrections, modifications, maintenance services or support services hereunder.

6. Warranty.

a. Brazos Technology warrants and represents that it is the owner of all right, title and interest in and to the Software and Documentation and that use of the Software and Documentation as contemplated herein shall not infringe upon any third party patent or copyright. This warranty and representation does not apply to any infringement arising out of any unauthorized modification of the Software or Documentation or any infringement arising out of the use of the Software or Documentation in combination with any third party product.

b. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, THE SOFTWARE AND DOCUMENTATION IS PROVIDED "AS IS" AND BRAZOS TECHNOLOGY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, WRITTEN OR VERBAL, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRAZOS TECHNOLOGY DOES NOT WARRANT OR REPRESENT THAT ANY USE OF THE SOFTWARE OR DOCUMENTATION WILL BE UNINTERRUPTED OR ERROR FREE. LICENSEE EXPRESSLY ASSUMES ALL RISKS AND LIABILITIES RESULTING FROM THE USE OR

INABILITY TO USE THE SOFTWARE OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION ANY ECONOMIC LOSS, PROPERTY DAMAGE, PHYSICAL INJURY, LOST PROFITS, LOST SAVINGS, LOSS OF RECORDS OR LOSS OF DATA.

8. Indemnification. Brazos Technology agrees to indemnify and defend Licensee from and against any third party claim arising out of a breach of the Warranty provisions set forth in this Agreement, provided that Brazos Technology is provided with prompt notice of any such third party claim and Brazos Technology is allowed collaborative control with the Sacramento Police Department over the defense of such claim. Licensee acknowledges and agrees that Brazos Technology may fulfill its obligations hereunder by (i) obtaining from the third party claimant a license pursuant to which Licensee may continue its use of the Software and Documentation or (ii) providing Licensee with substitute software and/or documentation that does not infringe upon the rights of the third party claimant. Licensee further acknowledges and agrees that in the event that Brazos Technology, in its sole discretion, determines that neither of the options set forth above are reasonable, Brazos Technology may fulfill its obligations hereunder by terminating this Agreement and refunding to Licensee the license fees paid by Licensee to Brazos Technology hereunder.

9. Limitation of Liability.

c. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT BRAZOS TECHNOLOGY SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES OR ANY KIND WHATSOEVER, INCLUDING WITHOUT LIMITATION, ANY ECONOMIC LOSS, PROPERTY DAMAGE, PHYSICAL INJURY, LOST PROFITS, LOST SAVINGS, LOSS OF RECORDS OR LOSS OF DATA, ARISING OUT OF THE USE OF THE SOFTWARE OR DOCUMENTATION, REGARDLESS OF WHETHER ARISING UNDER BREACH OF CONTRACT, WARRANTY, TORT, STRICT LIABILITY OR ANY OTHER LEGAL THEORY OR CLAIM, EVEN IF BRAZOS TECHNOLOGY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE OR IF SUCH LOSS OR DAMAGE COULD HAVE BEEN REASONABLY FORESEEN.

d. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT UNDER NO CIRCUMSTANCES SHALL THE ENTIRE LIABILITY OF BRAZOS TECHNOLOGY FOR ANY LOSS OR CLAIM ARISING OUT OF THIS AGREEMENT, ANY USE OF THE SOFTWARE OR DOCUMENTATION, OR ANY INABILITY TO USE THE SOFTWARE OR DOCUMENTATION, EXCEED THE SUM OF THE LICENSE FEE PAID BY LICENSEE TO BRAZOS TECHNOLOGY HEREUNDER.

10. Allocation of Risks. LICENSEE ACKNOWLEDGES AND AGREES THAT THE LICENSEE FEE PAID BY LICENSEE TO BRAZOS TECHNOLOGY FAIRLY AND

ACCURATELY REFLECTS THE ALLOCATION OF RISKS BETWEEN LICENSEE AND BRAZOS TECHNOLOGY, INCLUDING WITHOUT LIMITATION, THE TERMS AND CONDITIONS SET FORTH IN THE WARRANTY AND LIMITATION OF LIABILITY SECTIONS OF THE AGREEMENT. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY MODIFICATIONS TO THE ALLOCATIONS OF RISK WOULD REQUIRE BRAZOS TECHNOLOGY TO CHARGE A HIGHER LICENSEE FEE FOR THE SOFTWARE AND DOCUMENTATION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LICENSEE ACKNOWLEDGES AND AGREES THAT EACH OF THE TERMS AND CONDITIONS SET FORTH IN THE WARRANTY AND LIMITATION OF LIABILITY SECTIONS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT, EVEN IF ANY REMEDY CONTAINED HEREIN IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

11. Term and Termination.

a. This Agreement shall commence as of the Effective Date and shall continue unless and until terminated as set forth herein.

b. Either party may terminate this Agreement in the event that the other party commits a material breach of this Agreement and fails to cure such material breach within thirty (30) days after receiving written notice of the same.

c. Either party may terminate this agreement by giving written notice to the other party at least sixty (60) days prior to annual renewal period.

d. Brazos Technology may terminate this Agreement, immediately upon written notice to Licensee, in the event that Licensee fails to use the Software and Documentation for the purpose contemplated herein.

e. Immediately upon any termination of this Agreement, Licensee shall return to Brazos Technology any and all copies of any Software or Documentation in its possession.

f. The terms and conditions of this Agreement relating to Non-disclosure, Warranty, Limitation of Liability and Allocation of Risks shall survive any termination or expiration of this Agreement.

12. Assignment. Licensee acknowledges and agrees that it may not assign any right or obligation arising under this Agreement to any third party without the express written consent of Brazos Technology which may be withheld for any or no reason.

13. Governing Law. This Agreement, including its interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and performed in Sacramento County, and exclusive

jurisdiction over any dispute arising out of or relating to this Agreement shall be held by the appropriate state and/or federal courts located in Sacramento County, California.

14. Binding Effect. This Agreement shall inure to the benefit of and binding upon the parties hereto and to their respective successors and legal representatives.

15. Nonwaiver. No provisions of this Agreement will be waived by any party except in writing. The parties hereto agree that the waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same party, or any other provision or condition of this Agreement.

16. No Joint Venture. Nothing herein contained shall be construed to place the parties in the relationship of partners, joint venturers, or principal and agent and neither party shall have any power to obligate or bind the other party in any manner whatsoever.

17. Severability. If any provision or application of this Agreement shall be held invalid or unenforceable the remaining provisions and applications of this Agreement shall not be affected, but rather shall remain valid and enforceable.

18. Confidentiality of Licensee Information. During the performance of this Agreement, Brazos Technology may gain access to Licensee information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the Licensee. Brazos Technology agrees to protect all City Information and treat it as strictly confidential and further agrees that Brazos Technology shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of Licensee. In addition, Brazos Technology shall comply with all Licensee policies governing the use of the City network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions #30. A violation by Brazos Technology of this Section shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

19. Entire Agreement. This Agreement constitutes the entire agreement and supersedes any and all other understandings and agreements between the parties with respect to the subject matter hereof and no representation, statement or promise not contained herein shall be binding on either party. This Agreement may be modified only by a written amendment duly signed by persons authorized to sign agreements on behalf of the parties and shall not be supplemented or modified by any course of dealing or trade usage.

IN WITNESS WHEREOF, the parties have hereunder executed this Agreement effective as of the date last signed.

CITY OF SACRAMENTO

BRAZOS TECHNOLOGY

Signed: _____

Signed: _____

Print Name: _____

Print Name: Michael S. McAleer

Title: _____

Title: President

APPROVED AS TO FORM:

Federal I.D. No.

City Attorney

State I.D. No.

ATTEST:

City of Sacramento business Op. Tax Cert. No.

City Clerk

____ Individual/Sole Proprietor
____ Partnership
____ Corporation (may require 2 signatures)
____ Limited Liability Company
____ Other (please specify: _____)

Exhibit A – Fee Schedule
EXHIBIT A

Three Hundred (300) RunIT software license for PDA	\$196,725USD
Software Includes:	
Unlimited number of logins to the PDA	
One-Year of Software Maintenance	
One-Year of Software Support	
Configuration/Installation Fee	\$20,660 USD
Configuration Includes:	
Customized PDA/Web screen layouts	
Customized citation receipt for defendant	
Customized citation report for court and PD	
Integration with Court System	
Project Management	
2 days of on-site training of officers	
1 day administrative training	
Classroom and practical training	
Extended Training	\$3,000 USD
2 days of additional training	
Device Setup/Configuration Fee	\$7,000 USD
Two (2) Brazos employees and one (1) City employee will setup and configure the PDAs and printers that have already been purchased by the City. This setup will occur at the City's location. All travel expenses/fees are included.	

* Brazos will deliver the equipment to eliminate shipping to customer.

EXHIBIT B – Hardware

All hardware will be provided by Licensee

SOFTWARE MAINTENANCE AGREEMENT

This Agreement ("Agreement") is made and entered into and effective **the last executed date of the parties**, by and between Brazos Technology Corporation, having its principal place of business at 526 University Drive East, Suite 201-A, College Station, Texas 77840, USA ("Brazos Technology") and City of Sacramento, a California Municipality, having its principal place of business at 915 I Street, Sacramento, CA 95814 ("Licensee").

Licensee

WHEREAS, BRAZOS TECHNOLOGY has provided to Licensee certain software as specified in Exhibit A of this Agreement ("Covered Software") pursuant to a software license agreement between the parties (the "License Agreement"); and

WHEREAS, Licensee wishes to have BRAZOS TECHNOLOGY provide maintenance and support services pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. INCORPORATION OF DOCUMENTS

The following documents are attached hereto and, by this reference, incorporated in this Agreement:

Exhibit A	Covered Sites, Software & Configuration
Exhibit B	Authorized Licensee Contacts
Exhibit C	Services and Fees

II. COVERAGE

During the term of this Agreement, BRAZOS TECHNOLOGY agrees to provide maintenance and support services for the Covered Software operating at the site(s) and on the hardware configurations listed in Exhibit A ("Maintenance Services"). Unless specifically listed in Exhibit A, Section II, Covered Software does not include hardware vendor operating systems and other system software, Licensee-developed software, and third-party software (except any third party software embedded in the Covered Software).

III. DESCRIPTION OF MAINTENANCE SERVICES

A. Support Services. During the term of this Agreement, BRAZOS TECHNOLOGY will provide the services described herein so as to maintain the Covered Software in

good working order, keeping it free from material defects so that the Covered Software shall function properly and in accordance with the accepted level of performance as set forth in the License Agreement.

(1) Service Response. BRAZOS TECHNOLOGY will make available to Licensee a telephone number (the "Support Center HOTLINE") for Licensee to call requesting service of the Covered Software. The Support Center HOTLINE operates 24 x 7 x 365. The HOTLINE can also be used to notify BRAZOS TECHNOLOGY of problems associated with the Covered Software and related documentation.

B. Remedial Support. Upon receipt by BRAZOS TECHNOLOGY of notice from Licensee through the Support Center HOTLINE of an error, defect, malfunction or nonconformity in the Covered Software, BRAZOS TECHNOLOGY shall respond as provided below:

Severity 1: Produces an emergency situation in which the Covered Software is inoperable, produces incorrect results, or fails catastrophically.

RESPONSE: BRAZOS TECHNOLOGY will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity 1 problem as soon as reasonably possible, but in any event a response via telephone will be provided within one (1) hour. BRAZOS TECHNOLOGY will continue to provide best efforts to resolve Severity 1 problems in less than forty-eight (48) hours. The resolution will be delivered to Licensee as a work-around or as an emergency software fix. If BRAZOS TECHNOLOGY delivers an acceptable work-around, the severity classification will drop to a Severity 2.

Severity 2: Produces a detrimental situation in which performance (throughput or response) of the Covered Software degrades substantially under reasonable loads, such that there is a severe impact on use; the Covered Software is usable, but materially incomplete; one or more mainline functions or commands is inoperable; or the use is otherwise significantly impacted.

RESPONSE: BRAZOS TECHNOLOGY will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity 2 problem as soon as reasonable possible, but in any event a response via telephone will be provided within four (4) hours. BRAZOS TECHNOLOGY will exercise best efforts to resolve Severity 2 problems within five (5) days. The resolution will be delivered to Licensee in the same format as Severity 1 problems. If BRAZOS TECHNOLOGY delivers an acceptable work-around for a Severity 2 problem, the severity classification will drop to a Severity 3.

Severity 3: Produces an inconvenient situation in which the Covered Software is usable, but does not provide a function in the most convenient or expeditious

manner, and the user suffers little or no significant impact.

RESPONSE: BRAZOS TECHNOLOGY will exercise best efforts to resolve Severity 3 problems in the next maintenance release.

Severity 4: Produces a noticeable situation in which the use is affected in some way which is reasonably correctable by a documentation change or by a future, regular release from BRAZOS TECHNOLOGY.

RESPONSE: BRAZOS TECHNOLOGY will provide, as agreed by the parties, a fix or fixes for Severity 4 problems in future maintenance releases.

C. Maintenance Services. During the term of this Agreement, BRAZOS TECHNOLOGY will maintain the Covered Software by providing software updates and enhancements to Licensee as the same are offered by BRAZOS TECHNOLOGY to its licensees of the Covered Software under maintenance generally ("Updates"). All software updates and enhancements provided to Licensee by BRAZOS TECHNOLOGY pursuant to the terms of this Agreement shall be subject to the terms and conditions of the License Agreement between the parties. Updates will be provided on an as-available basis and include the items listed below:

(1) Bug fixes;

(2) Enhancements to market data service software provided by BRAZOS TECHNOLOGY to keep current with changes in market data services or as BRAZOS TECHNOLOGY makes enhancements;

(3) Enhancements to keep current with the current hardware vendor's OS releases, as available from BRAZOS TECHNOLOGY, provided that the current hardware vendor's OS release is both binary and source-compatible with the OS release currently supported by BRAZOS TECHNOLOGY; and

(4) Performance enhancements to Covered Software.

(5) Updates do not include:

(a) Platform extensions including product extensions to (i) different hardware platforms; (ii) different windowing system platforms; (iii) different operating system platforms; and

(b) New operating system updates or hardware bios updates.

Updates will be provided in machine-readable format and updates to related documentation will be provided in hard copy form. All such deliveries shall be

made electronically to the installed computers automatically during a sync process. Licensee agrees to sync each device no less than once per month to obtain any software or configuration changes. Duplication, distribution and installation of documentation updates are the responsibility of Licensee. If requested, BRAZOS TECHNOLOGY will provide on-site assistance in the installation of Updates on a time and materials basis, plus expenses.

BRAZOS TECHNOLOGY will provide support services for previous releases for a minimum period of six (6) months following the general availability of a new release or software update. After this time, BRAZOS TECHNOLOGY shall have no further responsibility for supporting and maintaining the prior releases.

BRAZOS TECHNOLOGY assumes no responsibility for the correctness of, performance of, or any resulting incompatibilities with, current or future releases of the Covered Software if the Licensee has made changes to the system hardware/software configuration or modifications to any supplied source code which changes effect the performance of the Covered Software and were made without prior notification and written approval by BRAZOS TECHNOLOGY. BRAZOS TECHNOLOGY assumes no responsibility for the operation or performance of any Licensee-written or third-party application.

D. Services Not Included. Maintenance Services do not include any of the following: (1) custom programming services; (2) Elective on-site support, including installation of hardware or software; (3) support of any software not Covered Software; (4) training; or (5) out-of-pocket and reasonable expenses, including hardware and related supplies.

IV. ON-SITE SUPPORT

As requested by Licensee, and upon reasonable notice and approval by BRAZOS TECHNOLOGY, BRAZOS TECHNOLOGY shall maintain personnel at any of the covered Sites. On-site personnel will perform ongoing system administration, monitoring, reconfiguration and tuning, problem diagnosis, and resolution, and interfacing with Licensee personnel on production system issues, to the extent possible during normal business hours. These personnel shall also be responsible for the installation of new BRAZOS TECHNOLOGY software releases on the production system and the distribution of documentation updates. In addition, on-site personnel will provide training to Licensee personnel on the operation and administration of the Covered Software as time permits.

V. TIME AND MATERIALS SERVICES

A. For Non-BRAZOS TECHNOLOGY Problems. In the event that Licensee notifies BRAZOS TECHNOLOGY of a problem experienced by Licensee in connection with the operation of the Covered Software, BRAZOS

TECHNOLOGY shall respond as provided in Section III.B., above. If the cause of such problem is not an error, defect or nonconformity in the Covered Software, Licensee shall compensate BRAZOS TECHNOLOGY for all work performed by BRAZOS TECHNOLOGY in connection therewith, on a time and materials basis at Brazos Technology's then current standard rates, unless otherwise agreed by the parties in writing at the time, plus expenses. Expenses for travel and travel-related expenses and individual expenses in excess of US\$500 require the prior approval of Licensee.

B. For Non-BRAZOS TECHNOLOGY Software. Upon request and reasonable notice from Licensee, BRAZOS TECHNOLOGY will provide assistance in the installation of non-BRAZOS TECHNOLOGY software on a time and materials basis, plus expenses. Non-BRAZOS TECHNOLOGY software consists of any software not specifically listed in Exhibit A, Section II, including the following:

1. New releases and updates to hardware vendor operating systems and other system software not listed in Exhibit A;
2. Licensee-developed software; and
3. Third-party software (except third party software embedded in the Covered Software).

VII. ACCESS

Software Maintenance is conditioned upon provision by Licensee to BRAZOS TECHNOLOGY of reasonable appropriate access to the system(s) running the Covered Software, including, but not limited to, passwords, system data, file transfer capabilities, and remote log-in-capabilities. BRAZOS TECHNOLOGY will maintain security of the system and use such access only for the purposes of this Agreement and will comply with Licensee standard security procedures. Information accessed by BRAZOS TECHNOLOGY agents or employees as a result of accessing Licensee system shall be deemed confidential information pursuant to the terms of the Software License Agreement executed concurrently between the parties hereto.

Licensee shall also use commercially reasonable efforts to provide an active voice telephone line at each site which is available continuously when required for support access.

VIII. PROBLEM REPORTING AND TRACKING PROCEDURES

Licensee may use the services described herein only by making reference to the authorized support Agreement number. All such reports and requests will be made through the authorized individuals (up to two [2] per site), designated by Licensee in Exhibit B, who may be changed by Licensee from time to time by written notice to BRAZOS TECHNOLOGY. A twenty-four (24) hour Support Center HOTLINE is

provided for problem reporting outside of normal business hours.

IX. FEES

A. Maintenance Fees. Fees for Maintenance Services provided under this Agreement are contained in Exhibit C. Any time a site or software package is added or deleted from Exhibit A, BRAZOS TECHNOLOGY will automatically adjust and/or amend Exhibit A and Exhibit C accordingly. BRAZOS TECHNOLOGY will also perform a bi-annual audit of all sections in Exhibit A. If changes have occurred, BRAZOS TECHNOLOGY will adjust and/or amend Exhibit A and Exhibit C, and maintenance fees will be adjusted accordingly.

Rates will be reviewed and adjusted accordingly when another site is added and/or the workstation/server base increases (i.e., added equipment and/or installed software) and/or software to be supported exceeds the Covered Software.

B. Expenses. Licensee agrees to reimburse BRAZOS TECHNOLOGY for reasonable expenses related to the performance of services. Expenses may include, but are not limited to, charges for materials, freight, travel (including lodging and associated expenses), printing and documentation, and other out-of-pocket expenses reasonably required for performance. Expenses for travel and travel-related expenses and individual expenses in excess of US\$500 require the prior approval of Licensee.

X. PAYMENT

A. Maintenance fees and fees for on-site support, if applicable, will be invoiced annually, sixty (60) days in advance of the year.

XI. EXCLUSION OF LIABILITY

BRAZOS TECHNOLOGY MAKES AND LICENSEE RECEIVES NO WARRANTY EXPRESS OR IMPLIED AND THERE IS EXPRESSLY EXCLUDED ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSEE ACKNOWLEDGES AND AGREES THAT THE MAINTENANCE FEES AND OTHER CHARGES WHICH BRAZOS TECHNOLOGY IS CHARGING UNDER THIS AGREEMENT DO NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY BRAZOS TECHNOLOGY OF THE RISK OF LICENSEE CONSEQUENTIAL OR INCIDENTAL DAMAGES OR OF UNLIMITED DIRECT DAMAGES. ACCORDINGLY, BRAZOS TECHNOLOGY SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILFUL MISCONDUCT, IN NO EVENT SHALL BRAZOS TECHNOLOGY BE LIABLE HEREUNDER TO LICENSEE FOR CUMULATIVE DIRECT DAMAGES IN ANY AMOUNT GREATER THAN THAT PAID

BY LICENSEE TO BRAZOS TECHNOLOGY UNDER THIS AGREEMENT AS A MAINTENANCE FEE FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE ACCRUAL OF THE CAUSE OF ACTION.

XII. General

A. Each party acknowledges that it is bound by the terms of this Agreement and further agrees that it is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other Agreement with respect to software maintenance, oral and written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by a written instrument duly executed by both parties.

B. This Agreement and performance hereunder shall be governed by and construed in accordance with the laws of the State of California. Any and all proceedings relating to the subject matter hereof shall be maintained in the state or federal courts of Sacramento County, California, which courts shall have exclusive jurisdiction for such purpose. Each of the parties waives any objection to venue or in personam jurisdiction, provided that service is effective.

C. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

D. Neither party may assign, without the prior written consent of the other, its rights, duties or obligations under this Agreement to any other person or entity, in whole or in part.

E. The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

XIII. TERM AND TERMINATION

The term of this Agreement shall be for one (1) year. Software Maintenance service shall commence upon the expiration of the Warranty Period set forth in the License Agreement and shall remain in effect for the original one-year (1-year) term and, thereafter, for renewal terms on a year-to-year basis until terminated (i) by Licensee in the event the Covered Software is taken out of service and upon sixty (60) days' notice to BRAZOS TECHNOLOGY; (ii) by either party upon sixty (60) days' notice prior to the expiration of the original one-year (1-year) or any subsequent one-year (1-year) renewal term; (iii) by either party upon a default of the other party, such default remaining uncured for thirty (30) days from the date of written notice from the non-defaulting party to the other specifying such default; (iv) upon the bankruptcy or insolvency of BRAZOS TECHNOLOGY; or (v) the License Agreement is terminated.



v1.3

Upon such termination, BRAZOS TECHNOLOGY shall refund to Licensee a portion of the maintenance fee prorated to reflect the date of termination and neither BRAZOS TECHNOLOGY nor Licensee shall have any further obligations hereunder.

IN WITNESS WHEREOF, each party has caused a counterpart of the original of this Agreement to be executed as of the date first written above by its duly authorized representative.

CITY OF SACRAMENTO

BRAZOS TECHNOLOGY

Signed: _____

Signed: _____

Print Name: _____

Print Name: Michael McAleer

Title: _____

Title: President

Date: _____

Date: _____

EXHIBIT A -- COVERED SITES, SOFTWARE AND CONFIGURATION**A. Covered Sites.**

This Agreement covers the following Licensee sites:

SACRAMENTO Police Department
SACRAMENTO Municipal Court

B. Covered Software.

This Agreement covers the following software components at each site listed in Exhibit A, Section A:

Brazos BuildIT Website for eCitation processing
Brazos RunIT Mobile software
eCitation processing Motorola MC75A and Zebra RW420

C. Covered Configuration.

This Agreement covers the following configuration:

Three hundred (300) workstation/PDA licenses of Covered Software purchased by Licensee.

EXHIBIT B -- AUTHORIZED LICENSEE CONTACTS

For purposes of this Agreement, the following individuals shall be designated per site as the authorized Licensee support contacts:

SACRAMENTO PD Address:

Name	Title	Phone #
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Contact: _____

EXHIBIT C -- SERVICES AND FEES**A. Maintenance Fee**

Maintenance Services for the applications and configuration listed in Exhibit A will be included in the software cost for the first year of this Agreement. This fee will be adjusted at each anniversary date of this Agreement to the then current pricing. Should additional software be licensed and installed at the Covered Site(s), the fee will be adjusted to reflect the additional software.

Year 2

Three Hundred (300) RunIT software maintenance for PDA \$76,300 USD

Includes:

Unlimited number of logins to the PDA

Year two of Software Maintenance

Year two of Software Support

Year 3

Three Hundred (300) RunIT software maintenance for PDA \$76,300 USD

Includes:

Unlimited number of logins to the PDA

Year three of Software Maintenance

Year three of Software Support

Year 4

Three Hundred (300) RunIT software maintenance for PDA \$76,300 USD

Includes:

Unlimited number of logins to the PDA

Year four of Software Maintenance

Year four of Software Support

B. Elective On-Site Support

If Licensee elects to have BRAZOS on-site for support reasons, the cost will not exceed \$1,250 per day per person. This rate will include all travel expenses assuming the travel can be booked 14 days in advance.