

This License and Service Agreement (this Agreement") is made by and between Bowman Systems L.L.C. (hereinafter referred to as "Bowman"), with a permanent address of 333 Texas Street, Suite 300, Shreveport, Louisiana 71101 and the City of Long Beach, California, (hereinafter referred to as "City") with a permanent address of 333 West Ocean Blvd., Long Beach, CA 90802.

In consideration of the premises and in further consideration of the performance of the terms and provisions herein contained, Bowman and City do hereby contract and agree as follows:

(1) Term and Termination.

- a. **Term.** The initial term of this Agreement shall be for a period of three (3) years, commencing on August 1, 2008 (the "Effective Date"); provided that the City shall only commit to the Agreement during the initial term in one (1) year increments with said annual increments contingent upon the City receiving funding from the U.S. Department of Housing and Urban Development ("HUD"). Should the City not receive its annual HUD funding, the City may terminate this Agreement without penalty.
- b. **Notice and Opportunity to Cure.** In the event either party breaches the term of this Agreement, the non-breaching party shall provide written notice to the breaching party of an Event of Default and shall provide an opportunity to cure the Event of Default within the time periods specified below, if any. In the event a longer period is required to complete a cure, the parties may agree to extend such time periods provided that the breaching party has commenced and continues to cure within the extended time period.
- c. **Termination by Bowman.** Bowman may terminate this Agreement and the Licenses granted herein upon the following Events of Default by the City:
 - i. The City's material breach of or default under any provision of this Agreement, or the attachments or exhibits made a part hereof, after Bowman's prior written notice of the specific grounds for breach or default and the City fails to cure the default within fifteen (15) working days of the receipt of such notice;
 - ii. Immediately upon the City's violation of any Intellectual Property provision of this Agreement that threaten the confidentiality, integrity or proprietary nature of Bowman's Intellectual Property;
 - iii. The City's breach of any Terms of Use Section of any Software Program, after Bowman's prior written notice of the specific grounds for breach or default and the City fails to cure the default within fifteen (15) working days of the receipt of such notice;
 - iv. In the event of a breach by any approved End User of the Software Program of provisions (i) or (iii), above, if the City fails to terminate the rights of the End User to the Software Program within fifteen (15) working days of receipt of notice from Bowman; or
 - v. Expiration of initial term or the final extension term (if exercised).
- d. An End User License granted herein shall terminate immediately upon any breach by said End User of the end user license or Terms of Use Section of any Software Program.

- e. Upon termination or expiration of this Agreement, all rights granted to City under this Agreement shall terminate and revert immediately to Bowman and City shall immediately:
 - i. Discontinue all use of the Software Products;
 - ii. Pay in full all outstanding amounts owed to Bowman;
 - iii. Terminate all use of the Software Products thereof by any and all End Users;
 - iv. Uninstall all Software Programs from its server; and
 - v. Transmit to Bowman all materials related to the Software Products, and return all documents, writings, drawings, graphs, charts, photographs, tape recordings, computer application files, disc drives, diskettes, tapes, compact discs, e-mail, or other media, and data compilations in whatever form recorded or stored from which information can be obtained and or translated if necessary, through detection devices, into reasonably usable form and any reproductions thereof that contain copies of Bowman's Intellectual Property.
- f. Upon termination or expiration of this Agreement, Bowman shall return all City Data to the City in a .csv or .xml format as mutually agreed upon. "City Data" shall mean and refer to any and all information placed onto the database by the City or the City's End Users pursuant to this Agreement, which shall be and remain the exclusive property of the City or the City End Users or clients thereof.
- g. "Software Programs" mean the software applications and databases of ServicePoint™, CommunityPoint™, and Advanced Report Tool licensed for use by City from Bowman from time to time under this Agreement and includes any updates, modifications or improvements made to such software and applications. "Software Products" mean collectively the Software Programs, together with all tangible descriptions of the functionality and use of the Software Programs ("Documentation") and Know-How (defined below), licensed for use by City from Bowman from time to time under this Agreement and includes any updates, Modifications or improvements made thereto.

(2) Services. Bowman will provide implementation and support of associated application for City to include services listed and in accordance to the specifications set forth in the Pricing Table, attached hereto as Exhibit "A" and by this reference made a part hereof.

(3) Fees. City agrees to pay Bowman the fees, payments and expenses set out in Pricing Table, for the creation and implementation of the program described in the Pricing Table. City shall pay an invoice within forty-five (45) days of receipt, subject to the City's receipt of the deliverables hereunder. Included on the Pricing Table will be the schedule for additional optional services which the City may elect to obtain during the term of this Agreement. Payment terms are listed in the "Pricing Table." All additional user licenses purchased for the system during the term of this contract and all ongoing annual support costs during the term of this contract will be available at the rate specified in the 'Pricing Table'. Renewal fees will be in accordance with the Bowman published pricing for said services.

(4) Warranties. Bowman warrants to City that during the ninety (90) days following completion of launch and functional use by End Users of the live ServicePoint™ application, the Software Programs licensed herein will perform substantially in accordance with Bowman's applicable product documentation in all material respects. If the Software Programs fail to conform to such warranty, City immediately must notify Bowman in writing of the critical errors, identifying with specificity what errors or problems City has encountered. As City's sole and exclusive remedy for such failure, Bowman will repair the software at no cost to City according to that Service Level Agreement attached hereto as Exhibit "B" and made a part hereof. In the event Bowman is unable to repair the software, this Agreement will terminate, the licenses herein granted shall terminate, a pro-rata portion of the Fees (prorated over the warranty period) shall be refunded, and City shall be under no further obligation for the remaining fees that otherwise would be due hereunder, however, City in no event, shall be entitled to a return of the implementation and training costs already incurred and

shall remain obligated for the payment of and immediately must remit payment for all implementation and training costs not previously paid AFTER EXPIRATION OF THE 90-DAY WARRANTY PERIOD, THE FOLLOWING APPLIES: IN THE EVENT OF LOSS OF DATA DUE TO ERRORS AND OR NEGLIGENCE ON THE PART OF BOWMAN, BOWMAN WILL CORRECT PROGRAM ERROR IN A TIMELY FASHION AT NO ADDITIONAL COST TO CITY. CITY FIRST MUST PROVIDE BOWMAN WRITTEN NOTIFICATION OF ANY DEFECTS IN THE SOFTWARE AND MUST REPRODUCE ANY ALLEGED DEFECT SO THAT IT CAN BE VERIFIED THAT THE DEFECT IS A GENUINE PROGRAM ERROR OR FAULT. OTHER THAN HEREIN ABOVE DESCRIBED, BOWMAN MAKES NO EXPRESS OR IMPLIED WARRANTIES AND MAKES NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL BOWMAN BE LIABLE FOR INDIRECT, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES. BOWMAN SHALL NOT BE RESPONSIBLE FOR LOSS OF DATA NO MATTER HOW CAUSED AND INCLUDING WITHOUT LIMITATION RESULTING FROM DELAYS, NON-DELIVERIES, MIS-DELIVERIES, SERVICE INTERRUPTIONS, OR OTHER INTERRUPTIONS CAUSED BY CITY OR ANY OTHER PERSON OR ENTITY.

- (5) **ServicePoint™ License.** Expressly subject to the terms and conditions of this Agreement, the associated End User License Agreements (as those may change from time to time), and the full payment of the Fees for each license as stated on the Pricing Tables, Bowman hereby grants City the following non-exclusive, nontransferable, non-assignable, and terminable licenses for the Term:
- a. **ServicePoint™ Software License.** Bowman hereby grants City a license to use the ServicePoint™ software and the right to designate those individuals or collective groups of individuals (such as agencies), up to the number permitted on the Pricing Tables, using the software or accessing the associated internet websites (“End Users”). City hereby agrees to purchase a ServicePoint™ software license to access the ServicePoint™ program.
 - b. **ServicePoint™ End User Licenses.** Bowman hereby grants End User Licenses up to the number set forth on the Pricing Table and the ServicePoint™ administration section. Thereafter, City shall purchase a ServicePoint™ End User License and pay the associated Fee after issuance of each End User License exceeding the number of licenses in the Pricing Table. Whether through the initial number of licenses stated on the Pricing Table or additional licenses thereafter, City shall purchase a ServicePoint™ End User License for each named End User and not concurrent End User. Each user of the ServicePoint™ software system must obtain, and City is responsible for each user acquiring, a unique End User License. Sharing of user names and passwords is expressly forbidden, though licenses may be transferred to subsequent end users. In addition to the End User License granted herein, each End User must agree to the End User License Agreement (the “EULA”) as Bowman may change it from time-to-time, a current copy of which is attached hereto in the Appendixes, whether in hard copy form, a “click-wrap” license, or set forth in the Terms of Use Section the ServicePoint™ software program. If End User does not accept EULA, the user shall be denied access to the ServicePoint™ software program and related systems. City agrees that it is responsible for all data input and management of all End Users.
 - c. **ServicePoint™ Third Party Licenses.** Certain third-party licenses are required to operate the ServicePoint™ software and at City’s sole cost. Third party licenses include, but are not limited to, Microsoft SQL, Microsoft Internet Information Server, PHP, and Microsoft Windows NT. Additional fees and charges for the third-party licenses shall be included in the Fees and paid by City in accordance with Section 3 above.
 - d. **ServicePoint™ Hosting.** Bowman will store City’s ServicePoint™ software programs, application, database and the web sites (“hosting”) on servers owned by City and maintained in Bowman’s data center

(6) **Advanced Reporting Tool.** City acknowledges and agrees that Advanced Reporting Tool (“ART”) is comprised of Bowman Intellectual Property and third party software. Accordingly, Bowman does not grant a license to the ART software program, but subject to the terms and conditions of this Agreement and the full payment of the Setup and Annual Fees for each End User License as stated on the Pricing Tables, Bowman grants the following non-exclusive, nontransferable, non-assignable, and terminable End User Licenses (as those may change from time to time) for the Term.

- a. **ART Ad Hoc Reporting Author End User Licenses.** Bowman hereby grants ART Ad Hoc Reporting Author End User Licenses up to the number set forth on the Pricing Table which will allow Adhoc Reporting End Users to create and save their own ServicePoint™ based reports and view reports generated by other Adhoc Reporting End Users. Thereafter, City shall purchase an ART Ad Hoc Reporting Author End User License and pay the associated Fee after issuance of each ART Ad Hoc Reporting Author End User License exceeding the number of licenses in the Pricing Table. Whether through the initial number of licenses stated on the Pricing Table or additional licenses thereafter, City shall purchase an ART Ad Hoc Reporting Author End User for each named ART Ad Hoc Reporting Author End User and not concurrent ART Ad Hoc Reporting Author End User. Each user of the ART Ad Hoc Reporting Author End User software system must obtain, and City is responsible for each user acquiring, a unique ART Ad Hoc Reporting Author End User License. Sharing of user names and passwords is expressly forbidden, though licenses may be transferred to subsequent end users. City will maintain current lists of all ART Ad Hoc Reporting Author End Users by name, employer or agency, work address, work telephone number, email, username and password and provide the same to Bowman on a quarterly basis and at any time upon written request for the same made by Bowman. In addition to the ART Ad Hoc Reporting Author End User License granted herein, each End User must agree to the EULA, whether in hard copy form, a “click-wrap” license, or set forth in the Terms of Use Section the ART software program. If End User does not accept EULA, the user shall be denied access to the ART Ad Hoc Reporting Author software program and related systems. City agrees that it is responsible for all data input and management of all ART Ad Hoc Reporting Author End User.
- b. **ART Report Viewer End User Licenses.** Bowman hereby grants ART Report Viewer End User Licenses up to the number set forth on the Pricing Table which will allow ART Report Viewer End Users to view reports that have already been generated by Adhoc Reporting End Users. Thereafter, City shall purchase an ART Report Viewer End User License and pay the associated Fee after issuance of each ART Report Viewer End User exceeding the number of licenses in the Pricing Table. Whether through the initial number of licenses stated on the Pricing Table or additional licenses thereafter, City shall purchase an ART Report Viewer End User for each named ART Report Viewer End User and not concurrent ART Report Viewer End User. Each user of the ART Report Viewer End User software system must obtain, and City is responsible for each user acquiring, a unique ART Report Viewer End User License. Sharing of user names and passwords is expressly forbidden. City will maintain current lists of all ART Report Viewer End User by name, employer or agency, work address, work telephone number, email, username and password and provide the same to Bowman on a quarterly basis and at any time upon written request for the same made by Bowman. In addition to the ART Report Viewer End User License granted herein, each End User must agree to the EULA, whether in hard copy form, a “click-wrap” license, or set forth in the Terms of Use Section the ART software program. If End User does not accept EULA, the user shall be denied access to the ART Report Viewer software program and related systems. City agrees that it is responsible for all data input and management of all ART Report Viewer End User
- c. **ART Third Party Licenses.** Certain third-party licenses are required to operate the Advanced Reporting Tool software and at City’s sole cost. Third party licenses include, but are not limited to, Microsoft SQL, Microsoft Internet Information Server, PHP, and

Microsoft Windows NT. Additional fees and charges for the third-party licenses shall be included in the Fees and paid by City in accordance with Section 3 above.

- d. **ART Hosting.** Bowman will store City's ART application, database on servers owned by City and maintained in Bowman's data center.

(7) Ownership.

- a. **Title.** City acknowledges and agrees that, except for any underlying third-party software, Bowman solely and exclusively owns the Software Programs, Software Products and all other forms of Bowman's intellectual property, including without limitation, Trade Secrets, Trade Rights, Know-How, Work Product, goodwill, Moral Rights, copyrights, and patents, in existence now or hereafter, including all derivative products, updates, modifications or improvements (all collectively "Intellectual Property"). Nothing in this Agreement will be deemed to constitute a transfer by Bowman of its title in or any rights to any of its Intellectual Property whatsoever. For purposes of this Agreement, "Services" mean the professional, consulting, implementation, training, and support services of Bowman obtained by City from Bowman pursuant to this Agreement and comprise apart of Know-How even if modified, augmented, enhanced, or supplemented by input, suggestion, information, or by feedback originated by City during its use of or in anticipation of its use of the Software Products, including all such information provided by City to Bowman prior to the Effective Date. "Know How" means all of Bowman's knowledge and includes Services and the results of such Services, as well as any and all software ideas, processes, methods, programming aids or flow charts developed, prepared, conceived, made or suggested by City, Bowman, their employees or third parties hired by either or both of them, under or related to the performance of this Agreement and the use of the Software Products, including all such developments as are originated or conceived before, after, or during the Term and are completed or reduced to practice thereafter. "Moral Rights" means Bowman's rights to have its Intellectual Property properly attributed and the right to object to distortion or alteration of its Intellectual Property that would be prejudicial to its reputation. City acknowledges that Bowman solely and exclusively owns the Trade Rights, and as any of them may be unilaterally amended from time to time by Bowman (whether registered or not). City acquires no rights to the Trade Rights other than those set forth herein, and City hereby assigns and transfers to Bowman all rights other than those granted herein that it may acquire in and to any of the Trade Rights, whether by operation of law or otherwise.
- b. **Infringement.** City agrees to notify Bowman immediately of any infringement of the Software Products, unauthorized possession, use or knowledge of any item supplied under this Agreement by any person or organization not authorized by this Agreement to have such possession, use or knowledge. The City and will reasonably cooperate with Bowman in any litigation against said unauthorized person or organization by Bowman to protect its proprietary rights. City's compliance with the above shall not be construed in any way as a waiver of Bowman's right to recover damages or obtain other relief against City for its negligent or intentional harm to Bowman's proprietary rights or for breach of contractual rights. If City attempts or allows others to attempt to use, copy, duplicate, transcribe, transfer, reverse engineer, decompile, rely on or use to make derivative works or any software or system that has the "look and feel" of the software licensed herein, or convey the items supplied by Bowman pursuant to this Agreement, in a manner contrary to the terms of this Agreement or in derogation of Bowman proprietary rights, whether these rights are explicitly herein stated or as set and/or determined by law, or otherwise, Bowman shall have, in addition to any other remedies available to it at law or equity, the right to injunctive relief enjoining such actions, City hereby acknowledges that irreparable harm will occur to Bowman and that other remedies are inadequate.

c. Modifications.

- i. Bowman may modify the Software Programs or other Intellectual Property from time-to-time in its sole discretion. Bowman will use reasonable efforts to schedule modifications and maintenance for off-peak use periods. All Modifications, including the use of the Private Label, whether developed singly or jointly by City, Bowman, their employees or third parties hired by either or both, will be and remain the property of Bowman, regardless of whether City pays for such Modifications and City shall be due no compensation therefor. Any and all rights, title, and ownership interests that City and/or its employees may have in and to such Modifications or any tangible media embodying such Modifications are hereby assigned to Bowman. City shall not copy, modify, enhance, update or make derivative works of the Software Products or Intellectual Property. City may not modify source code or any of the materials comprising the Software Products or any materials provided to it by Bowman without written consent of Bowman.
- ii. City may not transcribe, transfer, convey, sell, copy, reproduce, modify, reverse engineer, decompile, duplicate, attempt to derive source code, adapt or create derivative works based on the products and services provided herein or any accompanying materials and shall not attempt to develop any other software, system, or products that possess the “look and feel” of Bowman’s products and services.
- iii. City will not, and will not permit any person to, alter or delete any of Bowman’s intellectual property rights notices, trademarks, service marks, trade names, service names, trade dress, logos, Software Program logos, business slogans, and commercial symbols, as any of them may be unilaterally amended from time to time by Bowman, and whether any are registered or not, and including good will (“Trade Rights”), or any EULA or Terms of Use included in the Software Programs or Software Products or contained in any content of a web site made by City’s use of those Software Programs. City does not and shall not acquire any right to any of the Trade Rights or other form of Bowman’s intellectual or commercial property. City shall not remove, delete, or in any manner alter the Trademarks, Trade Rights or other intellectual property rights notices of Bowman’s or of any third person appearing on the Software Products, or the materials or web sites generated by City’s use thereof. Bowman may from time to time discontinue or modify its Trade Rights, add new ones, and revise these instructions, or those Bowman may from time to time hereafter issue, to protect the standards of quality established for Bowman’s goods and services marketed and/or licensed under its Trade Rights.
- iv. For purposes of this Agreement, “Modifications” means any software program that (1) is derivative of or interfacing with the source code of any of the Software Programs or any software owned by Bowman; (2) emulates or performs substantially the same functions as the Software Programs or any software owned by Bowman or any source code of any of such software; or (3) results from the merger of the source code of any of the Software Programs or any software owned by Bowman with other software. “Modifications” also include any copies, modifications, changes, upgrades, derivatives or enhancements of the Software Programs or Bowman’s Intellectual Property. City acknowledges and agrees that the use of the Private Label on Bowman’s Intellectual Property is a “Modification” for purposes of this Agreement and, therefore, subject to the restrictions of this Section 7(b).

- d. Trade Secrets.** City hereby acknowledges that the Software Programs, together with all documentations and other materials provided to City by Bowman (the “Software Products”), specifications, documentation, source code technical data, sales information, quantity and quality of Software Products marketed or licensed, prices, methods of pricing, product and process information, marketing techniques and plans, returns, unannounced products, beta software, product and process information, customer lists and information, results of audits and information acquired during an audit and source code related to the products and services owned or provided by Bowman, including those provided under this Agreement constitute trade secrets of Bowman (the “Trade Secrets”), and as such are protected by civil and criminal law, are very valuable to Bowman, and that their use must be carefully and continuously controlled. City agrees to use the highest standard of diligence to ensure the confidentiality of the Trade Secrets, and will prohibit the unauthorized access to, use or duplication of any of the Trade Secrets. City agrees to provide all Trade Secrets the same security as City provides for its most confidential materials. City will not cause, permit, nor allow the Trade Secrets or any materials provided by Bowman to be copied, reverse engineered, decompiled, duplicated, transcribed, transferred, relied on or used to make derivative works or any software or system that has the “look and feel” of the software licensed herein, sold to, revealed to, or used by any other person, firm or company without prior written consent of Bowman.
- e. Work Product.** All software ideas, enhancements to functionality, processes, methods, programming aids or flowcharts, documentation, and white paper developed, prepared, conceived, made or suggested by City, Bowman, their employees or third parties hired by either or both, under or related to the performance or use of the Software Programs or the License(s) granted hereunder, including all such developments as are originated or conceived during the Term of this Agreement but are completed or reduced to practice thereafter (“Work Product”) is and will be, and remain the exclusive property of Bowman, regardless of whether City pays for same and whether or not deemed to be a “work for hire” within the meaning of the federal Copyright Act; and any and all rights, title, and ownership interests, including copyright, that City, its employees, or third parties engaged by City to assist its use of the Software Products, may have in and to such Work Product or any tangible media embodying such Work Product are hereby assigned to Bowman, and City and any third party engaged by City shall be due no compensation therefor. “Work Product” shall not include all software ideas, processes, methods, or documents developed, prepared, conceived, made or suggested by City which (i) do not contain any of Bowman’s Intellectual Property, or modifications or derivatives thereof, and (ii) are unrelated to the performance or use of the Software Programs or the License(s) granted hereunder, including all such developments as are originated or conceived during the Term of this Agreement but are completed or reduced to practice thereafter is and will be, and remain the exclusive property of City.

(8) Terms of Use.

- a. Restrictions on Use.** City may use the Software Programs and Software Products only for and in connection with its legitimate operations. City may not rent, sublicense, assign, transfer, sell, license or grant any rights to or interest in the Software Products to any person, or otherwise make same available to third parties or use the Software Products to violate third party rights. City must comply with each of the terms and conditions of this Agreement. City may not engage the services of any third party to assist it in its use of the Software Products without obtaining Bowman's prior written consent and executing and causing to be executed such agreements that Bowman may, in its sole discretion, require from City or any such third party. City is prohibited from permitting the use of the Software Products on any Server or computer that is not a City or Bowman owned Server or computer and from permitting the linkage of any City Server or computer using the Software Products with a computer or server that is not City or Bowman owned, unless (1) the prior written consent of Bowman shall have been obtained; and (2) City will have first successfully and at its own expense implemented those security measures, if any, required by Bowman for such linkage.
- b. Suspension of Services.** If Bowman determines that the use of the Software Programs by City or City's End Users (i) fails to substantially conform to the material terms and conditions of this Agreement or any License, or (ii) materially interferes with Bowman's ability to provide services to City or other customers, Bowman may, upon written notice to City, temporarily suspend the affected Software Programs until such non-conformity or interference is cured.
- c. Use of Server(s).** Bowman's Software Programs, servers and network and other physical and Intellectual Property may not be used for illegal purposes, or in support of illegal activities. Activities which are prohibited include, but are not limited to, unauthorized copying of material, transmittal of chain letters, threatening bodily harm or property damage of individual groups, making fraudulent offers of products, items, or services originating from City's account or any End User, attempting to access the accounts of others or attempting to penetrate Bowman's servers or networks, whether or not the intrusion results in loss of data, or distributing viruses or bulk e-mail through Bowman's servers or networks. Bowman will host ServicePoint and CommunityPoint on City's dedicated server in Bowman's data center. Bowman understands that the server hosting ServicePoint and CommunityPoint, and its components are property of City.
- d. End Users.** City is responsible for all access to and use of the Software Programs by all End Users and for ensuring that no End User's use of or access to the same (i) will violate this Agreement or (ii) would constitute a violation of this Agreement were the conduct of the End User committed by City. City is obligated to have all End Users agree, prior to accessing or using the pertinent Software Program to comply with the applicable End User License Agreements as may be amended from time to time by Bowman in its sole and unfettered discretion, whether through a "click-wrap" license, a signed written EULA, or otherwise prior to End User's use or access to the Software Programs. In the event the Software Program licensed to City permits City to make a web site available to the public for members of the public to access and to use, City is responsible for the conduct of any person who accesses such web site and City must maintain on such web site a terms of use section that complies with this Agreement. Any End User who does not agree to the applicable EULA or the terms of use section must be denied access by City to the Software Programs or the web site. City will not, and will not permit any person to, alter or delete any EULA or terms of use section included in the Software Programs or contained in any content of the web sites that embody Software Programs, without the prior written consent of Bowman.
- e. Data Input and Management.** City is responsible for all information and data input by it and End Users and all output generated in connection with its use of the Software Products, and for maintaining such information, output, and data. City owns all data input and generated by the use of the Software Products by it and End Users. This responsibility does

not include information regarding any social services or other agency, nor does it include any enhancements to the functionality of the Software Programs that City may use or develop, which include any City developed questionnaires or assessments or changes to the framework of the Software Programs, it being expressly agreed that all enhancements and changes belong to Bowman. City has sole responsibility for adequate protection of the data input or generated in connection with its use of the Services or Software Products and Bowman in no event shall have any liability therefor.

f. Agency End User Information Disclosure. City shall provide to Bowman upon request all contact and profile information of all Agency End Users and Bowman may, upon prior approval and consent of the City, contact such agencies or their personnel from time to time for any business purposes. "Agency End User" refers to agencies and personnel of, or directly contracted by, an agency who have access to the web sites to enter or to manage City data.

g. Administrative End Users. City shall provide to Bowman upon request the list of all Administrative End Users, identifying them by name, employer, address, telephone number and email, and user names and passwords. "Administrative End User" refers to End Users who may be system administrators for City and who have administrative access to the web sites and are responsible for setting up City's security structure, assigning and maintaining lists of passwords and End Users, are responsible for all data, data input and data management, and are responsible for End User License Agreement management, execution, and issuance.

(9) Confidentiality. Except as required by applicable state and federal law or in response to a subpoena or court order, Bowman and City each agree that all information pertaining to the terms and conditions of this Agreement and City Proposal, whether before the effective date or during the term of this Agreement, shall be received in strict confidence, and that no such information shall be disclosed by the recipient party, its agents or employees without prior written consent of the other party, unless such information is publicly available from other than a breach of these provisions. Each party agrees to take all reasonable precautions to prevent the disclosure to outside parties of such information, except as may be necessary by reason of legal, accounting or regulatory requirement beyond the reasonable control of Bowman and City, as the case may be. Bowman agrees that all information input into the program is deemed confidential, and that no such information shall be disclosed by Bowman to any outside party, unless such information is publicly available from other than a breach of these provisions. Bowman agrees to take all reasonable precautions to prevent the disclosure to outside parties of such information, except as may be necessary by reason of legal, accounting, or regulatory requirement beyond the reasonable control of Bowman.

(10) Insurance Requirements.

a. Bowman shall provide the following policies of insurance:

i. Professional Liability Insurance in the amount of not less than one million dollars (\$1,000,000) per claim;

ii. Workers Compensation Insurance in an amount not less than one million dollars (\$1,000,000) per accident.

iii. Blanket Honesty Bond in the amount of twenty-five thousand dollars (\$25,000);

- iv. Commercial General Liability (equivalent in coverage scope to ISO form CG 00 01 11 85 or 88) in an amount not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate. Such insurance shall not exclude or limit coverage for broad form contractual liability, cross liability protection, independent contractors liability, abuse or molestation, or products and completed operations liability. The City of Long Beach, its officials, agents, and employees shall be added as additional insured by an endorsement equivalent in coverage scope to ISO CG 20 10 11 85 for contractors or ISO CG 20 26 11 85 for grantees. This additional insured coverage shall contain no limitations on the scope of protection afforded to the City, its officials, employees, and agents. Professional liability shall be excepted from the additional insured endorsement if Bowman has a combined general-professional liability policy.
 - v. Automobile Liability (equivalent in coverage scope to ISO form CA 00 01 06 92) in an amount not less than five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury and property damage covering damage covering Symbol 1 ("Any Auto").
- b. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, changed or terminated except after thirty (30) days prior written notice has been given to the City. This must be unqualified and may not include the usual qualifying language ("Endeavor to" and "but failure to...representatives.").
 - c. Insurance coverage shall be placed with carriers admitted to write insurance in California, or carriers with a rating of or equivalent to a minimum of A:VIII by A.M. Best Company.
 - d. City makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Bowman's liability or obligations under this Agreement.
- (11) **Delivery.** Delivery of Services described in the 'Pricing Table' has been projected for 30 working days from contract signing.
- (12) **Source Code Escrow.** The parties shall escrow the Software's source code pursuant to that Escrow Agreement attached hereto as Exhibit "C" which by this reference is incorporated herein and made a part hereof.
- (13) **Limitation of Actions.** No action arising out of this Agreement may be brought by City or Bowman more than two (2) years after the cause of action has occurred.
- (14) **Complete Agreement.** This document and the other attachments to the Agreement contains the entire agreement between the parties with respect to the transactions contained herein and supersedes all prior proposals and understandings, both oral and written. This Agreement may be modified or altered only by a written instrument signed by all parties hereto.
- (15) **Headings.** The headings of each paragraph contained herein are provided only for convenience and shall not be deemed controlling.
- (16) **Binding.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective assigns and successors.
- (17) **Assignability.** This Agreement shall not be transferable or assignable by City or Bowman without the prior written consent of the other party.

(18) **Governing Law.** This Agreement shall be governed by, construed and enforced under, and subject to, the laws of the State of California. If any of the provisions of this Agreement are invalid under any applicable statute or rule of law, they are, to that extent, deemed omitted. Such omission does not change the intent or binding nature of any or all of the rest of this Agreement, which shall be in full force and effect.

(19) **Indemnification.**

- a. Bowman shall indemnify, defend and hold harmless the City from and against any and all claims, damages, losses, expenses or liabilities, including, but not limited to, reasonable attorneys' fees ("Losses"), arising out of or resulting from any patent, copyright and other infringement claim by any third party in connection with the Software Products.
- b. Bowman further agrees that if the City is prevented from using the Software Product due to an actual infringement of any patent or copyright, then at Bowman's option and as the City's sole remedy, Bowman shall promptly either:
 - i. Procure for the City, at Bowman's expense, the right to continue to use the Software Product;
 - ii. Replace or modify the Software Product, at Bowman's expense, so that the Software Product become non-infringing; or
- c. Return the City's license fees for the infringing Software Product in the event that neither (i) or (ii) are reasonably feasible or, alternatively, procure a mutually acceptable replacement Software Program at Bowman's cost.

(20) **Limitation of Liability.** In the event of loss of data due to errors and or negligence on the part of Bowman, Bowman will correct the program error in a timely fashion at no additional cost to City. Other than as herein above described, Bowman shall in no event have any liability to City for losses sustained or liabilities incurred except as may result from willful misconduct. Further, any liability of Bowman for any indemnity, loss, damages, or costs hereunder of any nature whatsoever shall be limited to the actual direct damages incurred by City, but in no event shall the aggregate of liability exceed the total fees paid by City to Bowman hereunder, nor shall any amount of liability include any indirect, consequential, punitive or special damages incurred by City. Bowman shall not be responsible for loss of data resulting from delays, non-deliveries, mis-deliveries, service interruptions, or other interruptions caused by City or any other person or entity.

(21) **Force Majeure.** Bowman shall not be liable to City or any other person or entity for any loss or damage for delay in performance, or for nonperformance, due to causes not reasonably within its control, such as, but not limited to, an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, public disaster, lightning, fire, storm, flood or other act of nature, explosion, judicial orders/decrees, governmental laws/regulations, governmental action, governmental delay, restraint or inaction, unavailability of equipment, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of Bowman.

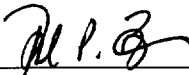
(22) **Notice.** Any notices under this Agreement shall be written and shall be deemed delivered when actually received, or three days after they are deposited with the United States Postal Services, certified mail return receipt requested when addressed to the other party at its above address, which may not be changed without written notice.

- (23) **Counterparts.** Two (2) duplicate originals of this Agreement are executed with each party retaining one (1) copy.
- (24) **Severability.** The invalidity of any one or more of the provisions of this Agreement shall not affect the remaining portions of this Agreement, and in case of any such invalidity, this Agreement shall be construed as if the invalid provisions had not been inserted.
- (25) **No Third-Party Beneficiary.** It is agreed and understood that nothing in this Agreement shall be construed as conferring any rights, benefits, remedies, or otherwise, on and/or in favor of any third-party, including without limitation any End Users.
- (26) **Independent Contractor Status.** It is expressly understood and agreed that Bowman is an independent contractor at all times and for all purposes hereunder. Officers, employees, or representatives of Bowman shall not be deemed in any way to be and shall not hold themselves out as employees, servants, representatives, or agents of City, and shall not be entitled to any fringe benefits of City, such as, but not limited to, health and accident insurance, life insurance, longevity, economic increases, or paid sick leave or vacation. Solely, Bowman shall be responsible for paying payroll wages, for the withholding and payment of all income and social security taxes to the proper Federal, State, and local governments, and for providing workers' compensation and unemployment insurance of Bowman.
- (27) **Attorneys Fees and Costs.** If any party shall commence any action or proceeding against another party in order to enforce the provisions hereof, or to recover damages as the result of the alleged breach of any of the provisions hereof, the prevailing party therein shall be entitled to recover all reasonable costs incurred in connection therewith, including, but not limited to, reasonable attorneys' fees.
- (28) **Further Assurances.** Each of the parties shall, from time to time and at all times, do all such other and further acts and deliver and execute such other and further instruments and documents and records as may reasonably required in order to fully perform and carry out the terms and the provisions of this Agreement.
- (29) **Additional General Requirements, Reservations and Conditions of City Contracts**
- a. Bowman is authorized to do business in California and has been an established legal entity for more than 2 years.
 - b. Bowman shall not, in accordance with Federal law, discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age or physical or mental handicap as identified in Section 109 of the Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and 24 CFR 570.602. In addition, Bowman's subcontractors shall not discriminate in the provision of services hereunder because of religious belief, creed, medical condition, blindness, sexual orientation, marital status, pregnancy, parenthood, citizenship, gender identity, domestic partner status or AIDS or HIV status.
 - c. Bowman shall certify and agree not to discriminate against any employee or person who is employed or compensated in whole or in part using funds provided under this Agreement because of race, color, creed, religion, religious belief, national origin, ancestry, citizenship, age, sex, sexual orientation, marital status, pregnancy, parenthood, medical condition, physical or mental disability, gender identity, domestic partner status or AIDS or HIV status.
 - d. Bowman shall maintain compliance with current HUD HMIS Data and Technical Standards.

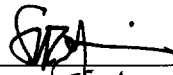
- e. Bowman shall be Health Insurance Portability and Accountability ACT (HIPAA) compliant.
- f. This Agreement between the City and Bowman shall be for a 3-year term but is contingent upon the City's receipt of funds from HUD during an annual grant renewal process. The City reserves the right to refuse payment of any invoices until such time as it receives deliverables and contingent upon HUD funding. The operational period of the City HMIS grant with HUD is 8/1 to 7/31, renewable annually.
- g. The City's obligation to pay any sum for any fiscal year shall be contingent upon receipt of federal funds and upon appropriation by the City Council of the necessary funds for such payment by the City in each fiscal year during the term of contracts awarded. In the event that the City Council of the City of Long Beach or the Federal government fails to appropriate the necessary funds for any fiscal year, the contracts awarded for that period will not be funded and/or renewed.
- h. Bowman shall allow representatives of the City of Long Beach or HUD to inspect facilities, which are used in conjunction with this Agreement.
- i. Bowman shall make available to representatives of the City of Long Beach or HUD upon reasonable notice, documentation related to the service funded by City/HUD funded contracts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the 17th day of Nov., 2008.

BOWMAN SYSTEMS, LLC:

By: 
Robert Bowman, President

CITY OF LONG BEACH, CALIFORNIA

By:  Assistant City Manager
Title: City Manager

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

Attachments:

- Exhibit A: Pricing Table, Prepaid Scope of Work and Additional Cost
- Exhibit B: Service Level Plan
- Exhibit C: Escrow
- Exhibit D: Lobbying
- Exhibit E: Certification Regarding Debarment

APPROVED AS TO FORM

11-4, 2008
ROBERT E. SHANNON, City Attorney
By: 
AMY R. BURTON
DEPUTY CITY ATTORNEY

Bowman Systems - ServicePoint Pricing Table		
Item	Budget	
	One-Time	Annual
Software License/Set-up Costs		
ASP		
Server Software License/set-up		
Unit Price		
License/Set-up per User		
License per seat (\$225/user one time fee) (=computer=concurrent users) (25 Users)	5,625.00	
Agency Set-up		
Total Software Costs	5,625.00	
Project Management/Staffing (Implementation)		
FTE (Base fee - Not Hourly Rate)		
Training		
Proposed Training Hours (6 Days)	9,000.00	
\$ per hours (\$1500/day expenses inclusive)		
Training Website		
Training Cost	9,000.00	
Manuals		
Estimated cost user manual (Electronic Version) Version)		
Manuals Cost		
Data Migration		
Estimated Hours		
Hourly Rate (125/hr)		
Data Migration Costs		
Server & Hosting		
Server Set-up (ServicePoint and ART)		
Agency Set-up		
Annual Hosting Fee		
per user (\$15/lic.ense/mo) (25 Users)		4,500.00
per time period (monthly/year)		
User Fee		
Fixed Hosting Fee		
Add-Ons (Advanced Reporting Tool-ART)		
ART AdHoc Reporting License w/Bandwidth Fee (167.50/license/year) (1 User)		167.50
ART Viewer Licenses w/Bandwidth Fee (\$87.50/license/year)		
Premium Disaster Recovery (500/mo)		
SSL Certificate		
AIRS Taxonomy license & Book Fee		
Total Hosting		4,667.50
Support		
Fixed Support		
Per User/year (90/license/year) (25 Users)		2,250.00
User Fee		
Total Annual Support		2,250.00
Security		
Security Option (PKI)		
Hourly Rate (1000/year)		
Security Cost		
Customization		
Estimated Hours		
Hourly Rate (125/hr)		
Customization Cost		
Escrow		
Total Cost	14,625.00	6,917.50
Total Combined Cost	21,542.50	

Bowman Systems - ServicePoint Scope of Work - Prepaid		
Item	Budget	
	One-Time	Annual
Software License/Set-up Costs		
ASP		
Server Software License/set-up	7,295.00	
Unit Price		
License/Set-up per User		
License per seat (\$225/user one time fee) (=computer=concurrent users) (25 Users)		
Agency Set-up		
Total Software Costs	7,295.00	
Project Management/Staffing (Implementation)		
FTE (Base fee - Not Hourly Rate)	6,000.00	
Training		
Proposed Training Hours (6 Days)	9,000.00	
\$ per hours (\$1500/day expenses inclusive)		
Training Website		3,000.00
Training Cost	9,000.00	3,000.00
Manuals		
Estimated cost user manual (Electronic Version) Version)		
Manuals Cost		
Data Migration		
Estimated Hours 30-40 Hrs	40	
Hourly Rate (125/hr)	125.00	
Data Migration Costs	5,000.00	
Server & Hosting		
Server Set-up (ServicePoint and ART)	2,800.00	
Agency Set-up		
Annual Hosting Fee		
per user (\$15/lic.ense/mo)		
per time period (monthly/year)		
User Fee		
Fixed Hosting Fee		
Add-Ons (Advanced Reporting Tool-ART)		
ART AdHoc Reporting License w/Bandwidth Fee (167.50/license/year) (5 Users)		
ART Viewer Licenses w/Bandwidth Fee (\$87.50/license/year)		
Premium Disaster Recovery (500/mo)		
SSL Certificate		400.00
AIRS Taxonomy license & Book Fee		400.00
Total Hosting	2,800.00	800.00
Support		
Fixed Support		
Per User/year (90/license/year)		
User Fee		
Total Annual Support		
Security		
Security Option (PKI)		
Hourly Rate (1000/year)		
Security Cost		
Customization		
Estimated Hours		
Hourly Rate (125/hr)		
Customization Cost		
Escrow	1,300.00	
Total Cost:	31,395.00	3,800.00
Total Combined Cost:	35,195.00	

EXHIBIT B

SERVICE LEVEL PLAN

INTRODUCTION

Technical Support is regarded by Bowman Systems management as a pivotal part of our business success. The Technical Support department is located at our main development facility, along with software development, quality assurance, and the documentation divisions, all providing the Technical Support Specialists with easy access to these groups.

Our Technical Support Mission is to "Help our customers make the best use of our software products through effective and responsive support, active advocacy, and a broad and flexible range of self-help resources." We do this through the following means:

- We make it easy for our customers to receive help by offering telephone and electronic support. The Customer Self Service portal allows customers to easily submit application questions, comments, or problems directly via the internet. Customers are encouraged to report their issues in the manner in which they feel most comfortable and are assured their requests will be dealt with efficiently and effectively.
- We provide a variety of self-help resources, all included in the support package. We even notify users if we find bugs in our application software, and in many cases, assist them before a problem arises. A full range of electronic support services gives users access to almost all resources used by our Technical Support staff.
- Technical resources available to our Technical Support staff enable us to provide reliable and responsive support. Our comprehensive Case Management system, fully developed in-house, is the foundation that helps us achieve extremely high levels of responsiveness to product issues. Our phone system enables us to route incoming calls with optimal efficiency and minimize hold times. Our data warehouse consolidates Case Management data and allows Bowman management to respond quickly to any changing conditions.
- Technical Support actively participates in software development, in both the design and testing phases. Users can participate in future development of Bowman software through a variety of feedback mechanisms. The Customer Council, a committee of key users of Bowman software, provides vital feedback used in our continuous effort to improve Bowman products for the future.
- Bowman has a strong commitment both to Technical Support and our Technical Support Specialists. We regard Technical Support as a long-term career, and offer extensive product training and career enhancements, all resulting in a low turnover rate among the Support Specialists.

PHONE SUPPORT:

Bowman Systems shall provide toll free telephone support during the hours of 8:00 AM to 6:00 PM Central Time, Monday through Friday, exclusive of national holidays. The toll free number is (888) 580-3831 ext.2. Additionally, the designated Customer Support Specialist's direct number will be provided upon implementation.

EMERGENCY SUPPORT LINE

For after hours emergencies, clients have access to an emergency help line monitored by multiple staff members.

E-MAIL SUPPORT

Bowman Systems shall provide e-mail support during the hours of 8:00 AM to 6:00 PM Central Time, Monday through Friday, exclusive of national holidays. For after hours emergencies, an alternative e-mail, emergency@bowmansystems.com will be provided and monitored.

CUSTOMER SELF-SERVICE PORTAL

Bowman Systems provides a web-based, secured, customer self-service portal as part of our maintenance agreements. This system provides clients with immediate access to Bowman's knowledge base, documentation, resources and cases. The system is available 24x7.

CASE MANAGEMENT SYSTEM

Bowman Systems utilizes a case tracking system to log all client support incidents. The system assigns an ID to the case and allows all pertinent information to be tracked until resolution. Case information is available to clients through the self-service portal.

ELECTRONIC SELF-HELP TOOLS

Our World Wide Web site (<http://www.bowmansystems.com>) provides a complete set of support tools. In addition to reporting problems to Technical Support, users can:

- Search our knowledge base, FAQs, technical documents, and system requirements
- Easily download relevant documentation
- Enter suggestions for software enhancements
- Obtain documentation on all of our technical support services
- Obtain information about local, regional, and international user group activities

RESPONSE TIMES

Bowman Systems strives to provide optimum response times to client requests. The following grid indicates service goals. Bowman Systems may establish different procedures for responding to different types of problems.

SEVERITY LEVEL	CONDITION IMPACT	INITIAL FOLLOW-UP*	FREQUENCY OF CORRESPONDENCE
Severity One	<p align="center"><i>Critical Business Impact</i></p> <p>A critical Bowman Systems production system is down or does not function at all, and there is no circumvention for the problem; a significant number of customers are affected, and a production business system is inoperable.</p>	<4 hours during normal business hours	Every business day, or as agreed upon by client and Bowman, until issue is resolved.
Severity Two	<p align="center"><i>Significant Business Impact</i></p> <p>A component of Bowman Systems production system is not performing; creating a significant operational impact.</p>	<8 hours during normal business hours	Every 2 business days, or as agreed upon by client and Bowman until issue is resolved.
Severity Three	<p align="center"><i>Minimal Business Impact</i></p> <p>A component of Bowman Systems production system is not performing as documented; unexpected results; circumventable problems; moderate or minor operational impact</p>	<1 working day	Every 5 business days
Severity Four	<p align="center"><i>No Business Impact</i></p> <p>Usage questions; clarification of documentation</p>	< 1 working day	Every 5 business days
Severity Five	<p align="center"><i>Requests</i></p> <p>Suggestions; requests for new product features and enhancements.</p>	< 5 working days	Depends upon issue.

*For problems that are assigned to a specialist, "initial follow-up" is defined as the time between when the problem is initially reported and the specialist contacts the customer. For problems that require further research by the consultant who initially received the problem,

"initial follow-up" is defined as the time between the initial contact with the consultant and a follow-up call.

**Does not include weekend or other non-business days

ESCALATION PROCEDURE

Upon contract signing, a Customer Support Specialist (CSS), will be designated to the account. All support incidents should be directed through the CSS. In the event the CSS does not provide response outlined in the grid above, the client should follow the following procedure.

Escalation 1: If appropriate response is not provided by designated CSS, then client should contact main support center phone extension or send e-mail to support@bowmansystems.com which is sent to all CSS'.

Escalation 2: If appropriate response is not provided after contacting main support center, then client should contact Support Manager, Joey Flannery at ext. 119 or jflannery@bowmansystems.com.

Escalation 3: If appropriate response is not provided after contacting support manager, then client should contact General Manager, Josh Johnson at ext. 131 or josh@bowmansystems.com.

Escalation 4: If appropriate response is not provided after contacting General Manager, then client should contact Vice President of Administration, Andrew Twyman at ext. 101 or atwyman@bowmansystems.com.

BACKUP PROCEDURE AND PROVISIONS

All client data is backed-up online and stored on a central file server repository for approximately five (5) days. Each night a tape backup is made of these client databases and secured in a bank vault. We rotate through approximately 1 month of backup tapes.

For power outage, our systems are backed up via APC battery back-up units, which are also in turn connected via generator-backed up electrical circuits. For a system crash, Premium Disaster Recovery clients can be brought back online within 3-4 hours with no data loss. For Non-Premium Disaster Recovery clients can be brought back online within 6-8 hours with potential for some small data loss (data that was entered between the last backup and when the failure occurred) if a tape restore is necessary. If the failure is not hard drive related these times would possibly be much less since the drives themselves can be repopulated into a standby server.

Premium Disaster Recovery Clients: A remote DR location is maintained where a duplicate, up-to-date copy of a client's live site and data is maintained on a 24x7x365 basis. Upon recognition of a system failure, failover would be enabled to the DR site, enabling end users to continue activity with little down time and very little, if any, loss of data.

Standard Recovery: All customer site databases are stored online (premium or standard), and are readily accessible for approximately five (5) days; tape backups are kept for approximately one (1) month. Upon recognition of a system failure, a site can be copied to a standby server, and a database can be restored, and site recreated within 3-4 hours if online backups are accessible. A tape restoration

can be made within 6-8 hours. On-site backups are made once daily and a restore of this backup may incur some data loss between when the back-up was made and when the system failure occurred.

Bowman does not make the full backup tapes available directly to the customer due to the proprietary nature of the database design. If the data within the ServicePoint database is required beyond reporting and download via the application, a request can be made to receive a data extract of data. The extract can be provided in .csv or XML format for costs to be determined at the time of the request.

EXHIBIT C
SOURCE CODE ESCROW AGREEMENT

This **SOURCE CODE ESCROW AGREEMENT** is effective, by and between Bowman Systems L.L.C. (Contractor) and **City of Long Beach, California** (Licensee) and Capital One Bank, Shreveport, Louisiana (Bank—Escrow Agent).

Whereas, the Contractor is the owner of certain software ServicePoint™ and;

Whereas, the Licensee has the right to use ServicePoint™ in its object code form pursuant to this agreement between Contractor and Licensee; and

Whereas, the Contractor and Licensee desire to create a specific means by which the Licensee shall have access to the Application Software source code held in trust by Bank, as identified in this agreement in the event that Contractor commits certain defaults as hereinafter set forth.

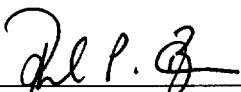
Now therefore, in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Escrow Agent** Promptly before or at final acceptance of the ServicePoint™ system software and Contractor's other obligations and services, as set forth in this agreement, the Contractor shall deposit at Bank, one (1) copy of the application source code.
2. **Revisions** Promptly after the Contractor makes substantial changes to ServicePoint™ licensed to Licensee, Contractor shall deposit one (1) copy of the revised source code with Bank.
3. **Trust Relationship** Bank, acting as escrow agent, shall hold title to all copies of the ServicePoint™ application source code deposited with it in trust, solely for the purposes specified in this agreement.
4. **Defaults** Bank is hereby directed by the Contractor to immediately deliver to the Licensee, at no charge to the Licensee, ServicePoint™ source code deposited in the event that the Contractor commits any of the following defaults:
 - a. Enters into any voluntary or involuntary receivership arrangement or other insolvency procedures; or
 - b. Permanently discontinues the business of licensing and maintaining the Application Software, or
 - c. Fails after written notice specifying a material default to commence efforts to cure the material default and continue said efforts until a reasonable cure is achieved.
5. **Ownership** It is understood that ownership of the ServicePoint™ application source code at all times belongs solely to the Contractor and that any release to the Licensee of the source code copy held in trust by Bank is only made as an accommodation to the Licensee and nothing hereby shall be deemed to vest any ownership hereof in the Licensee.
6. **Restrictions** During any period of time in which the source code is in the possession of the Licensee, it is agreed that it shall be used only by Licensee at and only at those facilities where its use is permitted by this agreement, shall be used only for support of ServicePoint™ and shall not be duplicated, sold or licensed to others or marketed or disclosed in any manner.

- 7. Duties of Bank Bank as Escrow Agent shall hold the deposited copies of source code in a secure place and shall not disclose or release it to any third party or use it for any purpose, except as specifically permitted herein. Upon termination of this agreement, any source code held by Escrow Agent and not released to Licensee shall be returned to Contractor. Contractor and Licensee shall provide Bank with joint notice of any termination.
- 8. Payment Contractor agrees to pay Bank for Bank's services hereunder.
- 9. Modifications This Escrow agreement shall not be revoked, rescinded or modified as to any of its terms and conditions except by consent in writing by the parties hereto.


CONTRACTOR

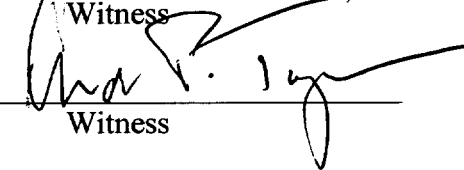
Bowman Systems L.L.C.
 333 Texas Street, Suite 300
 Shreveport, Louisiana 71101-5304



 Authorized Signature/Date
 Robert P. Bowman, President

 Printed Name and Title



 Witness


 Witness

ESCROW AGENT

 Authorized Signature/Date

 Printed Name and Title

 Witness

 Witness

LICENSEE

Name City of Long Beach
Agency City of Long Beach
Address 333 West Ocean Blvd.
Address _____
City Long Beach
State CA Zip Code 90802

[Signature] Assistant City Manager
Authorized Signature/Date 11-25-08

Witness

Patrick H. West, City Manager
Printed Name and Title

Witness

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

APPROVED AS TO FORM

11-4, 2008
ROBERT E. SHANNON, City Attorney

By [Signature]
AMY R. BURTON
DEPUTY CITY ATTORNEY

Exhibit D

CERTIFICATION REGARDING LOBBYING

Contractor(s) and lobbyist firm(s), as defined in the Los Angeles County Code Chapter 2.160 (ordinance 93-0031), retained by the Contractor, shall fully comply with the requirements as set forth in said County Code. The Contractor must also certify in writing that it is familiar with the Los Angeles County Code Chapter 2.160 and that all persons acting on behalf of the Contractor will comply with the County Code.

Failure on the part of the Contractor and/or Lobbyist to fully comply with the County's Lobbyist requirement shall constitute a material breach of the contract upon which the City of Long Beach may immediately terminate this contract and the Contractor shall be liable for civil action.

The Contractor is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and the Housing and Urban Development Code of Federal Regulations 24 part 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an office or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents.

The Contractor must certify in writing that they are familiar with the Federal Lobbyist Requirements and that all persons and/or subcontractors acting on behalf of the Contractor will comply with the Lobbyist Requirements.

Failure on the part of the Contractor or persons/subcontractors acting on behalf of the Contractor to fully comply with Federal Lobbyist Requirements shall be subject to civil penalties. The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Agreement Number: _____ Contract Agency: _____

Name and Title of Authorized Representative: Robert P. Bowman, President


Signature

10/29/08

Date

Exhibit E
CERTIFICATION REGARDING DEBARMENT

By signing and submitting this document, the recipient of federal assistance funds is providing the certification as set out below:

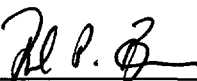
1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the recipient of federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The recipient of Federal assistance funds shall provide immediate written notice to the person to which this agreement is entered, if at any time the recipient of Federal Assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstance.
3. The terms "covered transaction", "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
4. The recipient of Federal assistance funds agrees by submitting this document that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the departmental or agency with which this transaction originated.
5. The recipient of Federal assistance funds further agrees by submitting this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from procurement or non-procurement programs.
7. Nothing contained in the foregoing shall be constructed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which the transaction originated may purse available remedies, including suspension and/or debarment.

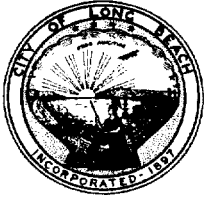
Section 24.510, Participants' Responsibilities require this certification.

1. The recipient of Federal assistance funds certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such participants shall attach an explanation to this document.

Agreement Number: _____ Contract Agency: _____

Name and Title of Authorized Representative: Robert P. Bowman

 10/29/08
Signature Date



CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

Health Information In Compliance With The Health Insurance Portability And Accountability Act of 1996 (HIPAA)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered as of _____, 20____ by and between _____, a _____ [corporation, partnership, dba], whose business address is _____

(hereinafter referred to as "Business Associate"), and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as "City" or "Covered Entity").

WHEREAS, the City has a Department of Health that provides a multitude of health care and related services; and

WHEREAS, in the course of providing health care and related services the City obtains protected health information; and

WHEREAS, Business Associate performs particular duties and/or provides particular services to the City; and

WHEREAS, the City wishes to disclose some information to Business Associate, some of which may contain protected health information; and

WHEREAS, the City and Business Associate intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws, including, but not limited to Title 45, Section 164.504(e) of the Code of Federal Regulations.

NOW, THEREFORE, in consideration of the mutual terms covenants, and conditions in this Agreement, the parties agree as follows:

1. DEFINITIONS. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule codified in Title 45, Sections 160-164 of the Code of Federal Regulations.
2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.
 - a. *Non-disclosure.* Business Associate agrees to not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
 - b. *Safeguards.* Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected health information.
 - c. *Mitigation.* Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of the requirements of this Agreement.

- d. Reporting of disclosures. Business Associate agrees to report to Covered Entity any use or disclosure of the protected health information not provided for by this Agreement of which it becomes aware.
 - e. Business Associate's Agents. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
 - f. Availability of Information to City. Business Associate agrees to provide prompt access to protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual upon Covered Entity's request in order to meet the requirements under 45 CFR § 164.524.
 - g. Amendment of Protected Health Information. Business Associate agrees to promptly make any amendment(s) to protected health information in a designated record set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an individual.
 - h. Internal Practices. Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, covered entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining the Business Associate's compliance with the privacy rule.
 - i. Reporting of Disclosures. Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for the City to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR § 164.528.
 - j. Availability of Information to Covered Entity. Business Associate agrees to promptly provide to Covered Entity or an individual information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR § 164.528.
3. **PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.** Except as otherwise limited in this Agreement, Business Associate may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate the

Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The specific use and disclosure provisions are as follows:

- a. Except as otherwise limited in this Agreement, Business Associate may use protected health information for the proper management and administration of the Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may disclose protected health information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. Except as otherwise limited in this Agreement, Business Associate may use protected health information to provide data aggregation services to covered entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).
- d. Business Associate may use protected health information to report violations of law to appropriate federal and state authorities, consistent with § 164.502(j)(1).

4. OBLIGATIONS OF COVERED ENTITY.

- a. Notification of Limitations in Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of covered entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.
- b. Notification of Change or Revocation of Permission. Covered entity shall notify Business Associate of any changes in, or revocation of, permission by individual to use or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.
- c. Notification of Restrictions. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may effect Business Associate's use or disclosure of protected health information.

5. PERMISSIBLE REQUESTS BY COVERED ENTITY. Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that this restriction is not intended

and shall not be construed to limit Business Associate's capacity to use or disclose protected health information for the proper management and administration of the Business Associate or to provide data aggregation services to Covered Entity as provided for and expressly permitted under Section 3 (a), (b), and (c) of this Agreement.

6. TERM AND TERMINATION.

- a. *Term.* The term of this Agreement shall be effective upon execution, and shall terminate when all of the protected health information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy protected health information, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. *Termination for Cause.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 3. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- c. *Effect of Termination.*
 1. Except as provided in paragraph (2) of this Section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.
 2. In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such protected health information.

7. **ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS.**
Business Associate shall make itself and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under this Agreement with the Covered Entity, available to Covered Entity, at Covered Entity's Cost to testify as witnesses or otherwise, in the event of litigation or administrative proceedings commenced against Covered Entity, its directors, officers, or employees based on a claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security or privacy, except where Business Associate or its subcontractors, employees or agents are named as an adverse party.
8. **MISCELLANEOUS**
 - a. *References.* A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
 - b. *Amendment.* The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for covered entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996. Amendments must be in writing and signed by the parties to the Agreement.
 - c. *Survival.* The respective rights and obligations of Business Associate under Section 6(c) of this Agreement shall survive the termination of this Agreement.
 - d. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
9. **LAW.** This Agreement shall be governed by and construed pursuant to federal law and the laws of the State of California (except those provisions of California law pertaining to conflicts of laws). Business Associate shall comply with all laws, ordinances, rules and regulations of all federal, state and local governmental authorities.
10. **ENTIRE AGREEMENT.** This Agreement, including Exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.
11. **AMBIGUITY.** In the event of any conflict or ambiguity in this Agreement, such ambiguity shall be resolved in favor of a meaning that complies and is consistent with HIPAA, HIPAA Regulations and California law.
12. **COSTS.** If there is any legal proceeding between the parties to enforce or interpret this Agreement or to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and court costs, including appeals.
13. **NOTICES.** Any notice or approval required hereunder by either party shall be in writing and personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid, addressed to Business Associate at the address first stated herein, and to the City at 333 West Ocean Boulevard, Long Beach, California 90802 Attention: Director, Health Department. Notice of change of address shall be given in the same

manner as stated herein for other notices. Notice shall be deemed given on the date deposited in the mail or on the date personal delivery is made, whichever first occurs.

14. WAIVER. The acceptance of any services or the payment of any money by City shall not operate as a waiver of any provision of this Agreement, or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.
15. CONTINUATION. Termination or expiration of this Agreement shall not affect rights or liabilities of the parties which accrued pursuant to Sections 7,12 and 14 prior to termination or expiration of this Agreement, and shall not extinguish any warranties hereunder.
16. ADVERTISING. Business Associate shall not use the name of City, its officials or employees in any advertising or solicitation for business, nor as a reference, without the prior approval of the City Manager or designee.
17. THIRD PARTY BENEFICIARY. This Agreement is intended by the parties to benefit themselves only and is not in any way intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all of the formalities required by law as of the date first stated herein.

(Name of Business Associate)

a _____
(corporation, partnership, individual)

_____, 20__

By *[Signature]*

Title: President

_____, 20__

By _____

Title: _____

CITY OF LONG BEACH, a municipal corporation

Nov. 17, 2008

By *[Signature]* Assistant City Manager
City Manager or designee

"City"

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

The foregoing Agreement is hereby approved as to form this 4th day of November, 2008.

ROBERT E. SHANNON,
City Attorney or designee

By *[Signature]*
Deputy