



**PURCHASING ITEM  
FOR  
COUNCIL AGENDA**

1. Agenda Item Number:

26

2. Council Meeting Date:  
August 9, 2007

TO: **MAYOR & COUNCIL**

3. Date Prepared: June 29, 2007

THROUGH: **CITY MANAGER**

4. Requesting Department: Planning and  
Development

5. **SUBJECT:** Approval of a sole source agreement for annual maintenance on the InspecTrack and the VoicePermits systems from Selectron Technologies in an amount not to exceed \$15,200.

6. **RECOMMENDATION:** Recommend approval of a sole source agreement for annual maintenance on the InspecTrack and the VoicePermits systems from Selectron Technologies in an amount not to exceed \$15,200.

7. **HISTORICAL BACKGROUND/DISCUSSION:** In 1999 the City purchased the InspecTrack software from M-Track Software, Inc. This program integrates with the permitting system to streamline the development process. Inspectors collect data in the field electronically and upload it to PermitsPlus, providing current inspection information. The VoicePermits IVR that enables customers to schedule inspections by telephone was purchased in 2001 from Selectron Technologies, Inc. Since that time Selectron has purchased the InspecTrack software from M-Track. This contract covers annual maintenance for both systems.

8. **EVALUATION PROCESS:** The Planning and Development Department is requesting to continue this service, which is available only through Selectron. Because the software is proprietary to Selectron, there are no other providers available for the maintenance services.

9. **FINANCIAL IMPLICATIONS:** Funding for this maintenance agreement is budgeted in account 101.1530.0000.6316 (Development Services Computer Software).

10. **PROPOSED MOTION:** Move to approve a sole source agreement for annual maintenance on the InspecTrack and the VoicePermits system from Selectron in an amount not to exceed \$15,200, per staff recommendation.

**APPROVALS**

11. Requesting Department

Paula Moore, Senior Management Assistant

12. Department Head

Doug Ballard

13. Procurement Officer

Carolee Stees, CPPB

14. City Manager

W. Mark Pentz

**RECEIVED**

JUL 18 2007

**Planning & Dev.**

## Selectron Technologies, Inc.

### Support and Maintenance Agreement

This Support and Maintenance Agreement (this "Agreement") is entered into upon commencement of the Warranty between Selectron Technologies, Inc. ("Company") and the City of Chandler, Arizona ("Customer").

For the fees specified below, Company will provide to Customer support and maintenance for the Products, as outlined below and as set forth in Exhibit A and Exhibit B, for the term of the Agreement.

#### 1. Term:

a) The Term of this Agreement shall commence upon the issuance of the Second Invoice (as that term is defined in the Professional Services Agreement, Ex. A) of the Company product(s) to which this Agreement relates (the "Products"), and shall end on the last day of the twelfth month. A list of the Products is attached as Exhibit A and Exhibit B.

b) If this Agreement is entered into after the commencement of the Warranty or subsequent support periods, the Customer will be charged for the entire Term beginning on the Warranty Date.

#### 2. Renewal:

a) The Term of this Agreement will automatically renew for successive terms of one year each unless either party gives written notice of non-renewal prior to thirty (30) days before the end of the then-current term.

b) The Customer shall maintain continuous coverage of its support contracts in order to be eligible for telephone support, and other services provided hereunder. If this Agreement is not renewed and the Customer later decides to reinstate support services, the Customer must pay all fees that would otherwise have been paid had this Agreement been renewed without interruption.

c) The Customer may request concurrent expiration dates for support agreements purchased at different times of the year. The Customer must work directly with Company to adjust (prorate) their support coverage so the terms of all such agreements expire concurrently.

**3. Termination:** This Agreement may be terminated by either party upon ninety (90) days written notice to the other party. Upon termination by Company without cause or by Customer for material breach, Company will refund any fees paid for months subsequent to termination.

**4. Fees:** The Customer shall prepay Company an annual fee for the support services as set forth in Exhibit A and Exhibit B.

**5. Support Services:** Company shall provide customer support for technical problems that occur when using the Products. This Agreement does not include support of the following items:

- a) Altered or modified Software not performed by Company.
- b) Errors caused the Customer's negligence, or other causes beyond Company's reasonable control.
- c) Version Upgrades of Third Party Software not provided by Company.
- d) Enhancements or modifications to current versions performed at the Customer's request and not intended to resolve a product failure.

Company Software Developers will directly handle the Customer issues outlined in the following levels of support.

#### 6. Support and Maintenance:

##### Premier Support

The fee for Premier Support includes:

- a. Telephone Support for installation and general use questions during normal business hours (6:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday).
- b. Use of Company's Toll Free Number
- c. On-Line technical diagnostic support
- d. Software correction upgrades
- e. 1 business day relief goal
- f. 24 Hours, 7 days per week, 365 days per year support for emergency (system down or inoperable) calls

Non-emergency calls made after normal business hours will be billed at an hourly rate of 1.5 times the current day labor rate, with a two hour minimum charge.

**7. Hardware Maintenance.** Company, at its sole discretion, may use new or refurbished parts for the repair or replacement of any Company provided Hardware.

**8. Customer Warranty:** Customer shall perform all necessary preventative maintenance as outlined in Company's Administrative Guide. If Customer's failure to perform the required preventative maintenance is determined, in Company's reasonable discretion, to be the cause of any support call, Customer will be billed at the current hourly rate.

**9. Response Times:** Non-emergency support calls will be responded to within one business day, however most calls are handled within two hours of receipt. For Premier Support during non-business hours, an answering service takes all support calls. Calls that are placed as an emergency (system down or inoperable) will be dispatched to the on-call support staff for response within four hours. Non-emergency calls will be directed to support personnel, and will be responded to the next business day.

**10. Customer Contacts:** Three customer support contacts are allowed. Additional contacts may be added at any time for an additional \$500.00 per contact. Only Customer's customer support contacts may contact Company for support services.

Customer's customer support contacts are as set forth on Exhibit A and Exhibit B. Customer may change its customer support contacts upon 30 days written notice to Company.

**11. Warranty Disclaimer:** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE PROVIDED TO CUSTOMER "AS IS" AND COMPANY AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. This limitation on liability is made regardless of whether Company knows or had a reason to know of Customer's particular needs. No employee, agent, dealer or distributor of Company is authorized to modify this limited warranty, or make any additional warranties.

**12. Limitation of Liability:** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT. COMPANY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES PROVIDED HEREUNDER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO COMPANY HEREUNDER. CUSTOMER

ACKNOWLEDGES THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT COMPANY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

**13. Limited Remedy:** If Company materially fails to perform its obligations under this Agreement, and such failure results in downtime of the relevant hardware and software that exceeds 48 hours, Customer's sole remedy, and Company's entire liability, shall be a pro rata refund for the services ("Downtime Credit"). In order to receive a Downtime Credit, the Customer must notify Company in writing within 7 days from the time of Downtime. In no event shall any Downtime Credit or the total cumulative damages for a breach of this Agreement by Company be more than the amounts previously paid by Customer under this Agreement in the 12 month period immediately preceding the Downtime Credit or breach.

**14. Severability:** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, Customer agrees that Sections 12 and 13 will remain in effect notwithstanding the unenforceability of any provision in Section 11.

**15. Force Majeure:** Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

**16. Independent Contractors:** The relationship between Customer and Company is that of an independent contractor, and neither party is an agent or partner of the other. Customer or Company will not have, and will not represent to any third party that it has, any authority to act on behalf of either party.

**17. Applicable Law:** This Agreement will be governed by the laws of the State of Arizona. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement must be brought in the federal or state court located in Maricopa County, Arizona.

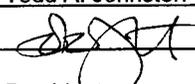
**18. Attorney's Fees:** In the event of litigation between Customer and Company concerning this Agreement, the prevailing party in the litigation shall be entitled to recover attorneys' fees and expenses from the losing party.

**19. Survival.** Sections 11, 12, 13, 14, 16, 17, 18, 19 and 20 will survive expiration or termination of this Agreement

**20. Entire Agreement:** This Agreement and the attached Addendum, which are incorporated herein

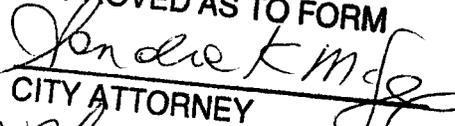
by reference, constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms on any purchase order or similar document submitted by Customer to Company will have no effect.

**Selectron Technologies, Inc.**

By: Todd A. Johnston  
Signed:   
Title: President  
Date: 6/20/07  
Address: 7405 SW Tech Center Drive, Suite 140  
Portland, OR 97223

**Customer**

By: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO FORM  
  
CITY ATTORNEY  


## EXHIBIT A

### Pricing

Support Level:  Premier

Effective Dates: 12-Month Warranty begins at the completion of on-site installation

Annual Cost: Warranty included in Professional Services Agreement

Extended Maintenance Estimate:

Item	Dates covered	Amount	Payment Due Date
InspecTrack - Bldg	September 1, 2007 to August 31, 2008	\$8,876.00	August 15, 2007
InspecTrack - Bldg	September 1, 2008 to August 31, 2009	\$9,400.00	August 15, 2008
InspecTrack – Bldg	September 1, 2009 to August 31, 2010	\$9,870.00	August 15, 2009

#### Notes:

- Maintenance amounts for future periods are estimates, and do not include increases to reflect additional functionality purchased.
- Maintenance estimates for future periods are not a guarantee that annual support agreements will be offered. You will receive a minimum of 12 months notice of discontinuance of annual support agreements.

### Products and Licenses

**One (1) InspecTrack Version 4.0 Server Upgrade License**

**Twenty (20) InspecTrack Version 4.0 Client Licenses**

### Upgrade Integration and Implementation Services

#### Development Services

This includes configuration of the InspecTrack Server components and developer level integration with your host software. Functionality to be delivered will be according to the Statement of Work for InspecTrack 4.0 Mobile Inspection System.

#### **InspecTrack Host Computer (Summary)**

Intel® Xeon™ Processor 2.40GHz/533MHz	Microsoft™ Windows® 2000 Server
768 MB RAM	Remote Access Software
80 GB hard drive, RAID I	Microsoft SQL Server
CD ROM, 56K Modem, Network Card	

### Customer Support Contacts

## EXHIBIT B

### Pricing

Support Level:  Premier

Effective Dates: 12-Month Warranty begins at the completion of on-site installation

Annual Cost: Warranty included in Professional Services Agreement

Extended Maintenance Estimate:

Item	Dates covered	Amount	Payment Due Date
VoicePermits	September 1, 2007 to August 31, 2008	\$6,324.00	August 15, 2007
VoicePermits	September 1, 2008 to August 31, 2009	\$6,640.00	August 15, 2008
VoicePermits	September 1, 2009 to August 31, 2010	\$6,972.00	August 15, 2009

Notes:

- Maintenance amounts for future periods are estimates, and do not include increases to reflect additional functionality purchased.
- Maintenance estimates for future periods are not a guarantee that annual support agreements will be offered. You will receive a minimum of 12 months notice of discontinuance of annual support agreements.

### Products and Licenses

#### Products and Licenses

##### Workstation (Summary):

Industrial-Grade PC  
512 MB RAM, 10.1 GB hard drive  
Large ISA / PCI Slot back plain  
RAID 1  
Microsoft Access Software  
12 Voice Ports

Intel Pentium III 650 CPU  
CD ROM, 56K Modem, Network Card  
300-Watt Hot Swappable Power Supply  
Microsoft Windows NT  
Remote Access Software

##### Voice Permits™ Software

Schedule an Inspection  
Re-schedule an Inspection  
Post Inspection Results  
Speak Site Address  
Spanish Language

Cancel an Inspection  
Obtain Inspection Results  
Permit Based Messaging  
12-Port user license

### Customer Support Contacts

## Customer Support Contacts

Company Name: City of Chandler

Address: 215 E Buffalo Street, Chandler, Arizona 85225

Contact: Kyle McMaster      Email: [kyle.mcmaster@chandleraz.gov](mailto:kyle.mcmaster@chandleraz.gov)      Telephone: 480-782-3005

Contact: Greg Melgosa      Email: [greg.melgosa@chandleraz.gov](mailto:greg.melgosa@chandleraz.gov)      Telephone: 480-782-3008

Contact: Paula Moore      Email: [paula.moore@chandleraz.gov](mailto:paula.moore@chandleraz.gov)      Telephone: 480-782-3003

Group Email for all three contacts: \_\_\_\_\_