COUNCIL MEETING
March 25, 2008

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

Members of the City Council:

SUBJECT Communications and Information Technology - Approve the renewal of the HR/Payroll system annual maintenance agreement in the amount of $66,870.00.

RECOMMENDATION

Recommendation of the Information Technology Director that City Council approve the renewal of the annual software maintenance agreement (C2003-061) with Now Solutions, LLC. for the support and maintenance of the HR/Payroll system for the amount of $66,870.00.

Funding

Funding is available through the Communications and Information Technology Department's operating budget.

BACKGROUND & ANALYSIS

On March 25, 2003, the City Council approved implementation and maintenance contracts with Now Solutions, LLC (Contract #C2003-061) for software and various consulting services to implement Now Solutions' Windows-based PC Human Resource Management Software (Empath). The maintenance agreement has a 10% renewal price increase cap and is valid until the agreement is terminated by the City or the vendor. The system has worked well for the City and has handled our complex payroll requirements.

Now Solutions' maintenance and support provides the City with fixes for errors, updates, and enhancements with new releases. Services provided under maintenance are crucial to keeping the system running smoothly with minimal downtime. The services provided under maintenance and support agreement are proprietary to Now Solutions, LLC; therefore, the City cannot receive updates and enhancements from any other source. Due to the crucial human resource and payroll functions supported by the Now Solutions system, it is recommended that the City Council approve the renewal of the HR/Payroll system annual maintenance agreement with Now Solutions, LLC.

Annual Maintenance Increase Table

Year	Maintenance Amount	Increase Percentage	Custom Maintenance	Total Maintenance
2003	$39,549.60			$39,549.60
2004	$42,713.00	8%		$42,713.00
2005	$46,130.00	8%		$46,130.00
2006	$49,820.00	8%		$49,820.00
2007	$53,806.00	8%	$ 8,760.00	$62,566.00
2008	**$58,110.00**	**8%**	**$ 8,760.00**	**$66,870.00**

Respectfully submitted,

RICHARD SHIGAKI
Information Technology Director

CONCUR:

LEROY J. JACKSON
City Manager

Attachment A: Contract C2003-061

P:word/agenda/Now Solutions Maintenance – 2008.doc

Attachment A

NOW SOLUTIONS

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is by and between NOW Solutions LLC, having its principal place of business at Chase Texas Tower, Suite 1455, 201 Main Street, Fort Worth Texas, 76102, ("NOW"), and The City Of Torrance ("You"), having its principal place of business at 3031 Torrance Blvd Torrance California 90503.

The terms, conditions, and fees stated herein are expressly contingent upon Your execution of this Agreement by March 31, 2003.

Concurrent Users 10 **Full Named Users** _____ **Casual Named Users** _____ **ESS up to 2000** _____

Employees: upto 2000 **Sales Representative:** Stephen Farrar **Designated CPU Model** _____

Operating System _____ **Hardware** _____ **Database** _____

Name: Ryan Lee _____ **Phone #** (310) 781-7508 **Fax #** _____ **E-mail** rlee@torrnet.com

_____ **Phone #** _____ **Fax #** _____ **E-mail** _____

_____ **Phone #** _____ **Fax #** _____ **E-mail** _____

_____ **Phone #** _____ **Fax #** _____ **E-mail** _____

Installation Location: 3031 Torrance Blvd. Torrance California 90503

FEE SCHEDULE

Product Code	Software Description	First-Year License Fee	Maintenance Fee
	Upgrade to emPath version: Human Resources	$79,000	$14,220
	Upgrade to emPath version: Payroll	$79,000	$14,220
	Benefits	$10,200	$ 1,836
	Applicant Tracking	$10,200	$ 1,836
	Position Control	$10,200	$ 1,836
	Training	$10,200	$ 1,836
	Affirmative Action	$ 7,200	$ 1,296
	Time and Attendance (Scheduling)	$10,200	$ 1,836
	Web Self Service (up to 2000)	$51,000	$ 9,180
	10 Current Users	$99,000	$17,820
	Sub-Total	$366,200	$65,916
	Existing Customers & Loyalty	$(146,480)	$(26,366.40)
	Sub-Total	$219,720	$39,549.60
	Reinstatement of HR Module (2/1/97 to 1/ 31/ 03)		$70,000 approx.
	Reinstatement Fee Waived		$(70,000)
	TOTALS	$219,720	$39,549.60

TOTAL LICENSE AND FIRST-YEAR MAINTENANCE FEES $259,269.60

CALIFRONIA STATE TAXES @ 8.25% $21,389.74

TOTAL FEE $280,659.34

COPY

C2003-061

1. DEFINITIONS.

A. Casual Named User means a named, non-management individual who may occasionally access the Software for non-transactional activity only.

B. Concurrent Users means the maximum number of users which may access the Software or Third-Party Software at any one time.

C. Full Named User means a named individual with unlimited access rights to the Software or Third-Party Software.

D. Employee Self Service User means an employee authorized to access the Web-based self-service portion of the Software.

E. Services means the installation, training, and/or consulting services provided pursuant to this Agreement.

F. Software means the computer software products owned by NOW and all improvements, modifications, copies, and derivative works thereof and all related documentation.

G. Third-Party Software means the computer software products owned by certain third parties and all improvements, modifications, copies, and derivative works thereof and all related documentation.

2. SOFTWARE LICENSE.

A. NOW grants to You and You accept, subject to the terms and conditions of this Agreement, a nonexclusive license to use the Software, Third-Party Software and Services solely for Your own internal operations. You shall have sole responsibility for the accuracy and adequacy of the information furnished for processing and any use made by You of the data output by the Software and Third-Party Software and any reliance thereon.

B. You may make a reasonable number of copies of the Software as needed solely for back-up and archival purposes. You may make copies of the Software for development and testing purposes provided all such copies reside on the same CPU as the production copy of the Software. NOW will provide You with one copy of the documentation for the Software which You may reproduce solely for Your own internal purposes. You may not alter, remove, or suppress any proprietary notices placed on or contained within the Software and Third-Party Software and will ensure that all such proprietary notices and confidentiality legends appear on all copies thereof. Except as expressly authorized in this Agreement, You may not copy or reproduce the Software or Third-Party Software.

C. Each product is limited for production purposes to use with one copy of the server software. Your access to the Software and Third-Party Software is limited to the number and type(s) of users for which each such product is licensed. The number of Concurrent Users accessing both the production copy and any test copies of the Software may not exceed the total number of Concurrent Users licensed. No substitutions are permitted for Named Users.

D. Except as permitted by this Agreement, You may not sell, distribute, transfer, sublicense, reverse engineer, decompile, or disassemble the Software or Third-Party Software, or use the Software or Third-Party Software in a service bureau or time-sharing environment.

E. The media on which the Software is delivered may contain NOW products which You have not licensed the right to use. You agree that the term "Software" used in the context of Your licensing rights under this Agreement shall mean only the products described in this Agreement, and that You shall not intentionally access, use, or disclose in any manner whatsoever any products which You have not licensed and that all copyrights, trade secrets, and other proprietary rights in and to such unlicensed products shall remain vested in NOW.

3. TERM AND TERMINATION.

A. The license term of this Agreement shall commence upon the effective date and shall continue for twenty (20) years unless terminated earlier in accordance with this Agreement. The right of termination under this Section 3 shall be in addition to any other right or remedy either party may have hereunder.

B. Either party may terminate this Agreement upon the occurrence of a material breach by the other party, which material breach has not been cured within thirty (30) days after receipt of written notice thereof.

C. Upon the termination or expiration of this Agreement, Your license rights shall immediately cease, and You agree to promptly discontinue use of the Software and Third-Party Software and deinstall and return or destroy all copies of the Software and Third-Party Software and related documentation and materials. At NOW's request, You will provide NOW with written certification that You have complied with the foregoing.

D. The parties' obligations under Section 9 (Confidentiality) shall survive for a period of five years beyond expiration or termination of this Agreement, except that such obligations shall not terminate as to trade secret information for so long as such information remains a trade secret under applicable law. The provisions set forth in Sections 8 (Proprietary Rights), 10 (Infringement Indemnification), and 11 (Limitation of Liability) shall survive termination or expiration.

4. MAINTENANCE.

A. For the period ending one year from the effective date of this Agreement and any renewal thereof, NOW will provide You with maintenance services for the Software and Third-Party Software on the following terms provided You are in compliance with the terms of this Agreement:

(i) NOW will provide assistance via telephone, facsimile, the Internet, and/or dial-up direct computer access to the extent technically feasible to cause the Software and Third-Party Software to perform substantially in accordance with its published specifications set forth in the documentation. You shall provide NOW with full dial-up access to the Software and Third-Party Software so as to enable NOW to provide the maintenance services set forth herein;

(ii) NOW will provide You with all improvements and modifications to the Software and Third-Party Software as developed by NOW or its third-party licensors that NOW provides for no additional fee to its supported customer base;

(iii) NOW will provide You with updates to the Software and Third-Party Software if and as required so as to cause them to operate in conformance with new versions or releases of the operating system so long as such updates are technically feasible and NOW provides such updates for no additional fee to its supported customer base;

(iv) You agree to reimburse NOW for time spent and expenses incurred if analysis and maintenance of a problem indicates it was not the result of a nonconformance in the Software or Third-Party Software. These charges will be invoiced at NOW's then-current rates plus reasonable travel and living expenses.

B. Maintenance services will be provided for the two most recent minor releases of the Software and Third-Party Software as specified by NOW. If You (i) fail to implement updates and improvements in a timely manner, and/or (ii) modify the Software and Third-Party Software, NOW may, at its option, cancel its maintenance obligation for the affected product and make a pro rata refund of the maintenance fee paid for that product based on the time remaining in the maintenance period then in effect.

C. Provided NOW is offering maintenance services for the Software and Third-Party Software to its customer base in general and You have paid the appropriate annual maintenance fee, maintenance services shall automatically renew for successive one-year periods on the anniversary date of the effective date of this Agreement, unless either NOW or You have given the other at least thirty (30) days advance written notice canceling NOW's maintenance services. After payment of the first-year maintenance fee, the annual maintenance fee for each Software product and user licensed pursuant to this Agreement shall not increase by more than ten percent (10%)over the preceding year's maintenance fee. The preceding limitation, however, shall not apply to any Third-Party Software products and associated users. Maintenance fees for all renewal periods are payable in advance upon receipt of invoice.

D. If You discontinue maintenance services for the Software, You may request NOW reinstate such services. The fee for maintenance reinstatement shall be calculated, on a cumulative basis, at the then-current list fee for all periods during which You did not purchase maintenance.

5. PROFESSIONAL SERVICES.

A. Provided You are in compliance with the terms of this Agreement, NOW agrees to provide Services which You authorize from time to time. Services are not included in the license fee of the Software or Third-Party Software and are provided at NOW's then-current rates. B.

Upon Your request, NOW will prepare a Work Order containing, among other provisions, a description of the Services to be performed and an estimate of the personnel services effort, processing charges, and other related costs. Work Orders will become binding upon Your execution of the orders. All Services shall be subject to the terms and conditions of this Agreement and any resulting Work Order(s).

C. All executable programs, and all programming documentation relating thereto, including specifications developed by NOW hereunder, shall be the property of NOW; provided, however, NOW grants You the right to use such programs in accordance with the usage rights set forth in Section 2 (Software License). NOW may utilize freely any and all ideas, concepts, methods, know-how, or techniques related to the programming and processing of data discovered or developed by NOW during the performance of Services.

D. You will reimburse NOW for all necessary and reasonable travel and living expenses incurred by NOW personnel in performing Services pursuant to this Agreement. Travel time will be billed at fifty percent (50%) of the hourly rate then in effect for the type of Service being rendered up to a maximum of five hours each way to and from Your location.

E. Prepaid training Services must be utilized within one year from the date of prepayment.

6. PAYMENT.

A. You will pay ninety percent (90%) of the Total Fee specified on the face of this Agreement plus any applicable taxes within ten (10) days of the date of invoice. You will pay the remaining ten percent (10%) plus any applicable taxes thirty (30) days after delivery of the Software and any Third-Party Software. Travel and living expenses and any Services not included in the Total Fee will be invoiced weekly with payment due upon receipt of invoice. Unless otherwise stated, all fees specified herein are in U.S. dollars.

B. You will be responsible for payment of all applicable sales, use, ad valorem, and excise taxes; duties; and assessments based on Your use or possession of the Software, Third-Party Software, and Services. You shall hold NOW harmless from all claims and liability arising from Your failure to pay such taxes. You shall not be responsible for any taxes related to NOW's income.

C. Delivery of the Software and Third-Party Software shall be F.O.B. shipping point.

7. WARRANTY.

A. NOW warrants that NOW is the owner of the Software and has the right to sublicense the Third-Party Software.

B. NOW warrants the Software, as delivered by NOW, will operate in substantial conformance with the published specifications set forth in the Software documentation. This warranty shall be in effect for so long as You are current on Your maintenance payments for the Software. Any modification of the Software not made by NOW pursuant to its maintenance obligations, or Your failure to implement updates and improvements in a timely manner without NOW's prior written consent will void

such warranty as it pertains to the programs which have been modified or have not been updated. YOUR SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE PRECEDING WARRANTY SHALL BE THE PROVISION OF THE MAINTENANCE SERVICES SET FORTH IN SECTION 4 (MAINTENANCE).

C. NOW warrants that any programs developed through the provision of Services will be supported by NOW for a period of thirty (30) days from the date of delivery. After such period, You may request support on a time and materials basis.

D. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NOW MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. PROPRIETARY RIGHTS.

You acknowledge NOW represents the Software and Third-Party Software provided hereunder are based upon and contain trade secrets and are provided to You in confidence. All right, title, and interest in the Software, Third-Party Software, and all related materials, including all copyrights, trade secrets, and other intellectual property rights pertaining thereto, shall remain vested in NOW or its third-party licensors.

9. CONFIDENTIALITY.

A. Each party acknowledges this Agreement and certain information it will acquire from the other party constitutes trade secrets and confidential information. Each party agrees (i) to exercise the same degree of care and protection (but no less than a reasonable degree of care and protection) with respect to the other party's trade secrets and confidential information as each party exercises with respect to its own similar information, and (ii) not to disclose such information to any third party; however, each party may disclose information to its employees and third parties performing services for such party related to the purposes of this Agreement who have a need to know and who have agreed in writing to comply with the restrictions set forth herein.

B. These obligations of confidentiality shall not apply to information which (i) is known by the receiving party prior to its receipt, (ii) is now or hereafter becomes publicly known by acts not attributable to the receiving party, (iii) is disclosed to a party by a third party who has the legal right to make such a disclosure, (iv) is disclosed by a party with the other party's consent, (v) is subsequently developed by a party independently of any disclosures made hereunder, or (vi) is required to be disclosed pursuant to governmental regulation or court order.

10. INFRINGEMENT INDEMNIFICATION.

A. NOW shall defend, at its expense, any action brought against You based on a claim that the Software infringes upon a United States patent, copyright, trade secret, or other proprietary right of a third party. NOW agrees to indemnify You and hold You harmless against damages and costs, including attorneys' fees, finally awarded against You in such actions, provided You promptly notify NOW of such claim, provide NOW with reasonable assistance and all information in Your possession related to such claim, and allow NOW sole control of its defense or settlement.

B. If the Software becomes or, in NOW's opinion, is likely to become subject to such a claim of infringement, NOW may at its option (i) procure for You the right to continue using the Software, or (ii) replace or modify it to make it noninfringing. If neither of the preceding options is available at reasonable expense, NOW will grant You a refund of the license fee You paid for the infringing Software product based upon amortization over a five-year period beginning from the date of its license and accept return of the infringing Software product.

C. NOW shall have no liability for any claim of infringement based on (i) use of programs not furnished by NOW, (ii) use or modification of the Software other than as specified in this Agreement and the documentation, or (iii) use of the Software with computer programs or equipment not expressly authorized by this Agreement or the documentation. THIS SECTION 10 SETS FORTH THE COMPLETE LIABILITY OF NOW WITH RESPECT TO INFRINGEMENT BY THE SOFTWARE OR ANY PART THEREOF.

11. LIMITATION OF LIABILITY.

A. EXCEPT FOR THE SPECIFIC LIABILITIES ASSUMED BY NOW UNDER SECTION 10 (INFRINGEMENT INDEMNIFICATION), UNDER NO CIRCUMSTANCES SHALL NOW OR ITS LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, INDIRECT, OR SPECIAL DAMAGES ARISING OUT OF THE DELIVERY, INSTALLATION, USE, MAINTENANCE, OR OPERATION OF THE SOFTWARE, THIRD-PARTY SOFTWARE, OR PROFESSIONAL SERVICES PROVIDED HEREUNDER EVEN IF NOW HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. EXCEPT FOR THE SPECIFIC LIABILITIES ASSUMED BY NOW UNDER SECTION 10 (INFRINGEMENT INDEMNIFICATION), IN NO EVENT SHALL NOW OR ITS LICENSORS BE LIABLE TO YOU UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF CLAIM OR ACTION, IN AN AMOUNT THAT EXCEEDS THE TOTAL LICENSE FEE SPECIFIED ON THE FACE OF THIS AGREEMENT.

12. GENERAL.

A. This Agreement shall bind and inure to the benefit of each party hereto and its respective successors and assigns. You may not assign or otherwise transfer this Agreement or the license granted herein without the express written consent of NOW, which consent shall not be unreasonably withheld, except to the purchaser of all or substantially all of Your assets who has agreed in writing to be bound by the terms and conditions of this Agreement. You shall notify NOW in writing of any such assignment within thirty (30) days of its effective date.

B. NOW has deposited the source code for the Software into an escrow account with an independent escrow agent, Brambles NSD, Inc., San Jose, California. If NOW is unable to provide maintenance services for any escrowed Software product as set forth in the escrow agreement, the escrow agent will provide You with its source code provided You are current on Your maintenance payments for such product.

C. You agree not to export the Software and Third-Party Software outside the United States without NOW's prior written approval. You further agree to comply in all respects with the applicable export laws and regulations of the United States and not distribute or transfer the Software and Third-Party Software in contravention of those laws and regulations.

D. All notices shall be in writing and shall be deemed to be effectively given if made as follows: (i) if hand delivered, when received, (ii) if sent postage prepaid via certified mail, return receipt requested, when received, (iii) if faxed, on the date of the fax confirmation, or (iv) if mailed for overnight delivery, when delivered by the overnight delivery carrier.

E. If You issue a purchase order in connection with this Agreement, any preprinted terms and conditions appearing thereon shall not apply to or become part of this Agreement regardless of any statement to the contrary contained therein.

F. No action, regardless of form, arising out of any transaction under this Agreement may be brought by either party more than one year after the injured party has knowledge of the occurrence which gives rise to the cause of such action.

G. Each party agrees that monetary damages may not be an adequate remedy for breach of its respective obligations set forth in Sections 2 (Software License) and 9 (Confidentiality) and that in addition to all other remedies to which it may be entitled, the nonbreaching party shall have the right to apply to a court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm in the event there is a breach or threatened breach of the provisions set forth therein.

H. The failure of either party to exercise any of its rights under this Agreement shall not be deemed a waiver or forfeiture of such right.

I. If any provision of this Agreement is determined to be invalid or unenforceable, that provision will be deemed to be severed from this Agreement and will not cause the remainder of this Agreement to be invalid or unenforceable.

J. This Agreement may not be amended or supplemented except by an instrument in writing signed by duly authorized representatives of both parties. A duly authorized representative of NOW consists solely of either the Chief Executive Officer, President, Chief Financial Officer, or their designee.

K. This Agreement constitutes the entire and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all previous and contemporaneous written and oral agreements and warranties related to the subject matter of this Agreement.

L. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas with out giving effect to its conflict of law provisions.

ATTACHED HERETO AND MADE A PART HEREOF
___Addendum 1_____

IN WITNESS HEREOF, each party has executed this Agreement effective as of the 27th day of March, 2003 and represents and warrants to the other that its execution has been duly authorized.

The City Of Torrance
a Municipal Corporation

Dan Walker, Mayor

ATTEST:

Sue Herbers
City Clerk

NOW Solutions LLC

By Stephen R. Gunn, CFO

Name Printed Stephen R. Gunn

Title CFO

Date 3/27/03

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: _____

Date 3·26·03

ADDENDUM 1
TO THE SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT
BETWEEN
NOW SOLUTIONS, LLC. ("NOW")
AND
CITY OF TORRANCE ("You")

THIS ADDENDUM amends the Software License and Professional Services Agreement between the parties of even date herewith (the "Agreement"). In case of any conflict between the Agreement and this Addendum, the terms and conditions of this Addendum shall control. Except as otherwise modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

For and in consideration of the representations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. In consideration of this Agreement for pricing and Maintenance fees, the Agreement between City of Torrance and NOW, formerly a division of ROSS Systems Inc. dated June 28, 1990 is hereby no longer valid. This Agreement replaces said Agreement to City of Torrance.

2. The Agreement is hereby amended by deleting Section 3.A and replacing it with the following:

   A. The license term of this Agreement shall commence on the effective date and shall be perpetual unless terminated in accordance with this Agreement. The right of termination under this Section 3 shall be in addition to any other right or remedy either party may have hereunder or otherwise.

3. The first two (2) sentences of Section 6.A (Payment) are deleted in its entirely and replaced with the following: "You will pay fifty percent (50%) of the Total Software and First Year Maintenance Fees specified on the face of this Agreement plus any applicable taxes upon Your execution of this Agreement, fifty percent (50%) of the Total Software and First Year Maintenance Fees plus any applicable taxes, on April 30,2003.

4. The Agreement is hereby amended by deleting Section 12.L and replacing it with the following:

   L. This Agreement shall be governed under the laws of the State of California and that jurisdiction of any litigation arising from the agreement will be in Los Angeles County, California.

5. The Agreement is hereby amended to add the following as a new Section 13:

13. **ADDITIONAL PROVISIONS.**

INSURANCE

A. NOW must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

   1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:

      a. Primary Bodily Injury with limits of at least $500,00 per person, $1,000,000 per occurrence; and

      b. Primary Property Damage of at least $250,000 per occurrence; or

c. Combined single limits of $1,000,000 per occurrence.

2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at lest $1,000,000 per occurrence.

3. Professional liability insurance with limits of at least $1,000,000 per occurrence.

4. Worker's Compensation with limits as required by the State of California and Employers Liability with limits of at least $1,000,000.

B. The insurance provided by NOW will be primary and non-contributory

C. You, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. NOW must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.

E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to You.

SUFFICIENCY OF INSURERS AND SURETIES

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of You ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to You, NOW agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that NOW will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of You within 10 days of receipt of notice from the Risk Manager.

YOU:

CITY OF TORRANCE
a Municipal Corporation

Dan Walker, Mayor

ATTEST:

Sue Herbers
City Clerk

NOW:

NOW SOLUTIONS, LLC

By Stephen R. Gunn, CFO

Name Printed Stephen R. Gunn

Title CFO

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: _____

Date 3·26·03

Date 3-27-03