



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

45

2. Council Meeting Date:

June 14, 2007

TO: MAYOR & COUNCIL

3. Date Prepared: May 30, 2007

THROUGH: CITY MANAGER

4. Requesting Department: City Manager

5. SUBJECT: Approval of an agreement for annual support, software upgrade and maintenance on the Cardiff Teleforms component of the Electronic Data Management System (EDMS) with Binary Office Inc. in an amount not to exceed \$54,020.

6. RECOMMENDATION: Recommend approval of an agreement for annual support, software upgrade and maintenance on the Cardiff Teleforms component of the Electronic Data Management System (EDMS) with Binary Office Inc. in an amount not to exceed \$54,020.

7. HISTORICAL BACKGROUND/DISCUSSION: The Cardiff Teleforms component of the Electronic Data Management System (EDMS) is in use in critical document management solutions in the City. It enables documents such as sales tax returns to be scanned and data to be recognized and automatically processed into software applications. This provides for highly efficient processing of customer documents.

8. EVALUATION PROCESS: Binary Office Inc. is the only authorized reseller of Teleform software in the State of Arizona. Because of Binary's knowledge of the City's EDMS system and workflow, they are being recommended as the support and maintenance provider.

9. FINANCIAL IMPLICATIONS: Funds are available for this project from the following accounts:
101.1280.0000.5419.ITAPPS General Funds, IT Infrastructure & Client Support, Other Equipment Maintenance R&M, IT Oracle and Miscellaneous Applications \$9,560;
101.1200.0000.6316.ITAPPS General Funds, IT Oracle and Miscellaneous Applications, Computer Software, IT Oracle and Miscellaneous Applications \$17,100;
101.1200.0000.5219.ITAPPS General Funds, IT Oracle and Miscellaneous Applications, Other Professional/Contract Services, IT Oracle and Miscellaneous Applications \$27,360

10. PROPOSED MOTION: Move to approve an agreement for annual support, software upgrade and maintenance for the Cardiff Teleforms component of the Electronic Data Management System (EDMS) with Binary Office Inc. in an amount not to exceed \$54,020.

APPROVALS

11. Requesting Department

Kevin McManus, Oracle Applications Manager

12. Department Head

Patrick Hait, Acting Chief Information Officer

13. Procurement Officer

Carolee Stees, CPPB (for)

14. City Manager

W. Mark Pentz

CITY OF CHANDLER
PROFESSIONAL SERVICES AGREEMENT

Project Name: TeleForm Upgrade, Support & Maintenance

THIS AGREEMENT is made and entered into this _____ day of May, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Binary Office, Inc., hereinafter referred to as "CONSULTANT".

WHEREAS, the Mayor and City Council of the City of Chandler is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

WHEREAS, CONSULTANT represents that CONSULTANT has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR

- 1.1. To provide the professional services required by this Agreement CONSULTANT shall act under the authority and approval of the IT Coordinator or designee, (the Contract Administrator), who shall oversee the execution of this Agreement, assist the CONSULTANT with any necessary information, audit billings, and approve payments. The CONSULTANT shall channel reports and special requests through the Contract Administrator.
- 1.2. CITY reserves the right to review and approve any/all changes to CONSULTANT'S key staff assigned to the CITY project by the firm during the term of this Agreement.
2. **SCOPE OF WORK:** CONSULTANT shall provide those services described in Exhibit A attached hereto and made a part hereof by reference.
3. **ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by CITY to determine acceptable completion. All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Agreement, shall be and remain the property of CITY and shall be delivered to CITY before final payment is made to CONSULTANT.
4. **FEE SCHEDULE:** For the services described in paragraph 2 of this Agreement, CITY shall pay CONSULTANT a one-time fee not to exceed the sum of Seventeen Thousand Ninety-nine dollars (\$17,099.28) in accordance with the fee schedule attached hereto as Exhibit B and incorporated herein by reference.

CITY shall pay CONSULTANT an annual fee not to exceed the sum of Fourteen Thousand Four Hundred Seventeen dollars (\$14,417.80) in accordance with the fee schedule attached hereto as Exhibit B and incorporated herein by reference.

CITY shall pay CONSULTANT a fee of Fifteen Hundred dollars (\$1,500.00) per day (8 hours minimum) for additional consulting services on an as-needed basis not to exceed \$22,500.00 annually in accordance with the fee schedule attached hereto as Exhibit B and incorporated herein by reference.

5. **TERM:** The term of this agreement shall be June 1, 2007 through May 31, 2008 and shall have four (4) one-year options to extend if mutually agreeable.
6. **TERMINATION:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONSULTANT shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subconsultants to cease such work. As compensation in full for services performed to the date of such termination, the CONSULTANT shall receive a fee for the percentage of services actually completed.
7. **INDEMNIFICATION:** The Consultant agrees to indemnify, defend, and save harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively; from all losses, claims, suits, actions, payments and judgments, demands, expenses, attorney's fees, defense costs, or actions of any kind and nature resulting from personal injury to any person, including employees of the Consultant or of any Sub Consultant employed by the Consultant (including bodily injury and death) or damages to any property, arising or alleged to have arisen out of the negligent performance of the Consultant for the work to be performed hereunder, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
8. **INSURANCE REQUIREMENTS:** CONSULTANT shall provide and maintain the insurance as listed in Exhibit C attached hereto and made a part hereof by reference.
9. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives of each party.
10. **CANCELLATION FOR CONFLICT OF INTEREST.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
11. **ARIZONA LAW:** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
12. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of City:
City of Chandler
Purchasing Division
P.O. Box 4008, Mail Stop 901
Chandler, AZ 85244-4008
480.782. 2400

In the case of CONSULTANT:
Binary Office, Inc.
John Bergquist
4368 N. Civic Center Plaza #101
Scottsdale, AZ 85251
480-970-6900

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this day of May 2007.

CITY OF CHANDLER

CONSULTANT

Mayor Date

By: _____
Title: _____

APPROVE AS TO FORM

ATTEST: If Corporation

City Attorney

Secretary

ATTEST:

City Clerk

SEAL

To: *Monique Bond*

In the case of City:
City of Chandler
Purchasing Division
P.O. Box 4008, Mail Stop 901
Chandler, AZ 85244-4008
480.782. 2400

In the case of CONSULTANT:
Binary Office, Inc.
John Bergquist
4368 N. Civic Center Plaza #101
Scottsdale, AZ 85251
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Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this day of May 2007.

CITY OF CHANDLER

CONSULTANT

Mayor Date

By: *John E. Bergquist 6/5/07*
Title: *Vice President Sales & Marketing*

APPROVE AS TO FORM

ATTEST: If Corporation

City Attorney

Kenneth Carleno
Secretary

ATTEST:

City Clerk

SEAL

EXHIBIT A SCOPE OF WORK

TeleForm v10 Upgrade

Binary Office shall provide the following software module upgrades:

- TeleForm Upgrade: 1 each PRODUCTION System SN#702862 v8 Enterprise to v10 Wkgrp Perpetual.
 - TeleForm Upgrade: 3 each v8 Verifier to v10 Verifier. Perpetual license.
 - TeleForm Upgrade: 2 each v8 TeleForm Scanstation to v10 Scanstation.
- TeleForm Upgrade: TEST System SN#704134 v8 Enterprise to v10 Wkgrp Perpetual.

Binary Office will also provide ½ day of training on the new v10 features and ½ day of onsite assistance with the migration and installation of the v10 software modules above at NO CHARGE.

TeleForm Technical Support

Binary Office shall provide first line support under this Technical Support Plan to include support via telephone, email, fax, and remote connection tools (if allowed). When problem resolution is not possible via the above avenues, Binary Office shall provide on-site resolution at no additional charge under this Technical Support Plan (travel expenses are not included outside metro Phoenix). Technical Support Plan clients shall receive priority over pay-as-you-go clients should a scheduling conflict arise.

Binary Office Technical Support Plan shall cover support in the following areas:

- TeleForm software problem diagnosis.
- TeleForm application support
 - Software and Scanner Interfaces (for Scanners purchased through Binary Office)
 - If a Scanner problem is discovered, Intrepid, Kodak or the then current service provider's technician will be dispatched if an on-site scanner maintenance contract has been purchased.
- TeleForm Scripting Support
 - Form exports developed by Binary Office
 - Image exports developed by Binary Office
 - Custom validations developed by Binary Office
 - Database integration developed by Binary Office
- Integration of TeleForm with back office
 - Custom integrations such as data capture and image-enabling
 - Reports designed and built by Binary Office
 - Custom components designed and built by Binary Office
- Software Update Application/Installation
 - Binary Office will coordinate and apply (remotely) all minor revision software updates and hot fixes for the customer at no additional charge (major upgrades are not included and must be contracted on a case-by-case basis).
- Supported Configurations
 - City must maintain software configurations and installations that comply with manufacturers' requirements (running hardware or software in an unsupported configuration will not be covered under this agreement).
- Support Issues deemed to be with manufacturers' software will be coordinated with the manufacturer by Binary Office, and that manufacturer's support terms will then apply. Binary Office will manage these issues with the manufacturer to assure resolution is as quickly as possible and will provide regular updates on progress.
- Training of City personnel is not included - any training or retraining must be contracted separately.
- Work related to making TeleForm accomplish a particular process or changing an existing process is not included and must be contracted separately.

Binary Office Response Time

- Support shall be provided during normal business hours (Monday – Friday, 8:00 am – 5:00 pm, excluding the following Holidays: Christmas Eve, Christmas Day, Thanksgiving Day, New Years Eve, New Years Day, Labor Day, Memorial Day, July 4th). Off-hour support, if necessary, must be arranged in advance and may be at additional expense with rate to be determined.
- High Priority Issues (System Is down): Binary Office shall make the initial response to a support request within 2 hours of requesting support. Support will be by Phone, Fax, or Remote (see exceptions – hours are within normal business hours – a support request made at 3:00 pm may not receive an initial response until the next business day). If issues cannot be resolved using these methods, Binary Office shall provide On-site support to Phoenix area customers, and for others, at contract travel /per diem rates with schedule to be mutually established.
- General support: Binary Office shall respond to support requests within 4 hours of request (hours are within normal business hours).
- Required Software fixes: Binary Office shall manage issues that require manufacturer's resources and will provide updates on status.
- Non-Software fixes (form scripting, custom integration, reports) shall be completed by Binary Office within 1 business day of request. If an issue cannot be fixed within that time frame, Binary Office shall provide regular updates on the status.

TeleForm Software Maintenance

The TeleForm Software Maintenance Plan provides software major upgrades, point releases and fixes. It includes:

- Major upgrades, point releases, and fixes included
 - The general guidelines Manufacturers use when determining release plans is to provide one major release every 12 to 24 months with one to two minor releases between major releases. Patch releases occur as necessary. Releases are available via CD or download from secure FTP site. Each release includes an installation guide which guides the administrator through the installation process. An installation setup program is provided with every release which automates the installation of the new software. Typically installing new releases does not impact existing configuration files, however, there may be some database changes required to take advantage of new features. Under Binary Office's Technical Support Plan (described above), Binary Office will apply minor upgrades and fixes (locally or remotely), at no charge.
 - Manufacturers provide three types of software releases:
 - Major Releases introduce important new features or significantly enhance existing product features. These releases are made available on a product-by-product basis approximately every 12-24 months during the life of a product. The first digit of the version number signifies the major release level.
 - Minor Releases provide bug fixes and may also include other fixes or modifications that enhance product functionality. These releases are made available on a product-by-product basis approximately every 6 to 12 months during the life of a product. The second and third digits of the version number signify the minor release level.
 - Patches provide emergency fixes to one or more critical customer problems. They are produced on an as-needed basis and are only distributed to customers reporting the specific problem(s). If Manufacturers discover a severe problem after a product has shipped, potentially affected customers are alerted with instructions on how to obtain and apply the necessary patch. Patches undergo minimal testing and are intended to be used only until the next regular release of the product is available.

- **Manufacturers' knowledge bases** - These robust databases are dynamic, growing repositories of useful information - answers to common questions, as well as tips from users, developers and support personnel.
- **Self-Help Resources** - Manufacturers' websites include extensive technical documentation, compatibility guides, user manuals, technical bulletins, and release supplements.

**EXHIBIT B
FEE SCHEDULE**

Teleform v10 Upgrade

CONSULTANT shall be paid a one-time fee not to exceed \$17,091.36 for the TeleForm v10 upgrade as detailed below, upon receipt of invoice.

SN #702862 v8 Enterprise to v10 Workgroup Perpetual	1 ea	\$7,200.00	\$ 7,200.00
V8 Verifier to v10 Verifier Perpetual license	3 ea	\$1,800.00	\$ 5,400.00
V8 TeleForm Scanstation to v10 Scanstation	2 ea	\$ 900.00	\$ 1,800.00
Test System SN #704134 v8 Enterprise to v10 Workgroup Perpetual	1 ea	\$3,600.00	\$ 3,600.00
Less Discount			<u>(2,160.00)</u>
Subtotal			\$15,840.00
Sales Tax			<u>\$ 1,259.28</u>
Total			\$17,099.28

Teleform Annual Technical Support and Software Maintenance

CONSULTANT shall be paid annually in advance an amount not to exceed \$14,417.80 for annual technical support and software maintenance as detailed below.

Annual Technical Support – Tax & License Dept.	1 ea	\$2,430.00	\$ 2,430.00
Annual Technical Support – Environmental Mgt.	1 ea	\$2,430.00	\$ 2,430.00
Annual Software Maintenance for Production Teleform	1 ea	\$7,200.00	\$ 7,200.00
Annual Software Maintenance for Test Teleform	1 ea	\$1,800.00	\$ 1,800.00
Less Discount			<u>(504.00)</u>
Subtotal			\$13,356.00
Sales Tax			<u>\$ 1,061.80</u>
Total			\$14,417.80

Optional Consulting Services

CONSULTANT shall be paid \$1,500.00 per day (8 hours minimum) for up to 15 days on an as-needed basis for any additional consulting services not to exceed \$22,500 annually.

No travel or per diem expenses apply to this agreement.

**EXHIBIT C
INSURANCE REQUIREMENTS**

1. CONSULTANT, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
2. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
3. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
4. If any of the insurance policies are not renewed prior to expiration, payments to the CONSULTANT may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CONSULTANT.
5. All insurance policies, except Workers' Compensation and Professional Liability required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
6. CONSULTANT's insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
7. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONSULTANT's acts, errors, mistakes, omissions, work or service.
8. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONSULTANT. CONSULTANT shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CONSULTANT to secure payment of such deductibles or self-insured retentions by a Surety Bond or an Irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will only be accepted with the permission of the Management Services Director/designee.
9. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
10. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONSULTANT with reasonable promptness in accordance with the CONSULTANT's information and belief.
11. In the event that claims in excess of the Insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any

portion thereof, may be withheld from payment due or to become due the CONSULTANT until such time as the CONSULTANT shall furnish such additional security covering such claims as may be determined by the CITY.

C.1 PROOF OF INSURANCE - CERTIFICATES OF INSURANCE

1. Prior to commencing work or services under this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance, issued by CONSULTANT's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
2. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
3. All Certificates of Insurance shall identify the policies in effect on behalf of CONSULTANT, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
4. CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CONSULTANT of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONSULTANT from, or be deemed a waiver of CITY's right to insist on, strict fulfillment of CONSULTANT's obligations under this Agreement.

C.2 REQUIRED COVERAGE

1. Such insurance shall protect CONSULTANT from claims set forth below which may arise out of or result from the operations of CONSULTANT under this Contract and for which CONSULTANT may be legally liable, whether such operations be by the CONSULTANT or by a Sub-consultant or subConsultant or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
2. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
3. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Consultant's employees;
4. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Consultant's employees;
5. Claims for damages insured by usual personal injury liability coverage;
6. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
7. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at

least as broad as Insurance Service Office, Inc., coverage Code "1" "any auto" policy form CA00011293 or equivalent thereof.

8. Claims for bodily injury or property damage arising out of completed operations;
9. Claims involving contractual liability insurance applicable to the Consultant's obligations under the Indemnification Agreement;
10. Claims for injury or damages in connection with one's professional services;
11. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

C.2.1 Commercial General Liability - Minimum Coverage Limits

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$1,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CONSULTANT's operations and products, and completed operations.

C.2.2 General Liability - Minimum Coverage Limits

The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent Consultants, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$1,500,000 aggregate.

C.2.3 Worker's Compensation and Employer's Liability

CONSULTANT shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONSULTANT's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$500,000 for each accident, \$500,000 disease coverage for each employee, and \$500,000 disease policy limit.

In case any work is subcontracted, CONSULTANT will require the SubConsultant to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONSULTANT.

C.2.4 Professional Liability N/A

CONSULTANT shall maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by DESIGN CONSULTANT, or any person employed by CONSULTANT, with a claims made policy limit of not less than \$1,000,000.