

Council Meeting of
March 18, 2008

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Communications & Information Technology – Approve a contract services agreement for technical support services.

Expenditure: \$104,889.60

RECOMMENDATION

Recommendation of the Information Technology Director that City Council approve a one-year contract services agreement with NEC Unified Solutions, Inc., in the amount of \$104,889.60 for 24/7 maintenance services of the City's telephone and voicemail system.

Funding

Funds are budgeted in the Telecommunications operations budget.

BACKGROUND

The City has contracted with NEC Unified Solutions Inc. (NEC) for maintenance support of its telephone and voicemail system since its installation in 1991.

Due to the expiration of the last agreement and the system's advanced age, NEC proposed new service terms. Their proposed changes to the service terms were not initially acceptable to City staff. After several months and meetings, NEC proposed new terms that were acceptable.

ANALYSIS

Purchasing a maintenance agreement from NEC has proven to be the best method of supplementing in-house capabilities to support the City's telephone and voicemail system. Quality support coverage is especially important when equipment has exceeded its projected useful life and its susceptibility to highly disruptive outage increases.

While the new service terms significantly differ from previous agreements in regards to guaranteeing parts availability and repair timeframes, the proposed terms are reasonable given the age of the system.

The proposed service agreement may be terminated sooner than expected depending on the completion of the pending Telephone and Voicemail System Replacement project (FEAP 174). The RFP for the replacement system was released to the public on March 2, 2008.

Staff did not issue a formal bid for this service as this action is pursuant to Section 22.3.16 of the Torrance Municipal Code that exempts repair services from the formal bidding process.

SECTION 22.3.16. EXCEPTION; REPAIRS.

The provisions of this Article will not apply to the purchase of parts or service for repairs upon City equipment, which purchases will be made in accordance with such procedures and regulations as will be established by the City Manager.

Respectfully submitted,



RICHARD SHIGAKI
Information Technology Director

CONCUR:



LeRoy J. Jackson
City Manager

Attachment A: NEC Maintenance Agreement

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NEC NEC Unified Solutions, Inc.

ATTACHMENT
PARTS AND LABOR COVERAGE

Customer Number: **104122**

Contract Number: _____

This Parts and Labor attachment ("Attachment") supplements the Master Purchase Agreement ("Agreement"), between NEC Unified Solutions, Inc., a Nevada Corporation having its principal place of business at 6535 N. State Highway 161, Irving, Texas 75039 ("NEC"), and City of Torrance ("Customer"), having its principal place of business at **3031 Torrance Blvd., Torrance, CA 90503**. All terms of the Agreement apply to this Attachment; however, to the extent that any provision of this Attachment directly conflicts with the Agreement, the provision of this Attachment shall be deemed to have the controlling provision.

NEC agrees to provide **PARTS and LABOR COVERAGE** for the hardware equipment ("Equipment") listed in the **Schedule of Maintenance Coverage** (collectively, such Equipment and software is referred to as the "System"), installed at the locations listed in the **Schedule of Maintenance Coverage** (the "Premises"), as set forth below.

1. COVERAGE TERMS

(a) **Definitions:**

1) **Principal Period of Maintenance ("PPM")**

The days and hours of the days when service is delivered to Customer

2) **Service Level Agreement ("SLA")**

The cumulative time in which NEC will make best commercial reasonable effort to respond to (Response Time) Customer's reported maintenance incident.

3) **Response Time**

Response Time is measured according to the PPM. If PPM is less than 24 hours per day, 7 days a week, then Response Time is measure within that PPM. Response Time begins upon receiving maintenance service request, and verification of problem found and dispatch or remote labor required to affect repairs.

4) **Major System Failure**

A general inability of the PBX system to receive incoming or originate outgoing calls, or a majority of either the Central Office trunks or Tie trunks are inoperable, or more than 25% of either the stations or terminals are inoperable.

5) **Time and Materials (T&M) Rates**

In the absence of other contractual agreement, T&M is the prevailing local dispatch labor rate, plus list price of materials required to affect repairs. Onsite hours require a 4-hr minimum per request and include one-way travel.

- (b) **Maintenance Services:** NEC shall, during the contract period, furnish all parts and services necessary to maintain the system in good working order, or provide such other coverage as specified in Schedule A. Any replacement parts may be either new or refurbished but equivalent to new in operation. Parts will be furnished on an exchange basis, and any parts removed shall become the property of NEC. NEC shall dispatch service personnel to the Premises to perform necessary repairs, unless NEC is able to perform repairs from a remote location. NEC shall conduct remote diagnostic testing, when applicable. Any service specifically requested by Customer outside Standard PPM is billable at the then prevailing After-hours or Holiday time and materials rates, respectively, according to holidays observed by NEC, and on-site hours require a 3-hour minimum per request which includes one-way travel. After hours is one and one-half times the T&M rate, and Holiday is twice the T&M rate. The requested service level is selected below:

Standard service only: PPM is 9x5 (Monday through Friday, excluding holidays observed by NEC, from 8 AM to 5 PM Customer local time zone). SLA is next business day following the request for routine maintenance service. However, NEC will make best commercially reasonable efforts to respond to major system failure within four hours as requested.

Premium Service: PPM is 24x7, and SLA is 4-hour response time to maintenance incidents of Major System Failure, and next business day response to routine incidents as required.

- (c) **Non-Covered Service:** NEC will attempt to respond to all requests for service. If service is required outside NEC's service hours, labor for such non-covered service calls will be chargeable to Customer in accordance with NEC's local prevailing hourly labor rates, and on-site hours require a 4-hour minimum per request which includes one-way travel.

NEC NEC Unified Solutions, Inc.

2. TERM

The term of this Coverage shall be **one (1) year**, commencing on **April 1, 2008**. Unless one party notifies the other of its intent to terminate this Coverage at least thirty (30) days prior to the expiration of the term (or at the end of any one-year extension of the term, which may occur as provided below), the term shall be automatically extended for an additional one (1) year period(s) ("extensions"), upon the same terms and conditions contained herein, except that NEC may adjust its service rates to conform to NEC's prevailing local service rates for the next extension. NEC shall furnish Customer with a written notice of any proposed increase in NEC's service rates for the next extension at least thirty (30) days prior to the anniversary date of the original agreement. Unless Customer exercises its right to terminate as set forth above, the Customer shall be deemed to have agreed to the adjusted service rates for the next extension.

3. SERVICE FEE

(a) Customer agrees to pay a fee of **\$104,889.60** for the initial term of this Coverage. NEC reserves the right to adjust the yearly fee for extensions of this Coverage. Customer shall make payment of the fees in advance, at the rate of:

\$104,889.60 for each annual period during the term of this Agreement.

\$26,222.40 for each quarterly period during the term of this Agreement.

(b) The fees under this Coverage do not include federal, state, or local taxes that may be applicable; such taxes will be additional billable items, which Customer agrees to pay unless Customer provides NEC with appropriate tax exemption documentation.

4. LIMITATION OF LIABILITY

IN ADDITION TO THE LIMITATIONS SPECIFIED BY THE APPLICABLE MASTER PURCHASE AGREEMENT, IN ALL SITUATIONS INVOLVING PERFORMANCE OR NONPERFORMANCE BY NEC UNDER THIS COVERAGE, THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IS TO (1) TERMINATE THIS AGREEMENT BY WRITTEN NOTICE TO NEC, AND (2) TO RECEIVE A PRO RATA REFUND OF ANY PRE-PAID MAINTENANCE SERVICE CHARGES, LESS ANY SUMS DUE AND OWING NEC.

5. EXCLUSIONS

(a) This Coverage will not cover repair work in replacement of battery back up or expendable items such as headsets, paper, diskettes, and printer ribbons. This Coverage also will not cover service required when due to: (i) Customer's unauthorized maintenance or repair of the Equipment, (ii) Customer's unauthorized add, move, or changes to the Equipment, (iii) negligence, (iv) abuse, (v) connection to inappropriate power supplies, (vi) fire, flood, wind, lightning, or other similar acts of God, (vii) failure of Customer to maintain proper environmental conditions for the System (as stated in (b) below), (viii) improper wiring, installation, repair, or alteration of the Equipment by anyone other than NEC or its agents, (ix) software changes or attempted software changes in the System by persons not authorized by NEC, or (x) data base reprogramming required because of Customer error of any kind. If requested by Customer, repairs necessitated by any of the above excluded causes shall be performed by NEC at NEC's prevailing local rates for such services and/or materials.

(b) The Customer is responsible for maintaining suitable environmental conditions for the System. Suitable conditions shall include, but not limited to, the provision of proper electrical power, air conditioning, and humidity control, and other environmental requirements for the configured system, as per manufacturer specifications. The presence of asbestos, other hazardous materials, or unsafe conditions ("Hazards") on the Premises shall be deemed an unsuitable environment for the System and NEC shall be entitled to cease performance under this Agreement until such Hazards have been cured to NEC's satisfaction. Furthermore, Customer will indemnify and hold harmless NEC or its subcontractors or agents for harm caused by, or measures taken to deal with, such Hazards.

6. ACCESS

Customer agrees to provide full accessibility to the Premises for NEC's employees to perform services and will make available to NEC a reasonable amount of secure space for storage by NEC of such maintenance parts as NEC deems necessary.

7. TERMINATION

(a) If either party is in default of its obligations under this Coverage and such default continues for thirty (30) days after written notice is given by the party not in default, such non-defaulting party may (in addition to all other rights and remedies provided in the Agreement or by law) terminate this Coverage.

(b) Notwithstanding (a) above, if either party becomes insolvent, enters voluntary or involuntary bankruptcy, or takes any measures generally designed for the relief of debtors, then the other party may (in addition to all other rights and remedies provided in the Agreement or by law) terminate this Coverage immediately without notice.

(c) Cancellation - either party may with or without cause cancel this Coverage with 30 days written notice to the other. All cancellation notices should be sent to the address specified in Section 8 below, Attention: Support Services Administrator, on Company letter head and contain the following information:

1) Contract Number(s)

2) Period of coverage that is to be cancelled

NEC NEC Unified Solutions, Inc.

- 3) List of products subject to the cancellation
- 4) Date of intended cancellation (notice is not effective until receipt)
- 5) Contact Information

(d) Upon termination, cancellation, or expiration of this Coverage, each party shall promptly return to the other party all papers, materials, and properties of the other held by such party.

8. NOTICES

All notices required under this Coverage shall be in writing and sent to each party at the address indicated below by certified U.S. mail or other delivery service providing the sender a signature upon receipt. Such notice shall be effective upon receipt.

City of Torrance

Address: 3031 Torrance Blvd.
 Torrance, CA 90503
 Facsimile: 310-618-2870
 Business: 310-618-2931
 Attention: City Clerk

NEC Unified Solutions, Inc.

Address: 6535 N State Highway 161
 Irving, TX 75039-2402
 Facsimile: 214-614-4998
 Business: 214-262-6435
 Attention: Barbara McKennan

9. COSTS

The non-prevailing party will pay all of the prevailing party's costs and expenses, including reasonable attorney's and collection fees, incurred in enforcing this Coverage.

10. ENTIRE AGREEMENT

This Coverage, along with the applicable Master Purchase Agreement, when executed by NEC and Customer, and approved by NEC, constitutes the entire agreement between NEC and Customer with regard to Customer's maintenance by NEC. Any alterations or modifications to this Coverage must be in writing, and must be executed by both an officer of NEC and the Customer. ANY ALTERATIONS OR MODIFICATIONS TO THIS COVERAGE, UNLESS MADE IN ACCORDANCE WITH THE ABOVE, SHALL BE VOID AND OF NO EFFECT.

BY SIGNING BELOW, BOTH PARTIES ACKNOWLEDGE THEY HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THIS ATTACHMENT.

CITY OF TORRANCE
A Municipal Corporation

By: _____
Frank Scotto, Mayor

Attest: _____
Sue Herbers, City Clerk

Approved as to form: _____
John L. Fellows III

Date: _____

NEC UNIFIED SOLUTIONS, INC.

By: _____

Name: _____

Title: _____

Date: _____

*If Company is a corporation; indicate the position or office held by the person signing this Agreement on the title line. If Company is a partnership; the Agreement must be signed by all partners (or at least a "managing partner") with the word "partnership" on the title line. If the Company is an individual, insert the phrase "sole proprietor" on the title line.

SCHEDULE A
SCHEDULE OF MAINTENANCE COVERAGE
City of Torrance

Covered Systems	QTY	UNIT	EXTENDED	EXTENDED
CUSTOMER: 104122		PRICE/MONTH	PRICE/MONTH	PRICE/TERM
2400 HDS IMG*; City Hall - Site 1				
Stations	834	\$3.10	\$2,585.40	\$31,024.80
Trunks	216	\$3.10	\$669.60	\$8,035.20
Centigram VoiceMail*	40	\$19.50	\$780.00	\$9,360.00
Total Site 1			\$4,035.00	\$48,420.00
2400 HDS SIM*; Airport Site 3				
Stations	48	\$3.10	\$148.80	\$1,785.60
Trunks	40	\$3.10	\$124.00	\$1,488.00
Total Site 3			\$272.80	\$3,273.60
2400 HDS IMG*; Police - Site 8				
Stations	690	\$3.10	\$2,139.00	\$25,668.00
Trunks	188	\$3.10	\$582.80	\$6,993.60
Total Site 8			\$2,721.80	\$32,661.60
2400 HDS SIM*; Yard - Site 9				
Stations	288	\$3.10	\$892.80	\$10,713.60
Trunks	76	\$3.10	\$235.60	\$2,827.20
Total Site 9			\$1,128.40	\$13,540.80
2400 HDS SIM*; Fire HQ - Site 10				
Stations	112	\$3.10	\$347.20	\$4,166.40
Trunks	76	\$3.10	\$235.60	\$2,827.20
Total Site 10			\$582.80	\$6,993.60
TOTAL ANNUAL AMOUNT				\$104,889.60
QUARTERLY PAYMENT AMOUNT				\$26,222.40
TOTAL AMOUNT WITH QUARTERLY PAYMENTS				\$104,889.60
Labor Rates: Technician - \$101.30, Engineer - \$146.31				

*2400HDS manufacturer-discontinued on January 2004

*Centigram VoiceMail-manufacturer discontinued on January 2002

Notice of Manufacturer Discontinuance: Please note that manufacturer discontinuation has been announced for the above noted products. Manufacturer discontinuance means that hardware, software, peripherals and engineering enhancements for those systems may not be commercially available from time to time. NEC Unified Solutions will not be held contractually responsible for these availability issues. NEC Unified Solutions will continue to service the above mentioned systems on a commercially reasonable basis and will make every effort to resolve any problems on these systems, but cannot make any guarantees regarding availability.

SCHEDULE B
LABOR RATES FEE

April 1, 2008 through March 31, 2009

Non-covered Repair or Services

During business hours	1 hour min./ ½ hr billing increment	\$101.30/hour
After business hours	4 hour min./ ½ hr. billing increment	\$151.98/hour
Weekends	4 hour min./ ½ hr. billing increment	Sat.\$151.98/hour Sun.\$202.60/hour
Holidays	4 hour min./ ½ hr. billing increment	\$202.60/hour

Remote Maintenance Repairs and Services

During business hours	1 hour min./ ½ hr billing increment	\$101.30/hour
After business hours	4 hour min./ ½ hr. billing increment	\$151.98/hour
Weekends	4 hour min./ ½ hr. billing increment	Sat. \$151.98/hour Sun.\$202.60/hour
Holidays	4 hour min./ ½ hr. billing increment	\$202.60/hour

Engineering Work

During business hours	1 hour min./ ½ hr billing increment	\$146.31/hour
After business hours	4 hour min./ ½ hr. billing increment	\$219.49/hour
Weekends	4 hour min./ ½ hr. billing increment	Sat. \$219.49/hour Sun. \$292.62/hour
Holidays	4 hour min./ ½ hr. billing increment	\$292.62/hour

Trip charge of \$60.00 per site visit will apply to any non-covered, billable work. If billable work is "batched" with covered repair work, the trip charge will be waived.