

CITY CLERK
ORIGINAL

C-8771
01/13/2014

Prepared For:

January 13, 2014

David Atchison
City of Glendale
6830 N 57th Drive
Glendale, AZ 85301

Dear David,

We wish to thank you for including SMS in your proposal inquiry. Attached is our quotation for services, **B3850-1.0**, for the maintenance of your computer hardware systems.

Since 1981, thousands of customers found SMS an exceptional choice for **responsive, nationwide, multi-vendor** systems maintenance. If your current supplier is an OEM, our proposal will **reduce the cost** of your IT maintenance, while improving service levels

Our maintenance programs consist of hiring experienced support engineers, providing them extensive on-going training, and using our **HotSpares™** lab to mirror your IT environment. Our local service centers are where we house your spare parts, our engineering lab and our field engineers.

Highlights of the SMS proposal for City of Glendale

- Coverage or Service levels offered by SMS
- Service features that are a standard part of SMS services
- Major OEMs that are supported by SMS, nationwide
- SMS singlePoint™ secure, web based asset management portal

David, please feel free to contact me at any time at (602) 526-0344, should there be any questions or should you need more information. Thank you again for the opportunity to propose SMS maintenance services.

Sincerely,

Cathy Higham
Account Manager
SMS, Systems Maintenance Services, INC.
☎ (602) 526-0344



Systems Maintenance Services

Corporate Headquarters
10420 Harris Oaks, Blvd, Suite C, Charlotte, NC 28269
Service Number: 877 405 0330
E-Mail: info@sysmaint.com
www.sysmaint.com

Coverage (Service Levels) Offered by SMS

| Coverage | Service Level | Description |
|------------------|---------------|---|
| Mission Critical | 7x24,2 | <p>Same Day 7x24, 2 hour response time: If you are looking for same day 2 hour on-site response and require on-site sparing for critical items and components with elevated failure rates, Mission Critical 7x24,2 support is for you. A designated field support team is assigned to you for this coverage level</p> |
| Critical | 7x24,4 | <p>Same Day 7x24, 4 hour response time: If you are looking for same day 4 hour on-site response, Critical 7x24,4 support is for you. Your field engineer will arrive on-site, with proper HotSpares™ within 4 hours of problem determination to get your system back in operation as rapidly as possible. You will be eligible for a monthly or a quarterly account review that covers service response times, problem resolution time, and general performance to our Service Level Agreements.</p> |
| Premium | 5x9, 4 | <p>Same Day 5x9, 4 hour response time: When you need same day 4 hour on-site response with a 8AM to 5PM nine hour calling window, Premium 5x9, 4 support is for you</p> |
| Standard | 5x9, Next Day | <p>Next Business Day, 5x9: When you need a next business day (NBD) response with a 8AM to 5PM nine hour calling window, Standard 5x9, NBD service level is for you.</p> |
| Custom | Custom | <p>Customized to your need When you need a flexible design of response times or parts to meet the needs of your data center, SMS will customize a service package for you</p> |

Service Features Offered by SMS

| Service Feature | Availability | Description |
|----------------------|--------------|--|
| <u>Site Audit™</u> | Included | <p>The transition process to SMS service starts by registering your serial numbers, OS or IOS versions, firmware versions, and general equipment configurations in our secure web portal <u>singlePoint™</u>. The local SMS field engineering team conducts a detailed <u>site audit</u>, updates the equipment information in your <u>singlePoint™</u> customer file, and orders the spare parts needed to properly support your environment</p> |
| <u>Fix-IT-First™</u> | Included | <p>Our <u>Fix-IT-First™</u> policy ensures that you will never be denied coverage due to an administrative oversight. As an SMS customer, if a device fails that was mistakenly not covered by your service contract, SMS will respond to your call on a best effort basis and get you back up and running as soon as possible</p> |
| <u>Hot Spares™</u> | Included | <p>There is no "denial of service" on supported products. All SMS contract modifications or time and materials charges for the incident will be worked out with you <i>after</i> you are up and running again.</p> <p>When a service call is made, SMS field engineers diagnose the problem and arrive on-site with a part in hand ready to repair your system. These parts are tested in fully operational systems we keep in our regional service centers. SMS will swap out a malfunctioning component, bring up your system, and then return the component to the SMS Service Center to validate the repair</p> |



Major OEMs Supported by SMS

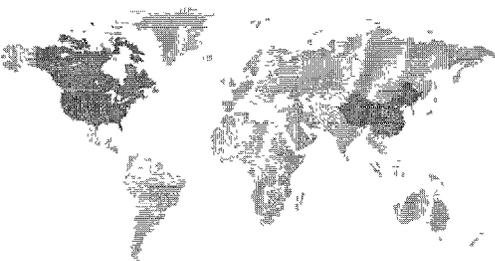
| Manufacturer | Mission Critical | Critical | Premium | Standard |
|---|------------------|----------|---------|----------|
| Hewlett Packard HP 9000 Systems, HP Proliant Systems, HP Alpha Server Systems, HP 3000 Systems, HP Classic VAX Systems HP Storage Systems, HP Hitachi branded storage systems, HP StorageWorks Systems | Yes | Yes | Yes | Yes |
| International Business Machines IBM zSeries, IBM pSeries, IBM iSeries IBM xSeries, IBM Peripherals IBM Storage Systems | Yes | Yes | Yes | Yes |
| Cisco Systems Cisco Catalyst Switches like the 1900, 2950, 2960, 3550, 3560, 3750, 4000, 4500, and 6500 Routers, PIX and ASA Firewalls, VPN 3000 Concentrators and SAN Switch and Director Equipment | Yes | Yes | Yes | Yes |
| Dell Enterprise Servers PowerEdge Blade, Rack Servers and Tower Servers PowerVault Storage Arrays, PowerVault Tape Libraries, Dell Branded EMC CLARiON Solutions | Yes | Yes | Yes | Yes |
| EMC Symmetrix, CLARiON, Connectrix DMX-3, DMX 3000, DMX 2000, DMX 1000, DMX 800, all EMC SYMM family products CX-3, CX700, CX600, CX500, EMC CX400, CX 200 | Yes | Yes | Yes | Yes |
| Sun Microsystems | Yes | Yes | Yes | Yes |

For a comprehensive and current detailed listing of all manufacturers supported, please visit our website at www.sysmaint.com or email us at info@sysmaint.com.

Locations Supported by SMS

Our goal is to provide a 2 hour response time to 90% of our chosen markets. SMS has a global reach with service centers in North America and Asia

Each service center is staffed with our own employees and equipped with a lab that guarantees our customers will receive the best service from the best engineers in the industry



singlePoint™ Contract and Asset Management

To address maintenance reporting and incident tracking, SMS developed singlePoint™ to serve as a data center manager's point-of-control for all your asset information needs. singlePoint™ succeeds because SMS shares in the management of the data in order to meet your SLAs. To initiate the solution, we use the following process:

- SMS performs a complete **site audit** to gather information about your data center
- SMS ports the site audit data into singlePoint®
- SMS enables you to enter new equipment into singlePoint®, as it arrives
- SMS **co-terminates** SMS support with End of Manufacturer support, warranty, or warranty uplift
- We can attach special configuration notes, diagrams, configurations to individual assets
- SMS can **dispose of the asset** and maintain an environmental certificate of destruction

All of this data is available from a single secure web based console that allows you to dynamically measure your SLA performance against your contracts with your various suppliers.

What makes SMS your best choice for third party maintenance?

Since 1981, customers have found SMS an exceptional choice for **responsive, nationwide, multi-vendor** systems maintenance. If your goal is to **reduce the cost** of IT maintenance while improving service levels, SMS is your best choice.

With locations, inventory, and staff nearby, SMS ensures that you receive the service levels you need to meet the wide array of systems, storage, and network devices found in your data center.

- Our **customer retention** rate is 99.7%. All our customers are references
- Our **U.S. based call center** treats every call like it's the most important call of the day
- We are **more responsive** than the OEM. Our resources are local to you
- We are **less expensive** than the OEM. You start saving the moment our services start
- We are **integrated**. Our call centers use singlePoint® to manage every call
- We are **flexible**

Our payment plans, service levels and customization capabilities make SMS the **best choice** for your third party maintenance provider.





Systems Maintenance Services

10420 Harris Oaks Blvd, Suite C
Charlotte, NC 28269
Phone (704) 921-1628
For Service Call (877) 405-0330

Bill To: City of Glendale
6830 N 57th Dr
Glendale, AZ 85301

Billing Freq ANN
Customer PO none
Contact David Atchison - (623) 930-2909
Billing Period 1/1/2014 to 12/31/2014

MSA ID B3850 1 0
Contract Status CUSTOMER REVIEW
Sales Rep Higham, Cathy
Start Date 1/1/14
End Date 12/31/14

Equipment Location City of Glendale
6830 N 57th Dr
Glendale, AZ 85301

Contact Atchison, David

Phone (623) 930-2909

Table with columns: Item #, Model #, Serial #, Node Name, Description, Item Start Date, Item End Date, Coverage Code*, Qty, Wnty Rate, Why End Date, Post Wnty Rate, No Mos, Billing Amount. Contains 28 rows of equipment details.

1/13/2014

Agreement # B3850.1.0 for CITY OF GLENDALE- DIRECT



Systems Maintenance Services

10420 Harris Oaks Blvd, Suite C
Charlotte, NC 28269
Phone (704) 921-1628
For Service Call: (877) 405-0330

Equipment Location City of Glendale
6830 N 57th Dr
Glendale, AZ 85301

Contact Atchison, David

Phone (623) 930-2909

| Item # | Model # | Serial # | Node Name | Description | Item Start Date | Item End Date | Coverage Code* | Qty | Wrtly Rate | Wty End Date | Post Wrtly Rate | No Mos | Billing Amount |
|--------|----------|----------|-----------|-------------------------|-----------------|---------------|----------------|-----|------------|--------------|-----------------|---------------------------|--------------------|
| 29 | 8853-AC1 | 610447 | DCGBA02 | BLADESERVER HS21 SERVER | 01/01/2014 | | 5924 | 1 | \$0 00 | None | \$7 00 | 12 | \$84 00 |
| 30 | 8853-AC1 | 649412 | DCDB15 | BLADESERVER HS21 SERVER | 06/17/2014 | | 5924 | 1 | \$0 00 | None | \$7 00 | 6 | \$42 00 |
| 31 | 8853-AC1 | 604300 | TCDPM02 | BLADESERVER HS21 SERVER | 01/01/2014 | | 5924 | 1 | \$0 00 | None | \$7 00 | 12 | \$84 00 |
| | | | | | | | | | | | | Location Total | \$10,110 00 |
| | | | | | | | | | | | | Location Net Total | \$10,110 00 |

Contract Total \$10,110 00

Contract Net Total \$10,110 00

*Coverage Codes on Contract: 5x9 NBD ONSITE (5924)



Systems Maintenance Services

10420 Harris Oaks Blvd, Suite C
Charlotte, NC 28269
Phone (704) 921-1628
For Service Call (877) 405-0330

Billing Summary

| | Net Monthly Total |
|---------------------------|------------------------------|
| Jan-2014 | \$839.00 |
| Feb-2014 | \$839.00 |
| Mar-2014 | \$839.00 |
| Apr-2014 | \$839.00 |
| May-2014 | \$839.00 |
| Jun-2014 | \$839.00 |
| Jul-2014 | \$846.00 |
| Aug-2014 | \$846.00 |
| Sep-2014 | \$846.00 |
| Oct-2014 | \$846.00 |
| Nov-2014 | \$846.00 |
| Dec-2014 | \$846.00 |
| Contract Sub Total | <u>\$10,110.00</u> |
| Contract Net Total | <u>\$10,110.00</u> |

This quote is valid for 90 days from the date of issue.

Terms And Conditions

These TERMS AND CONDITIONS (this "**Agreement**") are agreed to as of the latest date indicated on the signature pages hereto, by and between SMS Systems Maintenance Services, Inc , a Massachusetts corporation ("**SMS**"), and the undersigned ("**Customer**").

1. **SMS Services.** SMS is engaged in the provision of certain computer services (the "**SMS Services**") related to certain of Customer's Equipment as detailed on the appropriate Equipment schedule (the "**Equipment**" and the "**Equipment Schedule**") and Customer desires to purchase, and SMS desires to provide, the SMS Services, all as detailed herein and in the agreement related hereto.

2. **Fees.** Maintenance and other recurring fees shall be invoiced annually in advance (unless otherwise noted) and are due on the first day of the service period for which the invoice is rendered. Any increase in maintenance or other recurring fees must be disclosed in writing at least thirty (30) days prior to the effective date of the increase and will become effective unless rejected in writing. SMS reserves the right to suspend or terminate maintenance and recurring services if such fees are not timely paid. Fees and expenses other than maintenance and other recurring fees shall be payable net 30 days. Late payments for such fees and expenses shall accrue interest, including without limitation post-judgment interest, at 2% per month.

3. **Limited Warranty and Limitation of Liabilities.**

a. SMS and Customer warrant (i) that the SMS Services and Customer's Equipment operations, respectively, will be provided by properly supervised and qualified staff and will be provided in a good and workmanlike manner, (ii) each party will obey all applicable law in performing pursuant to this Agreement, (iii) SMS will not be liable for any and all reinstatement or recertification fees imposed by any other party or parties at any time, and (iv) that each party shall not make any representations, warranties, promises or take any other action on behalf of the other party hereto.

b. **THE WARRANTIES STATED ABOVE ARE THE SOLE WARRANTIES AND THAT THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE PROVIDED PURSUANT TO THIS AGREEMENT.**

c. **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO ANY LOSS OF USE, DATA, SOFTWARE, REVENUE OR PROFITS, EVEN IF ADVISED OF THE PROBABILITY OF SUCH DAMAGES.**

d. **SMS'S AND CUSTOMER'S LIABILITY (WHETHER IN CONTRACT, WARRANTY OR TORT, INCLUDING NEGLIGENCE) FOR DAMAGES OF ANY**

NATURE SHALL NOT EXCEED THE TOTAL COMPENSATION RECEIVED FROM CUSTOMER BY SMS DURING THE TERM OF THIS AGREEMENT.

e. No action (whether in contract, warranty or tort, including negligence) arising out of the transactions contemplated by this Agreement may be brought by either party against the other party more than one (1) year after the cause of action accrues except that an action for non-payment may be brought within eighteen (18) months of the date of the last payment

4. **Standards of SMS Services.**

a. The type of SMS Service to be provided is as specified within the related Customer agreement. To be eligible for service by SMS, all Equipment must be listed on the appropriate Equipment Schedule. All Equipment covered by SMS Services must be in good working condition and meet the manufacturers' minimum Equipment configuration requirements and specifications. Any costs associated with correcting deficiencies to the aforementioned requirement are the responsibility of the customer. The Equipment Schedule may be modified upon fourteen (14) days prior written notice and all corresponding fee changes approved by Customer in writing prior to being reflected in the subsequent billing cycle.

b. SMS shall maintain the Equipment in good operating condition and furnish scheduled preventive maintenance based on the needs of the Equipment and of Customer during the time period for performance excluding locally observed holidays unless otherwise stated. Services required to be initiated beyond service hours contracted for will be billed at SMS's per call rates and terms then in effect. Maintenance will include labor and replacement of all parts deemed necessary for proper operation of Equipment covered. Defective parts shall become the property of SMS. Please note that if a Customer wishes to retain a Defective part SMS retains the option to invoice the Customer for the cost to replace the Defective part plus a 15% handling fee.

c. Customer shall notify SMS, in a reasonable period of time, of Equipment failure, and shall allow SMS staff full and free access to the Equipment and use of necessary Equipment, machines and devices in the User/Customer's possession. Customer shall maintain accurate and current logs and records concerning the operation of the Equipment. Customer shall not move or cause to have moved the Equipment covered without prior written notice to SMS. Should the Equipment sustain any damage during a customer move, by staff other than SMS, SMS restoration of the equipment will be billable. At Customer's



Terms And Conditions

request, SMS will move Equipment at per call rates and terms then in effect (PCs and small printer excepted).

d. Maintenance services required, in the reasonable opinion of SMS, because of problems external to the Equipment or due to causes other than normal wear and tear, are not covered. If agreed by Customer in writing prior to being performed, such services will be billed at SMS's per call rates and terms then in effect. Maintenance service does not include operating supplies, consumable items (such as batteries, laser maintenance kits, printer bands, etc.), or electrical work external to the Equipment

e. SMS service liability shall be limited to restoring the Equipment covered to good and operating condition. Only authorized SMS staff shall service the Equipment covered and should the equipment sustain any damage as a result of service by staff other than SMS, SMS restoration of the equipment will be billable.

f. SMS Services excludes, without limitation, OEM restricted firmware or microcode, electrical work external to the Equipment, maintenance of goods other than the Equipment and Equipment accessories, alterations, attachments not listed on the Equipment Schedule, platens, supplies or accessories, specification changes, Equipment relocation, removal or relocation of accessories or attachments, services and goods necessary due to improper usage of Equipment, unsuitable environment (including improper electrical power, air conditioning or humidity) or Force Majeure

g. Customer agrees that SMS (or its affiliates) may act as customer's agent if customer requires SMS to use or implement any OEM tools, diagnostics, firmware, microcode, or software for which the customer is legally licensed to use and exclusive to the devices for which those licenses apply.

5. Term and Termination.

a. This Agreement shall become effective on the date written above and shall continue for one (1) year, unless earlier terminated as set forth herein. Thereafter, this Agreement shall automatically renew for continuous one-month periods. Either party may terminate this Agreement, after the initial term, for its convenience upon sixty (60) days written notice to the other.

b. Agreements with an annual value of less than \$3000 are understood to be non-cancellable, non-changeable, and non-refundable (unless otherwise noted)

c. This Agreement may be terminated immediately for cause by either party in the event the other party;

- (i) Shall become insolvent, or
- (ii) Admits in writing its inability to pay its debts as they mature; or
- (iii) Ceases to function as a going concern or to conduct its operations in the normal course if business; or

- (iv) Upon the filing by or against it under Title 11 of the U.S. Code, fails to tender to the other party a guaranty of its obligations under this Agreement by a person, firm or other entity having a net worth as of at least 85% of its own net worth as of the commencement of this Agreement, such guaranty to be in a form satisfactory to the other party; or
- (v) Fails to perform any of its obligations under this Agreement so as to be in default hereunder and fails to cure such default within twenty (20) days after written notice thereof or, with respect to payment defaults, five (5) days after written notice thereof

6. Confidentiality.

If the parties hereto enter into a Confidentiality Agreement, such agreement shall prevail in the event of a conflict between this Agreement and such Confidentiality Agreement. Otherwise, if either party received from the other party written information which is marked "Confidential" or "Proprietary" or any other information the receiving party knows or should know is confidential or proprietary, the receiving party agrees not to use such information except in the performance of this Agreement, and to treat such information in the same manner as it treats its own confidential information and at least use commercially reasonable efforts to protect such information. The obligation to keep information confidential shall not apply to any such information that has been disclosed in publicly available sources, is in the rightful possession of the party receiving the confidential information without an obligation of confidentiality; or is required to be disclosed by operation of law; provided that notice is first given to the disclosing party. Except as otherwise provided herein, the obligations not to disclose or use and to maintain the confidence of information shall be for a period of two (2) years after the termination or expiration of this Agreement.

7. Indemnification. Each party hereto covenants and agrees to indemnify, defend, and hold harmless the other party hereto, its affiliates and their respective owners, general partners, partners, managers, members, controlling persons, directors, officers, employees, agents and their successors and assigns (collectively, the "**Indemnified Parties**") from and against, and to pay to the Indemnified Parties the amount of, all losses, claims, obligations, demands, assessments, penalties, fines, forfeitures, liabilities, costs, and other damages, including reasonable attorneys' fees and expenses arising, directly or indirectly, from, asserted against or incurred by reason of, resulting in any manner from, or relating in any manner to: (a) the actions of such party or its employees, contractors or agents relating to this Agreement and the performance of the duties set forth herein; (b) any claims by third parties arising from or relating to or in connection



Terms And Conditions

with the breach or alleged breach of any of the provisions hereof by the respective parties; (c) any claims by third parties based upon any representations or warranties arising out of or in connection with the respective products or services, representations, or artwork of the parties, or upon alleged patent, trademark, or copyright infringement or unfair competition in connection with the respective products or services or representations of the parties, by reason of the sponsorship, (d) acts or omissions of any firm employed by the respective parties to perform any portion of the duties or obligations contained herein, and (e) product liability or other personal injury claims which may be asserted against the respective goods or services

8. General.

a. Assignment, Amendment, Etc.: This Agreement may be assigned by either party with the prior written consent of the other, which shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Any assignment made in contravention of this section shall be void and of no effect. This Agreement may not be changed, modified or amended except by writing signed by the parties hereto (including as contemplated by **Section 9** below) which expressly references this Agreement

b. Notices: Any notice provided for or permitted in this Agreement shall be sent by personal service, by facsimile in conjunction with e-mail, by certified return receipt requested or registered mail, postage prepaid, or by Federal Express or other nationally recognized commercial courier, charges prepaid, addressed as set forth herein. Any such notice, demand, request or other communication shall be deemed to have been given upon the earlier of personal delivery thereof, upon the date of facsimile and e-mail, or three (3) business days after having been mailed as provided above, or one (1) business day after delivery through a commercial courier, as the case may be.

c. Enforcement Costs: In the event of any litigation between the parties hereto to enforce any provisions or rights hereunder, the unsuccessful party to such litigation shall pay to the successful party therein all costs and expenses expressly including, but not limited to, reasonable attorneys' fees and court costs incurred therein by such successful party, which costs, expenses and attorneys' fees shall be included in and as a part of any judgment rendered in such litigation

d. Entire Agreement: This Agreement and, as applicable, any related Confidentiality Agreement, Customer Agreement and/or Equipment Schedule, contain the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements between them.

e. No Implied Waivers: The failure of either party at any time to require performance by the other of any provision hereof shall not affect the right of such party to require performance at any time thereafter, nor shall the waiver of either party of a breach of any provision hereof be taken or held to be a waiver of a provision itself

f. Governing Law; Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to conflict of law provisions thereof. Each party hereto consents to the exclusive jurisdiction of the state courts of North Carolina, Mecklenburg County, for any litigation that may arise out of this Agreement and each party hereto waives any objection based on *forum non conveniens* or any other objection to such venue.

g. Force Majeure: Neither party shall be liable for failure to fulfill its obligation under this Agreement or any purchase order issued hereunder or for delays in delivery due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of terrorism, man-made or natural disasters, material shortages, strikes, delays in transportation ("**Force Majeure**") The time for performance of any such obligation shall be extended for the time period lost by reason of the delay.

h. Severability: Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidation the remaining provisions hereof in that jurisdiction or affecting the validity or unenforceability of such provision in any other jurisdiction.

i. Survival: **Sections 1, 2, 3, 6, 7 and 8** hereof shall survive and remain in effect beyond any expiration or termination hereof.

j. Incorporation by Reference, Conflicts:

The general terms and conditions in this Agreement can be made part of subsequent documents by reference. The parties agree that the terms and conditions of this Agreement shall prevail, notwithstanding contrary or additional terms, in any purchase order, sales acknowledgment, confirmation or any other document issued by either party, in every case, except as expressly provided herein.

k. Restrictive Covenant. Each party hereto acknowledges and agrees that from the term of this Agreement until one (1) year after termination or expiration of this Agreement, neither party will hire or solicit to hire the other party's employees, contractors or agents without the other party's prior written consent.

9. Special Provisions. Notwithstanding anything in this Agreement to the contrary, the parties hereto agree that the following special provisions shall apply (**INITIAL ALL SPECIAL PROVISIONS**):



Terms And Conditions

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the latest date set forth below.

Customer

SMS Systems Maintenance Services, Inc

By: [Signature]
(Authorized Signature)

By: [Signature]
(Authorized Signature)

Name and Title: Brenda Fischer, City Manager
(Type or Print)

Name and Title: Joseph S. Scordino, Managing Director NA
(Type or Print)

Date: 1/23/14
(Type or Print)

Date: January 13, 2014
(Type or Print)

Address.

Address: 10420 Harris Oaks Boulevard
Suite C
Charlotte, North Carolina 28269

ATTEST:
[Signature]
City Clerk

Approved ~~as to form~~
[Signature]
City Attorney

The quotation provided is valid for 90 days from the date of issue.



ADDENDUM

In addition to the Terms and Conditions (the "Agreement") between the City of Glendale | (the "City") and SMS Systems Maintenance Services, Inc. (the "Consultant"), City and Consultant further agrees as follows:

I. Immigration Law Compliance.

- A. Consultant, and on behalf of any subconsultant, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- B. Any breach of warranty under subsection (A) above is considered a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
- C. City retains the legal right to inspect the papers of Consultant or subconsultant employee who performs work under the Agreement to ensure that Consultant or any subconsultant is compliant with the warranty under subsection (A) above.
- D. City may conduct random inspections, and upon request of the City, Consultant shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. Consultant agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this Section I.
- E. Consultant agrees to incorporate into any subcontracts under the Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any subconsultant to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- F. Consultant's warranty and obligations under this Section I to the City are continuing throughout the term of the Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- G. The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

II. Conflicts. The Agreement between the parties is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511.

III. Governing Law. The Agreement will be governed by the laws of the State of Arizona, and venue for any action brought relating to the Agreement is proper only in Maricopa County, Arizona.

IV. Renewal. In addition to the renewal provisions described in Paragraph 5(a) of the Agreement, City and Consultant agree that in no event will the Agreement extend longer than thirty-six (36) months from the date on which the Agreement is executed.

V. Entire Agreement. The Agreement and this Addendum constitute the entire understanding between the parties with respect to the subject matter of the Agreement and Addendum. This Paragraph V explicitly supersedes and replaces the conflicting language in Paragraph 8(d) of the Agreement.

VI. Addendum and Agreement Conflict. In the result of any conflict between the Agreement and this Addendum, the terms of this Addendum prevail.

[SIGNATURES ON NEXT PAGE]

1
Vita MacIntyre
Consultant
Vita MacIntyre, Controller

1/13/2014
Date

B. Buscher
City

1/23/14
Date

ATTEST:
[Signature]
City Clerk

Approved as to form

[Signature]
City Attorney