

Council Meeting of
May 24, 2011

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

Members of the Council:

SUBJECT: Police – Approve a contract amendment for the Police Scheduling and Timekeeping Project (FEAP 758). Expenditure: \$30,000.

RECOMMENDATION

Recommendation of the Chief of Police that City Council approve a contract amendment with CAPSIT (C2010-124) to provide personnel scheduling and payroll timekeeping automation services in the amount of \$30,000, and extend the contract term one year, through June 30, 2012.

FUNDING

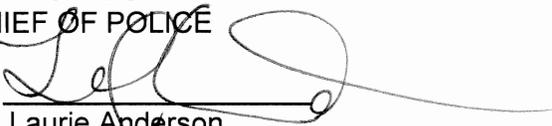
Funds are available in FEAP 758, Police Scheduling and Timekeeping.

BACKGROUND / ANALYSIS

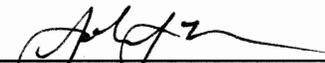
The Police Department contracted with the Center for Advanced Public Safety Information Technologies, Inc. (CAPSIT) for software to automate the Department's shift scheduling and payroll timekeeping processes. Implementation of the new system is in progress. The Department recently identified additional processes that are suitable for automation, requiring that the vendor's scope of work be modified. This additional development work will enhance the system to help streamline routine administrative processes and to better monitor overtime usage Department-wide. The attached contract amendment increases the CAPSIT contract from \$30,000 to \$60,000, extends the contract term for an additional year, and expands the scope of work.

Respectfully Submitted,

JOHN J. NEU
CHIEF OF POLICE

By 
Laurie Anderson
Business Manager

CONCUR:


John J. Neu
Chief of Police


LeRoy J. Jackson
City Manager

Attachment A - Contract Amendment (Limited Distribution)

AMENDMENT TO AGREEMENT C2010-124

This Amendment to Agreement is made and entered into as of May 24, 2011, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Center for Advanced Public Safety Information Technologies, Inc. (CAPSIT), a Florida Corporation ("CONTRACTOR").

RECITALS:

- A. CITY and CONTRACTOR entered into an Agreement on May 19, 2010, whereby CONTRACTOR agreed to furnish software and related services.
- B. The CITY is satisfied with the level of service provided by CONTRACTOR.
- C. Both parties wish to amend the contract to expand the scope of services.
- D. Both parties wish to amend the contract to extend the term from June 30, 2011 to June 30, 2012.
- E. Both parties wish to amend the contract to add an additional \$30,000 to the amount of the contract.

AGREEMENT:

- 1. Paragraph 1, "SERVICES TO BE PERFORMED BY CONTRACTOR" is amended to read in its entirety as follows:

"1. SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR will provide the services listed in the Scope of Services attached hereto as Exhibit A-1. CONTRACTOR will provide the services listed in accordance with Exhibit C to the original contract. CONTRACTOR warrants that all work and services set forth in the Scope of Services be performed in a competent, professional and satisfactory manner.

- 2. Paragraph 2, "TERM," is amended to read in its entirety as follows:

"2. TERM

Unless earlier terminated in accordance with Paragraph 5 below, this Agreement will continue in full force and effect from the Effective Date through June 30, 2012.

3. Paragraph 3. "COMPENSATION," is amended to read in its entirety as follows:

"3. **COMPENSATION**

A. **CONTRACTOR's Fee**

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$60,000.

4. In all other respects, the Agreement dated May 19, 2010, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE
a Municipal Corporation

Center for Advanced Public Safety
Information Technologies, Inc a Florida
Corporation

Frank Scotto
Mayor

By: _____
Scott Porter, President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

EXHIBIT A-1AMENDMENT SCOPE OF SERVICES

Estimates are based on the number of days anticipated for each task to take and a daily development rate of \$650/day. The parties acknowledge that the scope of work is based on work-completed to-date and anticipated needs that are subject to change.

1. Overtime Request. In this task, CAPSIT will modify the OpenScheduler so that officers can record overtime hours worked that will be routed for approval by a supervisor. Add the ability to display a record of the number of overtime hours worked in a given period of time for a specific organizational unit or individual. Modify the display to show 'pending overtime' on a schedule until approved. Estimated Cost: \$5,200 (8 days).
2. Sort Roster and Reports by Rank. In this task, CAPSIT will create additional sort criteria so that Roster and Reports can be sorted by Rank. Estimated Cost: \$1,300 (2 days).
3. Day Trades. In this task, CAPSIT will add the ability to track trades between officers. Estimated Cost: \$3,250 (5 days).
4. Hours Owed. In this task, CAPSIT will add the ability to track hours owed by officers as a result of working short days. Estimated Cost: \$1,950 (3 days).
5. Export Timesheet Data for Administrative Reporting. In this task, CAPSIT will add the ability to export all timesheet data to Excel or other file format so that it is available for external reporting. Also Estimated Cost: \$3,250 (5 days).
6. Create New Supervisor Reports Hours by Activity Code & Hours by Charge Code. In this task, CAPSIT will add the ability to export all timesheet data to Excel for external reporting. Estimated Cost: \$1,950 (3 days).
7. Show / highlight pending and approved requests for time off. In this task, CAPSIT will add visual display to indicate pending and approved time off requests. Estimated Cost: \$3,250 (5 days).
8. Support for black and white printing. Create a way to visually differentiate the schedule when printing in black & white. Estimated Cost \$1,950 (3 days)

Annual Service Agreement: \$1,188/ yr. This begins after the system goes live.

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of May 19, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Center for Advanced Public Safety Information Technologies, Inc., a Florida Corporation, aka CAPSIT ("CONTRACTOR").

RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to furnish software and related services.
- B. CONTRACTOR represents that it is qualified to perform those services.

AGREEMENT:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**
CONTRACTOR will provide the services listed in the Scope of Services attached as Exhibit A. CONTRACTOR will provide the services listed in accordance with Exhibit C. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.
2. **TERM**
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through June 30, 2011.
3. **COMPENSATION**
 - A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$30,000.00 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

C2010-124

COPY

B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid the fees described in Paragraph 3.A. above, according to the Compensation Schedule. Payment will be due within 30 days after the date of the invoice.

4. TERMINATION OF AGREEMENT

Except as otherwise set forth in paragraph 7 of the CAPSIT License Agreement attached hereto as Exhibit C CONTRACTOR and CITY agree as follows:

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
 - a. cease operations as directed by CITY in the notice;
 - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
 - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the

CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's

performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONTRACTOR authorizes CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

John J. Neu, Chief of Police is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

8. **CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Scott Porter
Sheila Porter
Michael Smotrisky

9. **INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from CITY.

13. **CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. At least once per quarter, CONTRACTOR will provide a detailed statement of activity billed against the initial deposit. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

15. **INDEMNIFICATION**

Except as otherwise set forth in paragraph 6 of the CAPSIT License Agreement attached hereto as Exhibit C, CONTRACTOR will indemnify, defend, and hold harmless CITY, the Redevelopment Agency of the City of Torrance, the City Council, each member thereof, present and future, members of boards and

commissions, its officers, agents, employees and volunteers from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

17. INSURANCE

A. CONTRACTOR and its subcontractors 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 \$500,000 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 least \$1,000,000 per occurrence.

3. Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
 - C. CITY ("City of Torrance"), the Redevelopment Agency of the City of Torrance, 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. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, 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 CITY.
18. **SUFFICIENCY OF INSURERS**
- Insurance 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 CITY ("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 CITY, the CONTRACTOR 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 CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.
19. **CONFLICT OF INTEREST**
- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
 - B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval,

disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
 4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
 5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

CONTRACTOR Center for Advanced Public Safety
Information Technologies, Inc., a
Florida Corporation (CAPSIT)
450-106 SR 13N #114
Jacksonville, FL 32259

Fax: (866) 300-0045

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONTRACTOR without the prior written consent of the other.

22. INTEGRATION; AMENDMENT

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. INTERPRETATION

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. SEVERABILITY

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. TIME OF ESSENCE

Time is of the essence in the performance of this Agreement.

26. GOVERNING LAW; JURISDICTION

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. COMPLIANCE WITH STATUTES AND REGULATIONS

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. WAIVER OF BREACH

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. ATTORNEY'S FEES

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. EXHIBITS

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. CONTRACTOR'S AUTHORITY TO EXECUTE

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not

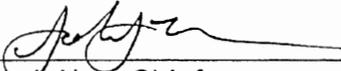
violate any provision of any other Agreement to which the CONTRACTOR is bound.

32. **SOFTWARE WARRANTY**

CONSULTANT warrants that is the owner of the software, or has a license to use the software from the owner of the software, and has the right to license it to third parties. CONSULTANT will defend, at its expense, any action brought against the CITY based on a claim that the software infringes upon a United States patent, copyright, trade secret, or other proprietary right of a third party. CONSULTANT agrees to indemnify the CITY and hold the CITY harmless against damages and costs, including attorney's fees, finally awarded against the CITY in such actions, provided the CITY promptly notifies CONSULTANT of such claim.

CITY OF TORRANCE
a Municipal Corporation

Center for Advanced Public Safety
Information Technologies, Inc.,
A Florida Corporation



John J. Neu, Chief
Police Department



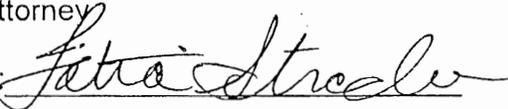
By: _____
Scott Porter
President



LeRoy J. Jackson, City Manager

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: 

- | | | |
|--------------|-----------|-----------------------|
| Attachments: | Exhibit A | Scope of Services |
| | Exhibit B | Compensation Schedule |
| | Exhibit C | License Agreement |

EXHIBIT A

SCOPE OF SERVICES

Estimates are based on the number of days anticipated for each task to take and a daily development rate of \$650/day. The parties acknowledge that the scope of work is based on a preliminary needs assessment and is subject to change.

- 1. Detailed Design.** CAPSIT will first work with the City of Torrance Police Department to develop a detailed design specification for each of the items listed below. The parties will discuss each requirement in detail, clarify expectations and document specifically how the requirement will be met. The detailed design will also clarify the scope for each task and provide firm fixed pricing for those tasks that are still unclear. This task will take approximately three weeks to complete. Cost: \$2,500.
- 2. Overtime Request.** In this task, CAPSIT will modify the OpenScheduler so that officers can record overtime hours worked, that will be routed for approval by a supervisor. Add the ability to display a record of the number of overtime hours worked in a given period of time for a specific organizational unit or individual. Modify the display to show 'pending overtime' on a schedule until approved. Estimated Cost: \$5,200 (8 days).
- 3. Sort Roster and Reports by Rank.** In this task, CAPSIT will create additional sort criteria so that Roster and Reports can be sorted by Rank. Estimated Cost: \$1,300 (2 days).
- 4. Day Trades.** In this task, CAPSIT will add the ability to track trades between officers. Estimated Cost: \$3,250 (5 days).
- 5. Hours Owed.** In this task, CAPSIT will add the ability to track hours owed by officers as a result of working short days. Estimated Cost: \$1,950 (3 days).
- 6. Export Timesheet Data to Excel.** In this task, CAPSIT will add the ability to export all timesheet data to Excel for external reporting. Estimated Cost: \$1,950 (3 days).
- 7. Create New Supervisor Reports Hours by Activity Code & Hours by Charge Code.** In this task, CAPSIT will add the ability to export all timesheet data to Excel for external reporting. Estimated Cost: \$1,950 (3 days).
- 8. Ability to assign budget codes to hours worked on Roster and Timesheets.** In this task, CAPSIT will add a field to track budget code for special deployments. Estimated Cost: \$1,300 (2 days).
- 9. Show / highlight pending and approved requests for time off.** In this task, CAPSIT will add visual display to indicate pending and approved time off requests. Estimated Cost: \$3,250 (5 days).

The following two tasks require additional information before CAPSIT can accurately estimate the cost. The following is a cost range for planning purposes. These will be defined in detail as part of the design step and a firm fixed price will be provided for review and approval once the actual specifications are defined.

10. Payroll Interface. In this task, CAPSIT will develop an interface to the City payroll system that uploads electronic time sheet / schedule data for all or selected employees and the ability to upload corrections for a single employee at any time. Estimated Range: \$3,250 - \$9,750 (5 - 15 days).

11. Import / Manage Users from Central IT. In this task, CAPSIT will add the ability to import / update users from central IT. Estimated Range: \$2,600 - \$5,200 (4 - 8 days).

Additional Costs

On-Site Server Setup (optional): Torrance Police Department will have the option to host the OpenScheduler on-site or use OpenScheduler as a hosted service provided by CAPSIT (online). If TPD chooses to host OpenScheduler on-site, there will be an installation and configuration cost of between \$1,000 - \$2,500, depending on the level of effort. This will be determined as part of the detailed design and a firm fixed price will be provided. This does not include the cost for any required hardware. If Torrance Police Department elects to use the hosted service provided by CAPSIT, then there would be no setup cost.

Annual Service Agreement: The annual service agreement cost is \$99/mo. (\$1,188 / year). This includes telephone and e-mail support, system monitoring, bug fixes and patches and all available upgrades / updates, including all enhancements made for other agencies.

Cost Summary:

Items 1 - 9: \$22,650 (31 days, plus \$2,500 detailed design)

Items 10 - 11: \$5,850 - \$14,950 (9 - 23 days)

Set-Up: \$0 - \$2,500

Annual Service Agreement: \$1,188 / yr.

EXHIBIT B**COMPENSATION SCHEDULE**

1. Upon execution of this agreement, CAPSIT will submit an invoice in the amount of \$30,000, to be paid by the City of Torrance as a lump-sum deposit on the first phase of development work, to include design, development, implementation, training, and other activities as described in Exhibit A.
2. Any funds remaining from the initial deposit at the end of the first phase of work will be applied toward annual service fees.
3. After the first phase of work, any subsequent activity will be approved by both parties in writing before the work commences, at the rate set forth in Exhibit A or in a separate writing signed by both parties.

EXHIBIT C

1) Definitions. The following terms have the following respective meanings:

The accompanying program is provided under the terms of this License Agreement, the CAPSIT License for Government Non-Commercial Use. The accompanying program is for use only by Government Entities and only for NON-COMMERCIAL USE. Any use of the CAPSIT Code Base constitutes Recipient's acceptance of this Agreement.

AGREEMENT BACKGROUND

The Center for Advanced Public Safety Information Technologies, Inc. ("CAPSIT") is committed to the belief that collaborative software results in better quality, greater technical and product innovation and a more empowered and productive community of end-users. CAPSIT has developed and continues to develop specifications and source code implementations of certain technology. CAPSIT desires to license this technology to a large and growing community of government entities to facilitate research, innovation and product development while maintaining compatibility of products with current and future technology as delivered by CAPSIT and with technology standards defined by various standard setting organizations.

Our objective is to ensure that the CAPSIT Code Base and the source code for improvements and innovations to it, remain free to the entire community. To further these beliefs and objectives, we are distributing the CAPSIT Code Base, without royalties and in source code form, to Recipient pursuant to this Agreement.

AGREEMENT TERMS

CAPSIT, Inc. and Recipient have agreed as follows:

- (a) CAPSIT Code Base means the original version of the software developed by CAPSIT and made available under this Agreement, including source code, object code and documentation, if any.
- (b) CAPSIT Community Code means the CAPSIT Code Base and Contributions.
- (c) Commercial Use means any use, directly or indirectly of CAPSIT Code Base and/or CAPSIT Community Code by Recipient, alone or bundled with any other software or hardware, for direct or indirect commercial or strategic gain or advantage.

(d) Contributions means

i) in the case of CAPSIT, the CAPSIT Code Base, and

ii) in the case of each Contributor, (x) changes to the CAPSIT Community Code and (y) additions to the CAPSIT Community Code

where such changes and/or additions to the CAPSIT Community Code originate from that particular Contributor. A Contribution 'originates' from a Contributor if it was added to the CAPSIT Community Code by such Contributor itself or anyone acting on such Contributor's behalf. Contributions do not include additions to the CAPSIT Community Code which: (i) are separate modules of software distributed in conjunction with the CAPSIT Community Code under their own license agreement, and (ii) are not derivative works of the CAPSIT Community Code.

(e) Contributor means CAPSIT and any other entity that provides Contributions to the CAPSIT Community Code.

(f) Government Entity means any agency, department or other instrumentality of federal, state or local government. This definition does not extend to private companies that are engaged in work activities normally performed by public employees.

(g) License means the license granted hereunder.

(h) Licensed Patents mean patent claims licensable by a Contributor which are necessarily infringed by the use or sale of its Contribution alone or when combined with the CAPSIT Community Code.

(i) Recipient means anyone who receives the CAPSIT Code Base under this agreement, including all Contributors.

(j) Source Code means the preferred form for making modifications to software, including all modules contained therein, any associated documentation, interface definition files and compilation or installation scripts, or any version thereof that has been compressed or archived, and can be reconstituted, using an appropriate and generally available archival or compression technology.

2) License Grant by CAPSIT. Subject to the terms and conditions hereof, CAPSIT hereby grants Recipient a non-exclusive, worldwide, limited, non-transferable, non-sublicensable, perpetual and royalty-free license (the License), to:

(a) use the CAPSIT Code Base, in either Source Code or machine-readable form on an unlimited number of users, client / server machines

(b) make modifications, corrections, additions and deletions to the content or structure of the CAPSIT Code Base

(c) create larger works or derivative works including the CAPSIT Code Base or any portion or element thereof

3) License Grant by Recipient if Recipient is or becomes a Contributor.

(a) Subject to the terms and conditions hereof, the Contributor hereby grants CAPSIT a non-exclusive, worldwide, royalty-free copyright license to reproduce, prepare derivative works of, publicly display, publicly perform, distribute and sublicense the Contribution of the Contributor, if any, and such derivative works, in source code and object code form.

(b) Subject to the terms of this Agreement, the Contributor hereby grants CAPSIT a non-exclusive, worldwide, royalty-free patent license under Licensed Patents to make, use, sell, offer to sell, import and otherwise transfer the Contribution of the Contributor, if any, in source code and object code form. This patent license shall apply to the combination of the Contribution and the CAPSIT Community Code if, at the time the Contribution is added by the Contributor, such addition of the Contribution causes such combination to be covered by the Licensed Patents. The patent license shall not apply to any other combinations which include the Contribution. No hardware per se is licensed hereunder.

(c) As a condition to exercising the rights and licenses granted hereunder, Recipient hereby assumes sole responsibility to secure any other intellectual property rights needed, if any.

(d) The Contributor represents that to its knowledge it has sufficient copyright rights in its Contribution, if any, to grant the copyright license set forth in this Agreement.

4) License Conditions. The grant of the License hereunder, and Recipient's exercise of all rights in connection with this Agreement, will remain subject to the following terms and conditions, as well as to the other provisions hereof:

- (a) Recipient hereby represents and warrants to CAPSIT that Recipient is a Government Entity.
- (b) The CAPSIT Code Base and CAPSIT Community Code cannot be used for commercial, for-profit purposes. Commercial Use of the CAPSIT Code Base and the CAPSIT Community Code is prohibited.
- (c) Other than the licenses expressly granted in this Agreement, CAPSIT retains all right, title, and interest in CAPSIT Code Base and CAPSIT Community Code.
- (d) Recipient agrees to provide all Contributions to CAPSIT within seven (7) days of the creation thereof and in any event, prior to use in a live environment, if applicable. CAPSIT may, at its discretion, post and/or incorporate Source Code for such Contributions in the CAPSIT Community Code.
- (e) All of Recipient's Contributions must include a file documenting the additions and changes Recipient made and the date of such additions and changes as well as an identification of the Contributor in a manner that reasonably allows CAPSIT to identify the originator of the Contribution.
- (f) Recipient may not sublicense, distribute or otherwise provide the CAPSIT Community Code to any other entity. If Recipient becomes aware of another entity that wishes to receive the CAPSIT Community Code, Recipient will promptly notify CAPSIT of same.
- (g) Recipient may not engage any third party for compensation, compensate any third party, or request or cause the compensation of any third party, for providing installation, maintenance, enhancement, customization, upgrade, development or any other services with respect to the CAPSIT Code Base or the CAPSIT Community Code, other than CAPSIT, except as otherwise expressly agreed in writing by CAPSIT. Recipient will engage, and request or cause the engagement of, only CAPSIT for any such services, except as otherwise expressly agreed in writing by CAPSIT.

5) Intellectual Property. Except as expressly provided herein, this Agreement preserves and respects Recipient's and CAPSIT's respective intellectual property rights, including, in the case of CAPSIT, its copyrights and patent rights relating to the CAPSIT Code Base. The License shall not be used or exercised, and the CAPSIT Code Base and the CAPSIT Community Code shall not be modified in any manner that shall directly or indirectly prejudice or damage any of CAPSIT's interests or result in the violation of any third party's patent, copyright or trademark rights. The Contributor hereby agrees to indemnify and hold harmless CAPSIT and any other affected Contributor against any such prejudice, damage or violation.

6) Warranty Disclaimer. THE SOFTWARE LICENSED HEREUNDER IS PROVIDED "AS IS." ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES OR CONDITIONS OF TITLE, ARE HEREBY DISCLAIMED. IN NO EVENT SHALL THE LICENSOR OF THIS SOFTWARE, BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES INCLUDING (BUT NOT LIMITED TO) PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. The Recipient is solely responsible for determining the appropriateness of using the CAPSIT Community Code and assumes all risks associated with its exercise of rights under this Agreement, including but not limited to the risks and costs of program errors, compliance with applicable laws, damage to or loss of data, programs or equipment, and unavailability or interruption of operations.

7) Miscellaneous. If any provision of this Agreement is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this Agreement, and without further action by the parties hereto, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.

If Recipient institutes patent litigation against any Contributor with respect to a patent applicable to software (including a cross-claim or counterclaim in a lawsuit), then any patent licenses granted by CAPSIT to Recipient under this Agreement shall terminate as of the date such litigation is filed. In addition, if Recipient institutes patent litigation against any entity (including a cross-claim or counterclaim in a lawsuit) alleging that the CAPSIT Community Code itself (excluding combinations of the CAPSIT Community Code with other software or hardware) infringes Recipient's patent(s), then Recipient's rights granted under Section 2 shall terminate as of the date such litigation is filed.

All Recipient's rights under this Agreement shall terminate if it fails to comply with any of the material terms or conditions of this Agreement and does not cure such failure in a reasonable period of time after becoming aware of such noncompliance. If all Recipient's rights under this Agreement terminate, Recipient agrees to cease use of the CAPSIT Community Code as soon as reasonably practicable. However, Recipient's obligations under this Agreement shall continue and survive.

CAPSIT may publish new versions (including revisions) of this Agreement from time to time. Each new version of the Agreement will be given a distinguishing version number. No one other than CAPSIT has the right to modify this Agreement. Except as expressly stated in Section 2 above, Recipient receives no rights or licenses to the intellectual property of any Contributor under this Agreement, whether expressly, by implication, estoppel or otherwise. All rights in the CAPSIT Community Code not expressly granted under this Agreement are reserved.

This Agreement is governed by the laws of the State of California and the intellectual property laws of the United States of America.

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