

City of Garden Grove

INTER-DEPARTMENTAL MEMORANDUM

To: Matthew J. Fertal
Dept: City Manager
Subject: APPROVAL OF AN AGREEMENT WITH iWATER, INC. TO INTEGRATE EXISTING DATA FROM THE CITY'S WATER DISTRIBUTION AND SEWER SYSTEM INTO A NEW GEOGRAPHIC INFORMATION SYSTEM (GIS)

From: William E. Murray
Dept: Public Works
Date: November 11, 2014

OBJECTIVE

To request that the City Council approve an agreement with iWater, Inc. to integrate existing Geographic Information Systems (GIS) data for the water distribution and sewer systems into the City's new GIS System.

BACKGROUND

Currently, the Public Works Department is using water, sewer, and stormwater data from hard copy maps and outdated GIS programs. With ongoing improvements to our water and sewer systems, it is essential that field crews have the ability to enter and research data in order to effectively address multiple service and main breaks throughout the year. It is necessary that the Public Works Sewer and Environmental Divisions are able to perform audits of daily operations and maintenance for reporting purposes governed by strict State mandates.

DISCUSSION

It is necessary that the current GIS system be updated. Based on recommendations from the City's Information Technology Department, and pursuant to the Garden Grove Municipal Code Section 2.50-060(d), the Finance Director has determined that the hardware and software services for this project can only be obtained through iWater.

FINANCIAL IMPACT

There is no impact to the General Fund. The project will use Water Funds appropriated in this fiscal year 2014/15 budget in the amount of \$345,000.

RECOMMENDATION

It is recommended that the City Council:

- Approve an agreement with iWater, Inc., in the amount of \$345,000, to integrate existing Geographic Information Systems (GIS) data for the water distribution and sewer systems into the City's new GIS System; and
- Authorize the City Manager to execute the agreement with iWater, Inc. on behalf of the City and make minor modifications as appropriate.



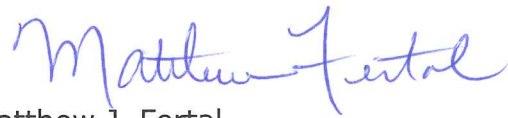
WILLIAM E. MURRAY, P.E.
Public Works Director



By: Les Ruitenschild
Public Works Supervisor

Attachment: Agreement

Recommended for Approval



Matthew J. Fertal
City Manager

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2014, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **iWater, Inc.**, herein after referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove Council Authorization, Dated _____.
2. CITY desires to utilize the services of CONTRACTOR to **Provide a complete water and sewer distribution system for the City of Garden Grove in Esri GIS format which includes licensing and annual maintenance per Attachment A.**
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement shall be for period of one (1) year from full execution of the agreement, with an option to extend said agreement additional four (4) years, for a total performance period of five (5) years. Option years shall be exercised one (1) year at a time, at the sole option of the CITY. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with proposal which is attached as Attachment A and is hereby incorporated by reference. Contractor is required to present evidence to support performed work.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal. The Proposal is attached as Attachment A, and is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
 - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Three Hundred Forty Five Thousand Dollars (\$345,000.00), for the first year, and (\$50,000), per year, for years two through five for annual site maintenance and professional

services, payable in arrears and in accordance with proposal in Attachment "A".

- 3.2 Payment. For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in Proposal (Attachment A).
- 3.3 Records of Expenses. CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY and CONTRACTOR shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. Insurance requirements.

- 4.1 COMMENCEMENT OF WORK. CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
 - (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (b) Automobile liability in an amount of \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance

companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

- (c) Professional liability in an amount not less than \$1,000,000. Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-, Class VII or better, as approved by the City. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier

An On-Going and Completed Operations Additional Insured Endorsement for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.

6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government. CONTRACTOR shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
 - a. (Contractor)
 iWater, Inc.
 Attention: Donald Rhodes, President
 18 Goodyear, Suite 100
 Irvine, CA 92618

 - b. (Address of CITY) (with a copy to):
 City of Garden Grove Garden Grove City Attorney
 11222 Acacia Parkway 11222 Acacia Parkway
 Garden Grove, CA 92840 Garden Grove, CA 92840

10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR in the performance of the Agreement. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

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(Agreement Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

"CITY"
CITY OF GARDEN GROVE

By: _____
City Manager

ATTESTED:

City Clerk

Date: _____

"CONTRACTOR"
iWater, Inc.

By: *J Rhodes*

Name: *Julie Rhodes*

Title: *CFO*

Date: *9-23-14*

Tax ID No. *33-0906922*

Contractor's License: *A783766*

Expiration Date: *08-31-2016*

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

 James P. [Signature]
Garden Grove City Attorney

 10/8/14
Date

ATTACHMENT "A"

iWater, Inc.
 18 Goodyear, Suite 100
 Irvine, CA 92618
 Office: 949-768-4549
 Fax: 949-768-4155
 CA Contractor License #: A783766



Estimate

DATE	ESTIMATE #
6/16/2014	207747

Estimate pricing valid for 30 days.

Prepared For
 Garden Grove, City of
 Attn: Accounts Payable
 13802 New Hope Street
 Garden Grove, CA 92642

Service Area
 Garden Grove, City of
 13802 New Hope Street
 Garden Grove, CA 92642
 ATTN: Les Ruitenschild

Visit us anytime online at www.iWater.org

ITEM	DESCRIPTION	Rep	Terms	Project
		DR	Net 15	
		QTY	COST	TOTAL:
Professional Servi...	Provide a complete water and sewer distribution system for the City of Garden Grove in Esri GIS format from existing Auto CAD and GIS data. The final product will include a complete geometric network that can be used for field O & M updates, management reports and engineering analysis. The completed product will be delivered and added to the City of Garden Grove network.	1	195,000.00	195,000.00
infraMAP Site Lic...	Enterprise site license for infraMAP software. Includes unlimited seats throughout the water and sewer departments within the organization.	1	100,000.00	100,000.00
infraMAP Site Ma...	Annual Site Maintenance for infraMAP (Per Dept). * Includes one (1) additional year of software upgrades and support for the water and sewer department.	1	26,000.00	26,000.00
Professional Servi...	Provide GIS services for water and sewer updates. This will include onsite and offsite GIS map updates and corrections. Also included will be field verification of asset changes or updates as needed. Pricing is based upon a yearly cost and will include 20 hours of support per month.	1	24,000.00	24,000.00
TOTAL:			\$345000.00	

***THIS ESTIMATE DOES NOT INCLUDE ANY INSURANCE ENDORSEMENTS. CUSTOMER MUST PAY ADDITIONAL CHARGES FOR EACH WAIVER OF SUBROGATION AND REQUEST TO BE LISTED AS PRIMARY INSURED.**

NOTE: A 1-1/2% per month service charge (18% per annum) will be assessed on past due invoices.