



City Of Memphis

Enterprise Document Management

Request for Proposal #1814

Prepared By: Information Services
Closing Date for Proposals: [October 9, 2009](#)
Proposals Accepted at Attn: Purchasing Agent
Enterprise Document Management/RFP
125 North Main Street, Room 354
Memphis, TN 38103
E-Mail Inquires: ciorequests@memphistn.gov

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Introduction

The City of Memphis, Office of Information Services, is putting out to bid the application development, support and maintenance of hardware and software for the City's enterprise document management solution. (ApplicationXtender) The selected Vendor will continue to provide the City full-text indexing, optical character recognition, data extraction, and classification that can be used to identify, automate and audit all Application Xtender 'Content'. As well as combining best of class products from EMC Application Xtender and Kofax all imaged and imported electronic documents can be processed and 'full-text' indexed to enable global document searching based on 'text string' values and logical operations.

Vendors must submit an acceptable and qualified response to this RFP in order to become eligible for this contract. All proposals must be submitted in a sealed package with the Proposal, signed and dated by an official authorized to sign for the company.

All questions regarding this Request for Proposal must be in writing and forward to ciorequests@memphistn.gov. All replies will be posted on the City's web site.

1.1 Scope of Work

The selected Vendor will support the City's current applications and develop new applications as requested by various City departments. A Work Order Exhibit will be issued and approved by the CIO before any work can start on new application work.

The selected Vendor will provide the City full-text indexing, optical character recognition, data extraction, and classification that can be used to identify, automate and audit all Application Xtender 'Content'. The City will anticipate receiving the current updated software versions when software is available. As well as combining best of class products from EMC Application Xtender and Kofax all imaged and imported electronic documents can be processed and 'full-text' indexed to enable global document searching based on 'text string' values and logical operations.

The vendor is to provide support and maintenance for hardware and software listed in Exhibit B and any additional equipment added during the life of the contract. A Trouble Ticket from the City's Technology Service Desk will be issues for all requests for service. No payment for work will be paid if work is performed without a Trouble Ticket.

Vendor may be requested to perform scanning services for various divisions/departments; this request would be issued as a work order.

1.2 Schedule of Activities

Activity	Date
Distribution of RFP	September 1, 2009
Deadline for Questions	September 17, 2009
Answered questions posted	September 22, 2009
Proposal Due (Mandatory) by 2:00 CST	October 9, 2009

1.3 Response

Comply: The vendor must indicate compliance with the statement/requirement in every aspect. Vendor **must** also thoroughly explain in detail how their responses to each requirement in the RFP will be met. If Vendor does not thoroughly explain in detail how their response meets the requirements the Vendor may be subject to a lower score for insufficient information.

Does Not Comply: means that the Vendor(s) does not accept provision. If the Vendor(s) does not comply with a particular provision then the **Vendor(s) must:**

1. indicate that it does not comply;
2. give reasons for non-compliance

The Vendor(s) must submit a response with numbering corresponding to the sections of the RFP.

2.0 Contract Scope

2.1 Sole Responsibility

Successful Vendor(s) shall assume full responsibility for meeting all requirements agreed to in the response to the RFP.

2.2 Sole Contact

Further, City will consider the selected Vendor(s) to be the sole point of contact with regard to contractual matters and the payment of any and all charges resulting from contract obligations.

2.3 Account Manager and Location

Vendor(s) will assign a dedicated Account Manager to service this account. The Vendor(s) will have a local office in Shelby County (City of Memphis preferred).

2.4 Contract Requirements

Proposals must be submitted in a sealed package with the proposal, signed and dated by an official authorized to sign for the company. Failure to provide the proposal shall result in disqualification of the vendor's proposal submittal.

Proposals must be received by the City not later than the date and time specified on the cover sheet of this RFP.

All proposals are subject to the terms and conditions of this RFP and the City's Terms and Conditions. Such terms and conditions will control all responses. The City objects to and will not evaluate or consider any additional terms and conditions submitted with a vendor's proposals. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the vendor agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect. Previously agreed to terms and conditions will not be accepted under the terms of this contract.

- **Oral Explanations**

The City will not be bound by oral explanations given to vendors at any time during the competitive process or after award

- **Insufficiency of References to Other Data**

Only information that is received in response to this RFP will be evaluated.

- **Non- Acceptance of Unsolicited Proposal Changes**

Any change to a proposal that is received after the closing date of this RFP and that is not specifically solicited by the City will be rejected. The City may, at its option, consider and allow clarification and/or corrections of errors.

2.5 Terms of Agreement

The initial contract term will be for a period of three (3) years. The City reserves the option to extend the contract term for two additional one-year periods.

2.6 Subcontracting

The vendor will not assign this contract. Nor shall the Vendor subcontract or permit anyone, other than the Vendor's personnel, to perform any of the services, except with the written consent of the City.

3.0 Requirements

3.1 Cost of Proposals

Vendors are responsible for all costs associated with preparing and submitting proposal responses to this RFP.

3.2 Order of Precedence

In the event that a conflict should arise between the terms and conditions of the documents which constitute the contract, the order of precedence shall be: 1) Contract, 2) Work Order, 3) the vendor's response to the RFP.

3.3 Right to Submitted Material

All responses, inquires or correspondence relating to or in reference to this RFP, and all other reports, charts, displays, schedules, exhibits and other documentation submitted by the vendor will become the property of the City of Memphis office of Information Services when received, and will not be returned.

3.4 Competitive Offer

The signer of any proposal submitted in response to this RFP certifies that their proposal has not been arrived at collusively or otherwise in violation of city, state, county, or federal laws.

3.5 Acceptance and Rejection

The City reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the vendor, to accept any item in the bid.

3.6 Proposal Content

Proposals will be considered and evaluated based upon vendors' responses to this RFP. This section contains all pertinent data relating to the vendor's organization, personnel, and experience that shall document its qualifications and capabilities to perform the services described in this RFP. If any pertinent information is not provided, the offer may be rejected from consideration. Vendors must include a response to all items in the order listed.

3.7 Description of Firm

The vendor shall provide a description of the offering firm that includes the following;

- A. Full name, address, and telephone number of the company;
- B. Federal Tax Identification Number;
- C. Company background description;
- D. Legal status (Refers to form of business, such as company. Corporation, limited liability partnership, etc, and the state in which the business is organized;
- E. Past Experience with the City
- F. Location of Headquarters
- G. Current Contract Obligation
- H. Organizational Chart

The vendor must also include all of the following:

- 1) Submit the name, address, telephone number and email address for the person (s) with the authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
- 2) Include length of time in business, including date established and time doing business under any other name.
State the type of ownership (private company, public company, partnership, subsidiary, etc).
List the number of full time employees on January 1st for each of the last three years or the duration of your firm whichever is less.
- 3) State experience with the Application or any other type Enterprise Document Management Solution.

3.8 Financial Statements

The vendor shall provide with response to this RFP balance sheets from the past three (3) years, or other acceptable evidence of financial stability. If three (3) years of financial information are not available (i.e., the vendor has not been in business for three (3) years this information shall be provided to the fullest extent possible. If providing less than three (3) years, vendor must explain why the information is not available.

3.9 References

Vendors must provide the names of three (3) client sites where work similar to what is being requested in this RFP was performed within the preceding twelve (12) months. Please provide company name, location, client contact, telephone number, and email address for the reference and dates that work was performed.

3.10 Proposal Format

The proposals should be organized in the exact order in which the requirements are presented in the RFP. Each page should be numbered. The proposal should contain a table of contents which cross references the RFP requirement and the specific page of the response in the vendor's proposal. Each paragraph in the proposal should correspond to and reference the paragraph number in the corresponding section of the RFP. The vendor should repeat the paragraph number, sub-number, and heading as it is presented in the RFP. If the response covers more than one page, the vendor should repeat the paragraph number and sub number at the top of the subsequent page.

Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the proposal and subsequent evaluation process:

1. Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.

2. The response should be complete and comprehensive, with corresponding emphasis on being concise and clear.

3.11 Pricing

The City is anticipating the pricing structure to be a flat fee based off Exhibit B of this RFP. Software maintenance can be priced separately from support.

4.0 Indemnification

Vendor shall indemnify, defend, and hold harmless the City, its respective agents, officers, employees, and elected and appointed officials from and against any and all losses, claims, suits, actions and costs of any kind, including all reasonable costs of investigation or defense (including attorneys' fees), that arise or are alleged to have arisen out of, or in connection with, the (i) negligent or intentional acts or omissions of Vendor or Vendor personnel, or (ii) breach by Vendor of any term of this Agreement. In addition, Vendor shall indemnify, hold harmless and defend the City from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any United State's patent, copyright, or any actual or alleged trade secret disclosure, arising from or related to the operation and utilization of Vendor's work under this agreement.

5.0 Insurance

The Contractor shall not commence any work under this agreement until it has obtained and caused its subcontractors to procure and keep in force all insurance required. The Contractor shall furnish the City's Risk Manager a Certificate of Insurance and/or policies attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in effect. All insurance companies must be acceptable to the City of Memphis and licensed in the State of Tennessee.

If any of the insurance requirements are non-renewed at the expiration dates of any policy, payment to the Contractor may be withheld until those requirements have been met, or at the option of the City, the City may pay the renewal premiums and withhold such payments from any monies due the Contractor.

The Contractor shall maintain, at its expense, at minimum, the following insurance coverage during the life of the Agreement:

1. WORKERS COMPENSATION Employer's Liability in accordance with the statutory requirements of the State of Tennessee.

\$100,000 Each Accident
\$500,000 Disease – Policy Limit
\$100,000 Disease – Each Employee

2. AUTOMOBILE LIABILITY covering owned, non-owned and hired vehicles with limits of: \$1,000,000 Each Occurrence – Combined Single Limits
3. PROPERTY INSURANCE on their own equipment. The Contractor shall require all subcontractors to carry insurance as outlined above in the event the subcontractors are not protected by the policies carried by the Contractor.
4. COMMERCIAL GENERAL LIABILITY: Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor’s Liability, and Broad Form Property Damage Liability coverage

General Aggregate	\$1,000,000
Products & Completed Operations	\$1,000,000
Personal & Advertising	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage any One Fire	\$50,000
Medical Expense any one Person	\$5,000

5. PROFESSIONAL LIABILITY: \$1,000,000 Each Wrongful Act.

Said coverage shall be maintained for at least three (3) years from the termination or expiration of this Agreement.

Each certificate or policy shall require and state in writing the following clauses:

"Thirty (30) days prior to cancellation or material change in the policy, notice thereof shall be given to the City of Memphis Risk Manager" by registered mail, return receipt requested to the following address:

City of Memphis
Attn: Risk Management
2714 Union Extended, Suite 200
Memphis, TN 38112

"The City of Memphis, its officials, agents, employees and representatives shall be named as Additional Insured on the general liability and auto liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance.

6.0 Confidentiality

Each Party acknowledges that certain material and information, which has or will come into the possession or knowledge of each in connection with this Agreement, may consist of confidential and proprietary data and information, the disclosure of which or use by third parties will be damaging. Both Parties, therefore, agree to hold such material and information in strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to its employees requiring such information, and not to release or disclose it to any other Party.

All software or other programming documentation originated and developed by the Contractor prior to commencement of this Agreement, and furnished to City by the Contractor in the performance of its obligations under this Agreement, shall remain the property of the Contractor. The Contractor agrees that all reports, studies, plans, models, drawings, specifications, and any other information or data of any type produced under this Agreement, whether or not the same is accepted or rejected by the City, shall remain the property of the City and shall not be published by the Contractor or any other party without the express prior written consent of the City. In implementing the foregoing, the Contractor hereby grants and assigns to the City all rights and claims of whatever nature, whether now or hereafter, arising in and to any and all of such reports, studies, plans, models, drawings, specifications, and other information or data. The signing of this Agreement shall constitute a complete transfer of ownership, intellectual property and copyright of all documents from the Contractor to the City upon the Contractor's delivery of such documents and/or information to the City or upon completion of the Project, whichever occurs first. The Contractor shall not construe such transfer as a grant for usage nor can the Contractor revoke it. The Parties may provide licenses, agreements for use, or other options, one Party to the other, as may be mutually agreed upon relative to this Agreement.

The Parties acknowledge that, in the course of complying with their obligations under this Agreement, they may be provided, learn or have access to certain confidential and proprietary information of the other Party, including, but not limited to, computer programs, software, technical information, business know-how, ideas, financial information, customer information, sales and marketing information, business information/strategies, products and services, product and service development plans, actuarial studies, analysis or pricing, representative and agent information, formulas, program files, flowcharts, drawings, techniques, source and object code, standards, specifications, notes, analyses, compilations, studies, interpretations, designs, processes, systems, business plans, business opportunities, finances, patents, copyrights, trademarks, trade secrets, research, development and documentation ("Confidential Information"). The Parties acknowledge that Confidential Information also includes confidential information as a matter of law (e.g., personnel records), nonpublic personal financial information and/or nonpublic personal medical information, information

regarding the terms, conditions, and pricing of this Agreement, and other information that the Contractor has been advised by the City is confidential, privileged or proprietary. The Parties agree, to the extent permitted by law, that they will keep strictly confidential any Confidential Information of which they learn and will not disclose the Confidential Information to any person, firm or organization without the express written permission of the disclosing Party. The Parties agree that the receiving Party will: (i) hold Confidential Information in confidence and implement appropriate measures to ensure the security and integrity of all Confidential Information from any anticipated threats or hazards and from unauthorized access or use, including, but not limited to, implementing measures the receiving Party employs with respect to its own confidential information; (ii) not divulge any Confidential Information or any information derived there from to any third person; and (iii) not make any use, whatsoever, of Confidential Information except to comply with the terms of this Agreement.

The Parties agree that the term “Confidential Information” will not include products or information which: (i) are or become generally available on a non-confidential basis from a source other than a Party or its Representatives (unless, to the Party’s actual knowledge, such information was provided by such source in violation of a confidentiality agreement); (ii) are already known to or in the possession of the receiving Party prior to receipt; (iii) are used or released with the prior written approval of the disclosing Party; (iv) are independently developed by the receiving Party without use of the disclosing Party’s Confidential Information; or (v) are ordered to be produced by a court of competent jurisdiction or appropriate regulatory authority, but in such event the receiving Party producing the Confidential Information agrees to notify the disclosing Party immediately so that the disclosing Party may, if it so decides, seek a protective order or otherwise object to production of such Confidential Information.

The Parties agree that they: (i) will not copy, reprint, duplicate or otherwise reproduce in any form whatsoever the Confidential Information or any part thereof for distribution outside of the Parties without the express written consent of the other Party; and (ii) at a Party’s request will return to the requesting Party (or destroy) all Confidential Information and copies or reproductions thereof. If a request is made to destroy Confidential Information and copies, extracts or reproductions thereof, a certification will be provided to the requesting Party that destruction had been made.

7.0 Warranties

With respect to Services, Contractor warrants to City that: (i) it shall perform the Services according to the terms and conditions of this Agreement and in conformity with standards and ethics of Contractor’s Profession, (ii) all material furnished and Services performed by the Contractor pursuant to this Agreement shall conform to and perform in accordance with specifications supplied by City

and be free from defects in material and workmanship, and (iii) the Contractor has the technical ability, expertise and manpower, and is in a position, to proceed diligently with the performance and the supervision of the Services to be performed hereunder, and no other job subsequently undertaken by the Contractor will be given priority over the Services to be provided hereunder.

8.0 Additional Contract Terms

1. Public Statements

The Contractor shall not make any announcement, release any information, or authorize or participate in any interview concerning this Agreement and the Services, without first obtaining written consent from the City. The Contractor shall require its employees, agents, and subcontractors to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Agreement.

2. Employment of City Workers

The Contractor shall not engage or employ, on a full, part-time or any other basis during the term of this Agreement and for a period of one year after the contract termination or expiration, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employ of the City.

3. Subcontracting, Assignment, and Transfer

The Contractor shall not subcontract, assign, delegate or transfer all or part of its rights, responsibilities, or interest under this Agreement without the prior written consent of the City. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by the City. No subcontracting, assignment, delegation or transfer shall relieve the Contractor from performance of its duties hereunder; neither shall the City be responsible for the fulfillment of the Contractor's obligations to its transferors or subcontractors. Upon request of the City, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the transfer.

4. Conflict of Interest

Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local, laws, rules and regulations.

The Contractor covenants that it has no public or private interest, and shall not acquire, any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement, and the Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer, official, agent or employee of the City, in an effort to secure the Agreement or favorable treatment with respect to any determinations

concerning the performance of the Agreement. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the Contractor in connection with any work contemplated or performed relative to this Agreement. For breach or violation of this provision, the City shall have the right to recover or withhold the full amount of such gratuities.

5. Contingent Fees

The Contractor warrants that it has not employed or retained any Contractor or person other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any Contractor or person, other than a bona fide employee working solely for the Contractor 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 provision, the City shall have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

6. Nondiscrimination

The Contractor hereby agrees to comply with Title VI and Title VII of the Civil Rights Act of 1964 and all other federal, state or local laws prohibiting discrimination, which provide, in whole or in part, that no person shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement or in the Contractor's employment practices on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, State or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination. In the event the Contractor fails to comply with the City's non-discrimination policy and any and all other laws prohibiting discrimination, this Agreement may be canceled, terminated or suspended in whole or in part by the City.

The City reserves the right to investigate any claims of illegal discrimination by the Contractor and in the event a finding of discrimination is made and upon written notification thereof, the Contractor shall take all necessary steps to cure and rectify such action to the reasonable satisfaction of the City. The Contractor's failure or refusal to do so shall be cause for termination of this Agreement in accordance with the terms of this Agreement.

7. Severability

If any terms or provisions of this Agreement are held to be illegal, invalid or unenforceable as a matter of law, such provision shall be fully severable, and the remaining provisions of this Agreement shall remain in full force and effect without being impaired or invalidated in any way. Furthermore, in lieu of such

unlawful, invalid, or unenforceable provision, the parties agree to replace any invalid provision with a valid provision that most closely approximates the parties' original intent.

9.0 Audit

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Agreement, complete books, documents, accounting records and other evidence, that specifically relate to this Agreement, in accordance with generally accepted accounting principles. The Contractor shall retain such records, and shall make available to the City, upon reasonable request, during the term of this Agreement, and for a minimum period of three (3) full years after completion of the contract obligations or from the date of final payment under this Agreement, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to the City upon request.

Upon reasonable notice, the Contractor shall permit the City, any other governmental entity, or agency participating in the funding of this Agreement, or any of their duly authorized representatives, to enter the Contractor's offices, during regular business hours, to interview employees and to inspect and/or copy said records and books of accounts together with any and all documents pertaining hereto that may be kept, maintained or possessed by the Contractor. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

10. M/WBE (Minority/Women Business Enterprise) Program

The City has a Minority/Women Business Enterprise Program that is designed to increase the participation of minority and women owned businesses in the City's contracting activities.

M/WBE Definition- Minority –owned business are defined as those that are 51% owned and controlled by African Americans. Women-owned businesses are defined as those that is 51% owned and controlled by one or more women, but not African Americans. To qualify as an M/WBE Vendor; a firm must be included on the list of certified M/WBE's available from:

**Office of Compliance
125 N. Main, Room 440
Memphis, TN. 38103**

A list of certified M/WBE Vendors is available from the Office of Compliance, at

the address listed above. Only those vendors that have been certified by the Uniform Certification Agency are eligible to qualify as M/WBE businesses. If the contractor is a certified firm enter the following information:

Minority (MBE) _____
 Women(WBE) _____
 Certification number _____
 Comply (Insert YES or NO) _____ Exception (Insert YES or NO & Specify): _____

11. Certified Subcontractor Participation

The City also encourages non-M/WBE Vendors to seek participation in this proposal with an M/WBE Vendor. Even if you are not an M/WBE Vendor, please explain below any participation by an M/WBE Vendor that is proposed for the project. Include name, address and certification number if any M/WBE participant, plus the estimated percentage of the contract to be awarded to the participant, as follows:

\$ Show the dollar value of the subcontract to be awarded to this Vendor.

% Show the percentage of the total proposal represented by the subcontractor.

M/WBE Indicate whether the Vendor is MBE by inserting an M, or WBE by inserting a W.

Submission of this proposal commits the Vendor to the firms listed below.

\$	%	Certified Subcontractor's Name, Address, and Telephone	Certification Number

For additional information regarding certification as an M/WBE Vendor, please contact: Ms. Carlee McCullough at (901) 576-6545.

12. Living Wage

In accordance with the City of Memphis Ordinance No. 5185, commonly referred to as the Living Wage Ordinance, certain businesses holding a service or service-related contract with the City of Memphis shall pay its employees performing work on said contract a minimum hourly wage in the amount of \$10.27 per hour with health benefits for employees and their dependents or \$12.32 per hour

without health benefits. The Contractor agrees to follow and comply with the requirements of said ordinance. The Contractor further agrees to provide certified payrolls associated with this agreement to the City of Memphis c/o Manager, Prevailing Wage Office; 125 N. Main St., Room 1B-18; Memphis, TN 38103.

13. Service Level

Service levels will be negotiated upon the award of the contract.

14. Evaluation Criteria

Is the respondent an M/WBE or did the Respondent include M/WBE participation in the proposal?	5%
Does the Respondent purpose to perform the work at a fair and reasonable cost?	25%
Does the Respondent possess the ability, capacity, skill, and financial resources to provide the service?	25%
Can the Respondent perform the scope of services as set forth in the RFP and produce the required outcomes?	20%
Did the Respondent include the requirement of a least 3 references?	5%
Did the Respondent turn in a concise and complete RFP?	10%
Past Experience with the City?	5%
Headquarters located in Memphis?	5%

Example Only – Draft - Exhibit A

“Proposed Contract” SERVICES AGREEMENT

THIS SERVICES AGREEMENT (hereinafter “Agreement”) is made and entered into as of this date, month and year (the “Effective Date”), by and between The City Of Memphis, with offices located at 125 N. Main St. Memphis, TN. 38103, (hereinafter City”) and Vendor with offices located at Vendor Address (hereinafter "Vendor")

WHEREAS Vendor is ready, willing and able to provide the services outlined in this Agreement, under the terms and conditions described herein, and

WHEREAS, this Agreement includes and incorporates the following exhibits:

Exhibit “A”: Services Agreement Draft

Exhibit “B”: Support and Maintenance Hardware and Software List

Exhibit “C”: Employee Confidentiality

Exhibit “D” : Living Wage

NOW, THEREFORE, in consideration of the promises and the mutual commitments contained herein, the parties agree as follows:

1. Order of Precedence

In the event of any inconsistency between this Agreement, and any other conditions of sale set forth by Vendor, the order of precedence shall be as follows: i) Contract ii) Work Order, iii) the vendors response to the RFP.

Vendor shall fully provide, and complete all services and deliverables set forth in Exhibit “A” – Scope of Work. All work will be performed in accordance with the specifications set forth in this Agreement. There is no guaranteed minimum or maximum amount of supplemental services to be purchased under this Agreement, and the Agreement does not grant Vendor the exclusive right to provide any products or services. The City may, upon 15 days prior written notice, terminate any services set forth in Exhibit A pursuant to this Agreement.

2. Personnel

All Vendor personnel performing work under this Agreement shall be subject to the prior and continuing approval of the City. If at any time during the term of this Agreement, any Vendor personnel are not approved by the City, then Vendor shall, immediately upon receipt of written notice from the City, replace such personnel with substitute qualified personnel or take such other action as requested by the City.

Vendor agrees that it is in their best interest to keep the turnover rate of the Vendor personnel performing the services to a reasonably low level. Accordingly, if the City

believes that Vendor's turnover rate may be excessive and so notifies Vendor, Vendor shall provide data concerning its turnover rate, meet with the City to discuss the reasons for, and impact of, the turnover rate and otherwise use good-faith, commercially reasonable efforts to keep such turnover rate to a reasonably low level. If appropriate, Vendor shall submit to the City its proposals for reducing the turnover rate, and the parties shall mutually agree on a program to bring the turnover rate down to an acceptable level. In any event, notwithstanding transfer or turnover of personnel, Vendor remains obligated to perform the services without degradation and in accordance with this Agreement.

Vendor warrants and represents that all personnel furnished by Vendor under this Agreement are the employees or agents of Vendor. Vendor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all employee compensation and benefits. The City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, Federal and local taxes, or other compensation, benefits, or taxes, for any personnel provided by or on behalf of Vendor. In addition Vendor shall be solely liable and responsible for any and all workers' compensation benefits to any person as a result of injuries arising from or connected with any work performed by or on behalf of Vendor pursuant to this Agreement.

Vendor shall conduct all necessary employment eligibility verifications for the Vendor personnel performing work under this Agreement. Additionally, Vendor will perform Background Checks on any employee assigned to this agreement, if requested by the City

3. Warranties

Vendor warrants that:

- a. Vendor shall strictly comply with the specifications, requirements, standards, and representations set forth in this Agreement and the attachments thereto.
- b. All tasks, deliverables, goods, services, and other work shall be provided by Vendor in a timely and professional manner by qualified personnel.
- c. All tasks, deliverables, goods, services, and other work performed by Vendor shall be complete, uniform in appearance, and in accordance with generally applicable standards in the industry and shall perform according to the requirements as set forth in Exhibit "A" – Scope of Work..
- d. None of the Vendor work product(s) or Vendor material(s) provided under this agreement to the City, nor Vendor's performance of the services will: (i) infringe on the copyrights, trademarks, service marks, trade secrets or trade names of any third party arising or enforceable under the laws of the United States, (ii) infringe on any existing patents of any third party, or (iii) contain confidential or proprietary material misappropriated from any third party.

4. Compensation

All compensation to Vendor under this Agreement shall be paid by the City and shall be set forth on the Pricing Sheet annexed hereto as Exhibit “B” – Pricing Sheet.

Vendor will invoice the City on a monthly basis in arrears. Properly submitted invoices pursuant to this Agreement shall be due and payable by the City thirty (30) days after receipt thereof, subject to receipt of an accurate and timely invoice delivered to the following address:

City Of Memphis, Information Services
5125 Elmore Rd. Ste. 6
Memphis, TN. 38134

5. Term of Contract

The term of this Agreement shall commence on _____ and shall expire _____ thereafter, unless sooner terminated, in whole or in part, as provided in this Agreement. The City will have the option to extend the contract term for two (2) additional periods of 12 months each.

6. Indemnification and Insurance

- a. Indemnification: Vendor shall indemnify, defend, and hold harmless the City, its respective agents, officers, employees and elected and appointed officials from and against any and all losses, claims, suits, actions, and costs of any kind, including all reasonable costs of investigation or defense (including attorneys' fees), that arise or are alleged to have arisen out of, or in connection with, the (i) negligent or intentional acts or omissions of Vendor or Vendor personnel, or (ii) breach by Vendor of any term of this Agreement. In addition, Vendor shall indemnify, hold harmless and defend the City from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorney's fees, for or by reason of any actual or alleged infringement of any United State's patent, copyright, or any actual or alleged trade secret disclosure, arising from or related to the operation and utilization of Vendor's work under this Agreement.
- b. Insurance: The Vendor shall not commence any work under this agreement until it has obtained and caused its subcontractors to procure and keep in force all insurance required. The Vendor shall furnish the City's Risk Manager a Certificate of Insurance and/or policies attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in effect. All insurance companies must be acceptable to the City of Memphis and licensed in the State of Tennessee.
If any of the insurance requirements are non-renewed at the expiration dates of any policy, payment to the Vendor may be withheld until those requirements have been met, or at the option of the City, the City may pay the renewal premiums and withhold such payments from any monies due the Vendor.

The Vendor shall maintain, at its expense, at minimum, the following insurance coverage during the life of the Agreement:

1. WORKERS COMPENSATION Employer's Liability in accordance with the statutory requirements of the State of Tennessee.
\$100,000 Each Accident
\$500,000 Disease – Policy Limit
\$100,000 Disease – Each Employee
2. AUTOMOBILE LIABILITY covering owned, non-owned and hired vehicles with limits of: \$1,000,000 Each Occurrence – Combined Single Limits
3. PROPERTY INSURANCE on their own equipment. The Vendor shall require all subcontractors to carry insurance as outlined above in the event the subcontractors are not protected by the policies carried by the Vendor.
4. COMMERCIAL GENERAL LIABILITY: Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor's Liability, and Broad Form Property Damage Liability coverage

General Aggregate	\$1,000,000
Products & Completed Operations	\$1,000,000
Personal & Advertising	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage any One Fire	\$50,000
Medical Expense any one Person	\$5,000

39. PROFESSIONAL LIABILITY: \$1,000,000 Each Wrongful Act.

Said coverage shall be maintained for at least three (3) years from the termination or expiration of this Agreement.

Each certificate or policy shall require and state in writing the following clauses:

"Thirty (30) days prior to cancellation or material change in the policy, notice thereof shall be given to the City of Memphis Risk Manager" by registered mail, return receipt requested to the following address:

City of Memphis
Attn: Risk Management
2714 Union Extended, Suite 200
Memphis, TN 38112

"The City of Memphis, its officials, agents, employees and representatives shall be named as Additional Insured on the general liability and auto liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance.

Failure to Procure Insurance: Failure on the part of Vendor to procure or maintain the required insurance shall constitute a material breach and default of this Agreement upon which the City may terminate or suspend this Agreement. If coverage is canceled,

terminates, or lapses and is not replaced with similar coverage, The City has the right to go out and purchase insurance. The Vendor will be responsible for all costs and deductibles associated with the purchased insurance.

Claims Procedure: The Vendor agrees to notify the City immediately of any claim that may involve the City. Notification should be sent to the City's Project Director.

7. Compliance with Applicable Law

Vendor shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

Vendor shall indemnify and hold harmless the City from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorney's fees, arising from or related to any violation on the part of Vendor, its employees, agents, or subcontractors of any such law, rules, regulations, ordinances or directives.

All Vendor personnel providing services under this Agreement which require specific Federal, State, or local governmental licenses or credentials shall maintain such licenses or credentials current and valid throughout the period of Agreement performance. Any Vendor agent or employee who drives a vehicle in performance of contract operations shall have a valid operator's license for that vehicle class; evidence of vehicle insurance coverage for the driver will be required prior to assignment to such duties. Vendor shall maintain a file of required insurance, licenses and credentials for the business entity and for all subject employees which is current at all times and accessible for the City's inspection.

8. Fair Labor Standards

Vendor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless the City and the City, their officers, employees and agents from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law, including but not limited to, the Federal Fair Labor Standards Act, for work performed by Vendor's employees for which the City or the City may be found jointly or solely liable.

9. Nondiscrimination and Affirmative Action

Vendor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally without regard to or because of race, creed, color, religion, ancestry, national origin, sexual orientation, sex, age, condition of physical or mental handicap, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Vendor shall certify, at the City request that it is in full compliance with all applicable EEO rules and laws.

10. Records and Audits

Vendor shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Vendor shall also maintain accurate and complete employment and other records

relating to its performance of this Agreement. Vendor agrees the City at shall, upon reasonable notice and scheduling, have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement (i.e. invoicing/billing, incident log (s) and time card (s)). Vendor shall keep and maintain this documentation and it shall be made available to the City during the term of this Agreement and for a period of 5 years thereafter unless written permission of the City is given to dispose of any such material prior to such time. All such material shall be maintained by Vendor at a location in Memphis, Tennessee, provided that if any such material is located outside of Memphis, then, at the City's option, Vendor shall, at its sole expense, have such material delivered to its location in Memphis, Tennessee for inspection by the City within five (5) days of the City's request for such material.

Failure on the part of Vendor to comply with the provisions of this paragraph shall constitute a material breach of this Agreement upon which the City may terminate or suspend this Agreement as provided in Section 19(a) of this Agreement.

11. Living Wage Ordinance

In accordance with Ordinance No. 5185, as amended by Ordinance No. 5257, commonly referenced as the Living Wage Ordinance, any contractor or subcontractor holding a service agreement with the City on behalf of the City of Memphis must pay a living wage to each of its employees in the amount of \$10.27 per hour with health benefits for employees and their dependents or \$12.32 per hour without health benefits. Proof of such compensation must be evidenced by payroll reports which shall include information required by City (Exhibit D).

12. Governing Law; Jurisdiction and Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

The Parties hereby submit and consent to the exclusive jurisdiction of any state or federal court located within Shelby County or the United States Western District of Federal Court within the State of Tennessee and irrevocably agree that all actions or proceedings relating to this Agreement, other than any action or proceeding required by this Agreement to be submitted to arbitration, will be litigated in such courts, and each of the Parties waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of any such action or proceeding in such court.

13. Severability

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

14. Penalties and Liquidated Damages

Vendor recognizes that various the City losses, penalties (including service level penalties), and/or liquidated damages may be assessed against the City for certain failures to

perform. In any such case where the City failure to perform is due to some act or omission, or failure to perform on Vendor's part, Vendor agrees to pay or reimburse the City for such assessments and the City may deduct same from any Vendor's invoices as applicable. In any such case where Vendor is assessed penalties, such penalties will not exceed the corresponding amount the City is penalized by Client due to the Vendor's act, omission, or failure to perform.

15. Suspended or Debarred Entities

By signing this Agreement, Vendor certifies that it is not presently listed by any federal agency as debarred, suspended, or proposed for debarment from any federal contract activity. If, during the term of this Agreement, this information changes, Vendor shall notify the City without delay. Such notice shall contain all relevant particulars of any debarment, suspension, or proposed debarment.

16. Prohibition Against Assignment, Delegation and Subcontracting

This Agreement, or any interest therein, including, but not limited to, any claim for monies due or to become due with respect thereto, shall not be assigned or delegated, or both, by Vendor, and any assignment or delegation shall be null and void. Except as may be approved in writing by the City no performance of this Agreement, or any part thereof, shall be subcontracted by Vendor, and any such subcontract shall be null and void.

17. Termination and Suspension

(a) Termination for Cause: Either Party may terminate this Agreement for cause. Events constituting cause shall include, but not be limited to: (i) commencement of bankruptcy or insolvency proceedings by or against the other party; (ii) continued, flagrantly unsatisfactory performance by either party's personnel; (iii) continued failure to meet the performance standards described in this Agreement or Exhibit "A"; and (iv) breach of any other material condition of this Agreement. If termination is for reasons of cause, the terminating party shall issue a written cure notice to the other party. The terminated party shall have ten (10) days from the receipt of said notice to provide a written Corrective Action Plan (CAP) to the terminating party. If the CAP, as may be amended by the parties, is found to be acceptable to the terminating party, the terminated party shall proceed to cure the identified defects. Such additional time to cure defects shall not waive either party's rights to terminate the Agreement if the identified defects in the Cure Notice are not corrected to the satisfaction of the terminating party. If, at the terminating party's sole determination, the Agreement is terminated for cause, the terminated party shall be paid for those services provided and accepted by the terminating party up to the time of termination.

(b) Termination for Convenience: The City may, in its sole discretion, terminate the Agreement for convenience. In the event of a termination for convenience, the City shall pay the Vendor for the services performed and/or materials provided and accepted in accordance with the Agreement's provisions, up to the effective time of termination as specified in the Notice of Termination for Convenience. Termination for Convenience costs shall be subject to audit by the City for determinations of reasonableness. If Default is later determined to be based on an event which did not constitute Cause, Termination shall be treated as if for Convenience.

Under any termination, the City shall provide disposition instructions to Vendor for work product paid for or otherwise belonging to the City, which is in the custody of the Vendor. Vendor further agrees to comply with any assistance reasonably requested by THE CITY to facilitate the orderly transfer of the services to the City or its designee.

(c) Suspension: The City may, at its sole option, issue to Vendor a total or partial Notice of Suspension of Work. In the event of a suspension of project work, the City shall pay Vendor for the services performed and/or materials provided and accepted in accordance with the Agreement's provisions, up to the effective time of suspension as specified in the Notice of Suspension. Vendor will also deliver all the completed and partially completed deliverables to and as directed by the City. If Vendor does not receive written notice to continue the suspension, resume or terminate the Project within a 30 day period immediately following Vendor's receipt of the City's Notice of Suspension, then the Agreement will terminate automatically for the convenience of the City, in accordance with Section 19(b).

18. No Amendments

The terms of this Agreement may not be varied or modified in any manner, except in a subsequent writing executed by an authorized representative of each party.

19. City Facilities

Except to the extent otherwise approved by the City, in their sole discretion, Vendor shall use any and all items provided by the City for the sole and exclusive purpose of providing the services described in this Agreement. Use of City facilities by Vendor does not constitute a leasehold interest in favor of Vendor or Vendor's customers.

Vendor shall use any and all items provided by the City in an efficient manner. To the extent that Vendor utilizes such City provided items in any manner that unnecessarily increases facility costs or other costs incurred by the City, the City reserves the right to set-off the excess costs of such practices. Vendor shall be responsible for any damage to any and all item(s) provided by the City resulting from the abuse, misuse, neglect or gross negligence of Vendor, its employees and subcontractors or other failure to comply with its obligations respecting the such items provided by the City.

Vendor, its employees and agents shall keep any and all items provided by the City in good order, not commit or permit waste or damage to such items, not use such items for any unlawful purpose. Vendor shall act and comply with the City's standard policies and procedures as made available to Vendor regarding access to and use of such City provided items, including procedures for the physical security of the City facilities.

Vendor shall permit City and its agents and representatives, to enter into those portions of the City facilities occupied by Vendor staff at any time to perform facilities-related services.

Vendor shall not make any improvements or changes involving structural, mechanical or electrical alterations to the City facilities without the City's prior written approval. Any improvements to the City facilities will become the property of the City.

When the City facilities are no longer required for performance of the services described in Exhibit “A”, Vendor shall return such facilities to the City in substantially the same condition as when Vendor began use of such facilities, subject to reasonable wear and tear.

20. Due Diligence and Non-Reliance

Vendor represents, warrants and covenants that it has had opportunity to conduct, and has conducted, due diligence with respect to the City’s IT environment, and all other items and conditions it deems necessary to conclude this Agreement, and Vendor represents, warrants and covenants that it has not relied upon any written or oral statement of the City or its employees, directors, officers, consultants, attorneys or any elected or appointed officials in concluding this Agreement.

21. Obligations Extended Beyond Period of Performance

Vendor, its employees, agents, and subcontractors shall not disclose any details in connection with this Agreement to any party, except as may be otherwise provided herein or required by law, for a period of no less than five (5) years from the termination of this Agreement and any subsequent amendments. In addition, the Indemnification, Records and Audits, Penalties, and Confidentiality provisions of the Agreement shall survive for a period of five (5) years following the expiration or earlier termination of this Agreement.

22. Confidentiality

Vendor agrees during the term of this Agreement and thereafter that it will take all steps reasonably necessary to hold the City and the City’s proprietary, confidential and trade secret information in trust and confidence. Vendor shall not use or disclose to any person, firm or entity any proprietary, confidential or trade secret information of the City without the express, prior written permission of the City. In addition, Vendor agrees to keep the terms, conditions, and pricing contained herein confidential. The provisions of this Paragraph shall survive the expiration or other termination of this Agreement.

Vendor shall obtain an executed copy of Exhibit “B” – Employee Acknowledgement and Confidentiality Agreement – for each of its employees performing work under this Agreement. Such Employee Acknowledgement and Confidentiality Agreements shall be delivered to the City, on or immediately after the effective date of this Agreement but in no event later than the date any such employee first performs work under this Agreement.

23. Software

If in the event Vendor should develop software under this Agreement, and for which it is fully paid by the City (hereafter “Client Proprietary Software”), Vendor recognizes that said software is the exclusive property of the City and that the City reserves the right to use, market, license, or sell it to others. The Vendor agrees that the Client Proprietary Software is a trade secret of the City, is protected by civil and criminal law and by the law of copyright, and is very valuable to the City and that its use and disclosure must be carefully and continuously controlled. The Vendor further understands that operator manuals, training

aids, and other written materials for such Client Proprietary Software are subject to the Copyright Act of the United States. Vendor shall not utilize or permit others to utilize any Client Proprietary Software, or the ideas, concepts, techniques, and materials associated therewith, to provide services to others.

24. Termination of Prior Agreements

This Agreement, together with the exhibits thereto, constitute the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes any prior discussions, negotiations, proposals, agreements and understandings.

25. Independent Contractors

The parties acknowledge that Vendor, its employees, agents and representatives are not employees of the City. Vendor is an independent contractor over the details and means for performing the services.

26. Conditional Agreement

This agreement is conditioned upon the City approving the commitment of funds for this project and approving the contract.

27. Notices

All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties at the following addresses. Addresses may be changed by either party giving ten days prior written notice thereof to the other party.

If to City
City of Memphis
5125 Elmore Rd. Ste. 6
Memphis, TN. 38134
Contract and Budget Manager

If to Vendor:
VENDOR INFORMATION

28. Authority

The undersigned represent that they are authorized to execute this Agreement on behalf of the parties hereto, and each party has relied upon the authority of the other in executing this Agreement.

IN WITNESS WHEREOF, the City and Vendor have caused this Agreement to be signed by their duly authorized agents on the day and year first set forth hereinabove.

City Of Memphis

VENDOR COMPANY NAME

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

ORDINANCE NO: 5185

Sample A

AN ORDINANCE TO AMEND CHAPTER 2, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ESTABLISH A LIVING WAGE

WHEREAS, under the leadership of Councilman Joe Brown the Living Wage issue was introduced to the Memphis City Council and as it is important to the health and welfare of all residents of the City of Memphis that working people are paid a wage that enables them to lift their families out of poverty; and

WHEREAS, the City awards taxpayer-funded contracts to businesses to provide services to the public and to City government; and

WHEREAS, the purpose of this ordinance is to ensure that businesses receiving service contracts from the City pay a living wage.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 2, Code of Ordinances, City of Memphis, be amended so as to create the following:

**Chapter 2
Administration**

Art. XI Living Wage

2-407 -- 2-425

ARTICLE XI -- Living Wage

Section 2-407. Definitions:

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

City - means the City of Memphis, including those city departments which exercise independent control over their expenditure of funds.

Contractor - means any person that enters into a service contract with the city.

Employee - means any person who is employed full-time, part-time or on a temporary basis as a service employee of a contractor or subcontractor on a city service contract.

Employer - means any person, company or corporation that employs two or more employees at any one time within a calendar year and who is a contractor or subcontractor provided, however, that corporations organized under Section 501 (C)(3) of the Internal Revenue Code of 1954, 226 U.S.C. 501 (C)(3) shall be exempted as to all employees other than child care workers.

Person - means any individual, business entity, corporation, partnership or joint venture.

Service Contract - means a contract awarded to a contractor by the city primarily for the furnishing of services to or for the city (as opposed to the purchase of goods or other property or the leasing of property). Service contract includes subcontracts but does not include any contract, whether or not a subcontract, which: (1) involves only the purchase of goods; (2) involves services provided by student interns; (3) is a contract in existence prior to the effective date of this article; or (4) is a contract with a school district, municipality or other unit of government.

ORDINANCE NO: 5257

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ADD AN ANNUAL ADJUSTMENT TO THE LIVING WAGE

WHEREAS, the Memphis City Council along with the Administration recognizes that the living wage should be adjusted annually in accordance with the Poverty Level Index.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 2, Article XI, Code of Ordinances, City of Memphis be amended as follows:

Sec. 2-416. Annual adjustment of living wage.

- (a) The living wage rate shall be modified July 1, 2008 to incorporate the update, if any, made to the federal poverty level income for a household size of four (4) by the Secretary of the Department of Health and Human Services.
- (b) The living wage rate for employees of service contractors shall be modified in accordance with the date the RFP is issued, and such RFP will contain the actual rate (in dollars per hour, with and without benefits) which applies for that RFP.
- (c) In the case of contract renewals, the living wage rate applicable as of the date of the renewal shall be the effective living wage rate.
- (d) The Director of the Division of Finance shall report to the Memphis City Council no later than the first meeting in April 2009 the impact, if any, to the City's FY 2009 O&M budget.

SECTION 2. BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect from and after the date it shall have been passed by the council, signed by the chairman of the council, certified and delivered to the office of the mayor in writing by the comptroller and become effective as otherwise provided by law.

BILL MORRISON

#31

Exhibit B
Hardware and Software List

Description	Count
AX/WebX Software Licenses	200
AXIM (200 Seat Software License)	1
DiskXtender/MediaStor Level G Software	1
Kofax Ascent Capture (75k Monthly Page Volume) Software	1
Kofax Advanced Forms (300K Annual Page Volume) Software	1
Kofax Validation Stations Software	3
Kofax Scan Stations Software	4
Kofax VRS Software	1
OCE TDS600 Large Format Scanner (Engineering)	1
HP 600mx Optical Library	1

Model	Serial Number
Canon DR3060	CE306405
Canon DR3060	CE306412
Canon DR3060	CE306407
Canon DR3060	MA2-6097
Canon DR3060	CE306409
Canon DR3060	CE302029
Canon DR3060	CE306414
Canon DR3060	CE306410
Canon DR3060	CE306406
Canon DR3060	CE306408
Canon DR3060	BR308021
Canon DR4010c	DW300905
Canon DR4010c	DW303291
Canon DR4010c	DW303375
Canon DR4010c	DW303554
Canon DR4010c	DW303284
Canon DR5020	BR308018
Canon DR5020	BR308020
Canon DR7080c	KLB03253
Canon DR7080c	DB301694
Canon DR7080c	KLB04879
Canon DR7580	DAJ03852
Canon DR7580	DAJ01468
Canon DR7580	DAJ01532
Canon DR7580	DAJ03854
Canon DR9080c	CZ304706
Canon DR9080c	CZ300338
Canon DR9080c	CZ300409

Scanner	Model
Ricoh	MP6500SP
Ricoh	MP4500SP
Ricoh	MP4500
Ricoh	MP2550
Ricoh	MP2510
Ricoh	MP1100
Ricoh	MPC5000
Ricoh	MPC4500
Ricoh	5560C
Ricoh	3260C

**EXHIBIT C
EMPLOYEE ACKNOWLEDGEMENT AND
CONFIDENTIALITY AGREEMENT**

PROJECT NAME:	
VENDOR NAME:	
CLIENT:	The City Of Memphis, Memphis, Tennessee

GENERAL INFORMATION:

Your employer has entered into a contract with the City of Memphis identified hereinafter as the “City” to provide certain services to the City. In order to perform services or work under this contract, your signature on this Employee Acknowledgement and Confidentiality Agreement is required.

EMPLOYEE ACKNOWLEDGEMENT:

I understand and agree that the VENDOR, referenced above, is my sole employer for purposes of the above-referenced contract, I understand and agree that I must rely exclusively upon my employer for payment of salary and any and all other benefits payable to me or on my behalf by virtue of my performance of work under the above-referenced contract.

I understand and agree that I am not an employee of the City for any purpose whatsoever, and that I do not have and will not acquire any rights or benefits of any kind from the City by virtue of my performance of work under the above referenced contract.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work related to the above-referenced contract. I agree to forward all requests for the release of any data or information received by me to the City’s Project Director, for the above-referenced Contract, and to my immediate supervisor.

I agree to keep confidential all records and all data and information pertaining to persons and/or entities receiving services from the City.

All materials, including, but not limited to, data, information, computer program, design, and details of systems feature and marking plans, which the VENDOR gains access to or knowledge of in the performance of this Agreement shall be deemed proprietary information of City. I hereby agree not to disclose for a period of five (5) years, commencing with the date of the termination of this Agreement, any part of the proprietary information to other persons, and I agree to keep proprietary information confidential. Information is not considered confidential if it can be obtained through open records procedures or independently through a third party who has legal authority to release the material.

I agree to return all confidential materials to my immediate supervisor upon completion of the Contract, or termination of my employment with my employer, whichever occurs first. I acknowledge that violation of this agreement will subject me to civil and/or criminal action and that the City may seek all possible legal redress.

SIGNATURE: _____

NAME (Print): _____

DATE: ____/____/____

POSITION: _____

Terms and Conditions

RFP TERMS

CMEM REQUEST FOR PROPOSAL

The City of Memphis seeks proposals from firms who have the expertise to provide Enterprise Document Management Services in accordance with this RFP document. This is a Request for Proposal that may be modified by the City in the selection process.

THE CITY OF MEMPHIS ENCOURAGES THE PARTICIPATION OF SMALL AND MINORITY BUSINESSES IN THE PURCHASING PROCESS.

The City of Memphis is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or handicap status in employment or in the provision of services.

This procurement may be subject to the requirements of Ordinance No. 5114 which establishes a local preference for local businesses located within the City of Memphis. A copy of your Memphis and Shelby County Tennessee Business Tax Receipt must accompany the bid for consideration of this ordinance.

The contract may be subject to the requirements of Ordinance No. 5185, as amended, which establishes a minimum wage for employees of businesses receiving a service or service-related contract from the City of Memphis.

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the intent to award announcement at the following address: City of Memphis Purchasing Agent, 125 North Main, Room 354; Memphis, Tennessee 38103.

All proposal forms must be received at the office of the Purchasing Agent no later than 2:00 P.M. CT on the "Quote Due Date" in order to be considered.

Only proposals submitted on this form(s) with no changes, additions or deletions to the terms and conditions will be considered. Bids containing terms and conditions other than those contained herein may be considered nonconforming.

No objections with regard to the application, meaning, or interpretation of the specifications will be considered after the opening of the subject proposals. If there are questions or concerns regarding any part of plans, terms, specifications or other proposed documents, a written request for interpretation thereof may be submitted to the City Purchasing Agent prior to the Bid deadline date. The organization submitting the request shall be responsible for the prompt delivery of the request. Any interpretation in response to the written request will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each organization receiving a set of such documents. The City of Memphis will not be responsible for any other explanation or interpretation of the proposed documents.

All proposals must be signed by an authorized representative of your organization. Unsigned proposals will be considered nonconforming.

Any contract resulting from the proposals received in response to this solicitation shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee without regard to conflicts of laws principles.

By order of the Mayor of the City of Memphis, Tennessee.

MYRON LOWERY
MAYOR PRO TEM

Jerome Smith
City Purchasing Agent

Published in The Daily News on September 8, 9, 2009

2 COPIES

Proprietary and Confidential

INSTRUCTIONS TO PROPOSERS

Proposers shall submit their proposal in a sealed envelope INDICATING ON THE OUTSIDE: THE COMPANY NAME and THE REQUEST FOR PROPOSAL NUMBER.

Proposers must comply with all applicable licensing requirements. Pursuant to the City of Memphis Charter, Article 71, Section 777 et seq., it is unlawful to operate a business within the limits of the city of Memphis without possessing a Memphis and Shelby County business license, excepting non-profit organizations that qualify as tax exempt under Sec. 501(c)(3) of the Internal Revenue Code. Upon award notification and prior to the City issuing a properly executed purchase order or entering into a contract with the vendor, the successful vendor, whose principal business address is located within the limits of the city of Memphis, will be required to submit, along with the required insurance and other required documentation, a copy of (1) the tax-exempt ruling or determination letter from the Internal Revenue Services; or (2) its current Memphis and Shelby County Business Tax Receipt/License.

The City of Memphis reserves the right to cancel this solicitation, to reject, in whole or in part, any and all proposals, or to waive any informality in proposals.

Any firm receiving a mailed solicitation on the above subject and not bidding will be electronically removed from the City's mailing list used for the above-referenced subject after 3 consecutive non-responses or no bids.

For additional information concerning this solicitation, please contact: Stephanie Hill at stephanie.hill@memphistn.gov or via facsimile at _____.

Proprietary and Confidential