OPENCOUNTER ENTERPRISES, INC.
MASTER SERVICES AGREEMENT

33908

This MASTER SERVICES AGREEMENT (this "Agreement") is entered into as of July 11, 2015 (the "Effective Date") by and between Open Counter Enterprises, Inc., a Delaware corporation, with principal offices at 1530 Brazil Lane, Santa Cruz, CA 95062 ("OpenCounter") and the City of Long Beach, California with its principal offices 333 W Ocean Blvd, Long Beach, CA 90802 ("City").

RECITALS

WHEREAS, City is an agency or division of state or local government, and wishes to be supplied by OpenCounter with access to certain software-based services provided by City and accessed via the Internet (as further described in an applicable Service Order, the "Hosted Service") and related professional services for its own use and that of persons and/or businesses applying for one or more permits, the issuance of which is within the jurisdiction of City ("Permit Applicant(s)"); and

WHEREAS, OpenCounter is willing to provide to City Hosted Services and related professional services pursuant to service orders entered into by the parties in a form substantially similar to that set forth in Exhibit A hereto ("Statement of Work"), and subject to the terms and subject to the conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises made herein, the parties hereto, intending to be legally bound, agree as follows:

1. HOSTED SERVICE IMPLEMENTATION AND USE

1.1. Implementation. OpenCounter shall use its commercially reasonable efforts to perform the Implementation by the Implementation Target Date; provided, however, that City shall cooperate with OpenCounter to carry out all tasks reasonably necessary for Implementation of the Hosted Service, including without limitation providing to OpenCounter all City Content required for the Implementation.

1.2. OpenCounter shall consult with City and provide assistance as reasonably necessary for City to carry out such tasks. OpenCounter shall notify City in writing when the Hosted Service is available for access and use by City and Permit Applicants.

1.3. Right to Use the Hosted Service. Upon completion of the Implementation, and in consideration of all obligations of City hereunder, including, without limitation, the payment by City of any applicable fees, OpenCounter hereby grants to City, during the Term of this Agreement, a non-exclusive, non-transferable (except as otherwise provided for herein), right and license to access and use the Hosted Service, and to make a reasonable number of copies of and use the Documentation in connection with such use of the Hosted Service.

1.4. Restrictions on Resale. The foregoing license does not permit City to, and City hereby agrees not to, resell, relicense, re-syndicate or otherwise sublicense the Hosted Service to any third-party, except as may be expressly set forth herein.

1.5. Use of Hosted Service by Permit Applicants. OpenCounter hereby agrees to allow Permit Applicants to use the Hosted Service, solely to the extent necessary to provide information to City regarding applications for permits the issuance of which are with City's jurisdiction, provided that Permit Applicants shall be required to consent to OpenCounter's Terms of Service presented to Permit Applicants when they register with the Hosted Service ("Terms of Service"). City understands and agrees that if any Permit Applicant declines to agree to the Terms of Service, OpenCounter has no obligation to permit such Permit Applicant to access or use the Hosted Service.

1.6. Use Restrictions. City shall not: (i) access and/or use the Hosted Service in order to design, create or build a service or product that is competitive with the Hosted Service, or which uses ideas, features or functions that are similar to the Hosted Service; (ii) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Hosted Service, except as expressly permitted herein; (iii) modify or make derivative works based upon the Hosted Service or any part thereof, or directly or indirectly disassemble, decompile, or otherwise reverse engineer the Hosted Service or any portion thereof.

1.7. Suspension of Access to Hosted Service. OpenCounter may suspend City's access to the Hosted Service at any time in order to: (i) prevent damages to, or degradation of, OpenCounter's network integrity; (ii) comply with any law, regulation, court order, or other governmental request or order which requires immediate action; or (iii) otherwise protect OpenCounter from potential legal liability; provided, however, OpenCounter will use commercially reasonable efforts to provide City with a minimum of five (5) business days' prior written notice of any such suspension. In addition, if City fails to pay, within ten (10) days of receiving written notice, when due any amounts owed hereunder, OpenCounter may suspend City's access to the Hosted Service. If suspended, OpenCounter will promptly restore use of the Hosted Service to the City after the event giving rise to the suspension has been resolved to OpenCounter' reasonable satisfaction.

1.8. Proprietary Rights. The Hosted Service, including all Intellectual Property Rights therein and thereto, and any modification thereof, are and shall remain the exclusive property of OpenCounter. City shall not take any action that jeopardizes the proprietary rights of OpenCounter or its licensors or acquire any right in the Hosted Service or OpenCounter Confidential Information, except the limited rights expressly granted in this Agreement.

1.9. Internet and Telecommunications Connections. City shall be responsible for obtaining any and all Internet and/or telecommunication connections used by City to access the Hosted Service. OpenCounter shall have no responsibility or liability for any interruption or delay in accessing or using the Hosted Service arising out of such Internet or telecommunications connections.

1.10. Licenses to OpenCounter.

(a) City Content. City hereby grants to OpenCounter a limited right and license, without the right to grant or authorize sub-licenses, during the Term of this Agreement to use and reproduce City Content, solely for the purpose of facilitating the performance of OpenCounter's obligations under this Agreement.

(b) Data Captured by the Hosted Service. City agrees that, subject to OpenCounter's confidentiality obligations below, OpenCounter may aggregate data captured by the Hosted Service in connection with the use of the Hosted Service by City and Permit Applicants ("Captured Data") with data captured by the Hosted Service from its use by other parties (collectively, "Aggregated Data").

(c) City agrees that solely as part of the Aggregated Data, OpenCounter may use, reproduce, distribute, prepare derivative works from the Captured Data, provided that under no circumstances will OpenCounter use the Captured Data in a way that identifies City or individual Permit Applicants as the source of the data. The license granted in this Section 1.10 (c) shall survive any termination or expiration of this Agreement.

1.11. City Data. In the event this Agreement expires or is terminated, OpenCounter will make available to the City a file of the City Content within sixty (60) days of such termination or expiration if the City so requests at the time of termination or expiration. Upon termination for cause, OpenCounter shall have no obligation to maintain or to forward to City any City Content after sixty (60 days) of the effective date of such termination.

2. FEES, PAYMENTS AND TAXES

1.1. Fees. Fees for use of the Hosted Service and the provision of Professional Services are set forth in Exhibit B, and unless otherwise set forth therein are due and payable within thirty (30) days of receipt of an invoice by City.

1.2. Past Due Accounts. Accounts that are past due will be subject to a monthly charge of one and one-half percent (1.5%) per month or the maximum rate permitted by the law, whichever is less.

1.3. Suspension of Services for Nonpayment. After notification by OpenCounter to City, accounts more than sixty (60) days past due will be subject to suspension of Support Services until payment is received.

1.4. Taxes. No taxes apply

3. TERM AND TERMINATION

1.1. Term. Unless earlier terminated by either party as hereinafter provided, this Agreement shall commence upon the Effective Date and remain in effect for a minimum period of one (1) year, or such longer period as may be set forth in the applicable Service Order. This Agreement may, upon mutual agreement, renew for consecutive one (1) year increments following the original Term.

1.2. Termination for Cause. Either party may terminate this Agreement for a breach by the other party of any of its material terms, provided the non-breaching party provides to the breaching party thirty (30) days written notice describing such breach and offering the breaching party an opportunity to cure. Failure to cure a material breach within the notice period shall result in automatic termination of this Agreement.

4. INDEMNIFICATION

1.1. Indemnity. Consultant agrees to indemnify, defend, and hold harmless the City, its officers, agents, and employees from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from Consultant's negligence, recklessness, or willful misconduct in the performance of this agreement.

5. CONFIDENTIAL INFORMATION

1.1. Restrictions on Use and Disclosure of Confidential Information. The parties agree to maintain the confidentiality of each other's Confidential Information and not use such information except in furtherance of this Agreement during the term of the Agreement and for a period of three (3) years after the termination of this Agreement.

1.2. Exceptions. The parties agree that, unless required by law, they will not make each other's Confidential Information available in any form to any third party, or use each other's Confidential Information for any purpose other than the performance of this Agreement.

6. REPRESENTATIONS, WARRANTIES & SERVICE LEVEL AGREEMENT

1.1. Mutual Warranties. Each party represents and warrants the following to the other party: (i) such party has the full corporate right, power, and authority to enter into this Agreement, to perform the acts required of it hereunder; (ii) the execution of this Agreement by such party, and the performance by such party of its obligations and duties hereunder, do not and will not violate any agreement to which such party is a party or by which it is otherwise bound; and (iii) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the Hosted Service

1.2. Service Level Agreement. The Hosted Services is subject to the Service Level Agreement, which sets forth City's exclusive remedy for any breach thereof. OpenCounter will provide 24-7 technical support for the duration of the contract utilizing the following Service Level Agreement (SLA) for remediation of errors / bugs, inconsistencies. (i) Critical: The defect affects critical functionality or critical data. It does not have a workaround. Example: Unsuccessful installation, complete failure of a feature. Full resolution will be provided within twelve (12) hours of the notification (ii) Major: The defect affects major functionality or major data. It has a workaround but is not obvious and is difficult. Full resolution will be provided within one (1) business day of the report. (iii) Minor: The defect affects minor functionality or non-critical data. Full resolution will be provided within three (3) business days of the first report (iv) Trivial: The defect does not affect functionality or data. It does not even need a workaround. It does not impact productivity or efficiency. It is merely an inconvenience. Example: Petty layout discrepancies, spelling/grammatical errors. Full resolution will be provided within three (3) business days of the first report.

1.3. Disclaimer of Warranties. THE WARRANTIES SET FORTH IN SECTION 4.3 STATE (i) OPENCOUNTER'S EXCLUSIVE WARRANTIES TO CITY AND ANY THIRD PARTY CONCERNING THE HOSTED SERVICE AND ANY PROFESSIONAL SERVICES AND (ii) OPENCOUNTER'S ONLY OBLIGATIONS, AND CITY'S EXCLUSIVE REMEDIES, FOR BREACH OF ANY SUCH WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.3, OPENCOUNTER MAKES NO, AND HEREBY EXPRESSLY DISCLAIMS (TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW) ALL OTHER, WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTE, AS TO THE HOSTED SERVICE, THE

PROFESSIONAL SERVICES OR ANY MATTER WHATSOEVER. IN PARTICULAR, ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXPRESSLY EXCLUDED. OPENCOUNTER DOES NOT WARRANT THAT (i) CITY CONTENT INPUT INTO THE HOSTED SERVICE BY OPENCOUNTER WILL BE ACCURATE OR FREE OF ERRORS, (ii) THE OPERATION OF THE HOSTED SERVICE WILL BE COMPLETELY SECURE, ERROR FREE OR UNINTERRUPTED, OR (iii) ALL ERRORS WILL BE CORRECTED. CITY ASSUMES ALL RISK OF DELAYS OR INTERRUPTIONS IN ACCESS TO OR USE OF THE HOSTED SERVICE RESULTING FROM USE OF THE INTERNET AND/OR TELECOMMUNICATIONS TO ACCESS THE HOSTED SERVICE, AND OPENCOUNTER SHALL HAVE NO LIABILITY FOR ANY SUCH DELAYS OR INTERRUPTION.

7. LIMITED LIABILITY

UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, OR FOR ANY COST OF COVER OR FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT. SUCH LIMITATION ON DAMAGES INCLUDES, BUT IS NOT LIMITED TO, LOST GOODWILL, LOST PROFITS, LOSS OF DATA OR SOFTWARE OR WORK STOPPAGE, REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BROUGHT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR IF SUCH DAMAGE COULD HAVE BEEN REASONABLY FORESEEN, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED IN THIS AGREEMENT. OPENCOUNTER'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY PRODUCT OR SERVICE, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES CITY HAS PAID TO OPENCOUNTER UNDER THIS AGREEMENT IN THE PREVIOUS TWELVE (12) MONTHS, AND IF SUCH DAMAGES RESULT FROM OR RELATE TO CITY'S USE OR INABILITY TO USE THE HOSTED SERVICE, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID BY CITY FOR THE COMPONENT OF THE HOSTED SERVICE GIVING RISE TO THE CLAIM IN THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. OPENCOUNTER SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR ANY DATA PROVIDED BY CITY. UNDER NO CIRCUMSTANCES SHALL OPENCOUNTER HAVE ANY LIABILITY OR RESPONSIBILITY FOR THE ACCURACY OF ANY CITY CONTENT THAT IS PUT INTO THE HOSTED SERVICES, WHETHER INPUT BY CITY, PERMIT APPLICANTS OR OPENCOUNTER, INCLUDING, WITHOUT LIMITATION, INACCURACIES IN CITY CONTENT INTRODUCED DURING THE INPUT BY OPENCOUNTER OF SUCH CITY CONTENT INTO THE HOSTED SERVICE. THE FOREGOING LIMITATION OF LIABILITY IS INDEPENDENT OF, AND SHALL NOT BE DEEMED TO MODIFY OPENCOUNTER'S OBLIGATION UNDER, ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THIS AGREEMENT.

8. MISCELLANEOUS

1.1. Entire Agreement. This Agreement, together with any Exhibits completely and exclusively state the entire agreement of the parties regarding its subject matter, and supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter.

1.2. Assignment. Neither this Agreement nor any rights or obligations of City hereunder may be assigned by City in whole or in part without the prior written consent of OpenCounter. Any assignment in violation of this Section 9.1 will be null and void.

1.3. Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause that is beyond the reasonable control of such party.

1.4. Governing Law; Jurisdiction and Venue. This Agreement and all matters arising under or related to its formation or performance whether sounding in contract, tort, or otherwise shall be governed in all respects by the laws of the of the State of California, without reference to conflict of laws principles and under the federal laws of the United States, as such may apply. If Federal jurisdiction exists, the parties hereby consent to exclusive venue and jurisdiction in the Federal Courts of San Francisco, California. If

no Federal jurisdiction exists, the parties consent to exclusive venue and jurisdiction in the State Courts of San Francisco, California

1.5. Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement

1.6. Precedence of Terms. In the event of any conflict between the terms of this Agreement and the terms of any purchase order or acknowledgement, the terms of this Agreement shall control. Acceptance by OpenCounter of any purchase order placed byis conditioned on City's assent to the terms set forth herein. OpenCounter's fulfillment of any purchase order shall not imply OpenCounter's acceptance of any pre-printed terms on such purchase order. Any such conflicting terms shall be of no force or effect

1.7. No Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties

1.8. Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or five (5) days after deposit in the mail. Notices shall be sent to the parties at the addresses set forth above or such other address as either party may designate for itself in writing

1.9. Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such un-enforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions

1.10. Waiver and Modification. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. This Agreement shall not be modified except by a subsequently dated written amendment signed on behalf of OpenCounter and City by their duly authorized representatives

1.11. Waiver of Rule of Construction. Each of the parties and their counsel have carefully reviewed this Agreement, and, accordingly, the normal rule of construction to the effect that any ambiguities in this Agreement are to be construed against the drafting party shall not apply in the interpretation of this Agreement.

9. DEFINITIONS

1.1. "Confidential Information" means any information disclosed by one party to the other, which, if in written, graphic, machine-readable or other tangible form is marked as "Confidential" or "Proprietary", if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and reduced to a writing marked "Confidential" and delivered to the receiving party within thirty (30) days of such disclosure, or which because of its nature should have reasonably been understood by the receiving party to be confidential even in the absence of actual notification of such status. Confidential Information shall include, without limitation, information regarding either party's business plans, finances, pricing, products or services, investors, research and development and City information. Confidential Information may also include information disclosed to a disclosing party by third parties. The Hosted Service and all features and functions therein shall be the Confidential Information of OpenCounter.

1.2. "City Content" means any information or data related to City, whether supplied by City or a Permit Applicant, that is input into the Hosted Service by City or a Permit Applicant, provided by City or a Permit Applicant to OpenCounter in connection with use of the Hosted Service by City and/or Permit Applicants.

1.3. "Documentation" means the information made generally available by OpenCounter to its customers that describes the form, features and/or operation of the Hosted Service, whether contained in a tangible medium, such as written format, tape, magnetic or other media, or made available in an electronic format. Documentation shall include any updates of Documentation that OpenCounter may make available to City pursuant to this Agreement.

1.4. "Hosted Service" means those components of the OpenCounter hosted service offering described in any Service Order entered into under this Agreement, to the extent that such Service Order is then in force and effect.

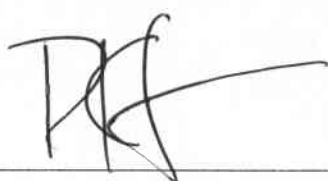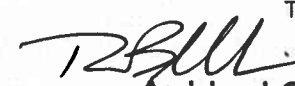1.5. "Implementation" means the implementation process and tasks described in Exhibit A

1.6. "Implementation Target Date" means the date for which Implementation is targeted to be complete, as set forth in Exhibit A

1.7. "Intellectual Property Rights" means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including, but not limited to, all exclusive exploitation rights, copyrights, neighboring rights, moral rights and mask-works, (ii) trademark, trade dress, and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force throughout the universe.

1.8. "Permit Applicant" means a third party individual or entity seeking to obtain one or more permits from City.

1.9. "Professional Services" means the professional services described in Exhibit A, to be performed for City by OpenCounter.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

For	OpenCounter Enterprises	City of Long Beach
By		EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER. *[signature]* Assistant City Manager
Name	Peter Koht	Patrick H. West
Title	President	City Manager
Address	1530 Brazil Lane, Santa Cruz, CA 95062	333 W. Ocean Blvd. Long Bch CA 90802

APPROVED AS TO FORM
March 19 , 20 15
CHARLES PARKIN, City Attorney
By _____
KENDRA L. CARNEY
DEPUTY CITY ATTORNEY

Exhibit A
STATEMENT OF WORK

1. Implementation Plan

OpenCounter Enterprises will create and configure an instance of the OpenCounter Economic Development suite (the "OpenCounter Instance") for the City of Long Beach, California (referred to as the "City").

The OpenCounter instance will include information and interactive tools related to use regulations, economic development incentives and industry-specific local permits for small business owners. The instance will be created utilizing the following actions ("Implementation Plan") and Phasing ("Implementation Phase"):

Imple-mentation Date	Implemen-tation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
8/1/15	Contracting	Submit Privacy Policy for Review	Privacy Policy	.doc and online at http://opencoun-ter.com/privacy	OpenCounter & City (IT and City Attorney)	1-5 hours (for all contracting review)
		Submit Terms of Service for Review	Terms of Service	.doc and online at http://opencoun-ter.com/tos	OpenCounter	
		Submit Proof of Insurance	Proof of Insurance	Email from the Hartford	OpenCounter	
		Submit W9	Send W9	.pdf or .doc	OpenCounter	
		Secure Local Business Licenses (if necessary)	Business Licenses	City form	OpenCounter	
8/1/15	Data Collection for Configuration of Managed Service	City Seal	City Seal Vector Graphic	.svg .png or .jpg file	OpenCounter & City (Development Services, Public Works, BID staff)	5 -10 hours for all requested data. Possibly less.
		Geospatial Data	Zoning shapefile(s) of the City Boundaries, Zoning Overlays, Special Taxation or Business Improvement Districts, Utility Service Areas ect.	geoJSON or shapefiles	City (IT)	1-5 hours
		Zoning Ordinance	Text of zoning ordinance for import into OpenCounter Database	.html link	City	

Imple-mentation Date	Implemen-tation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
		Municipal Code	Text of business specific chapters of municipal code for import into OpenCounter database. (i.e. daycare inspec-tions, special require-ments for pawnbrokers or pool halls)	.html link	City (Development Services)	3-5 hours (interviews with subject matter experts to catch edge cases)
		Use Tables	Internal Use Tables from Planning / Com-munity Development.	.xls or .csv	City (if available / exportable from De-velopment Services)	
		Planning Forms	Existing application forms for scanning and import into OpenCoun-ter database. (i.e. zoning clearance, conditional use permit applications, design review applica-tions).	.pdf or .doc	City	
		Public Works Forms	Existing application forms for scanning and import into OpenCoun-ter database (i.e. en-croachment, street opening, cafe extension)	.pdf or .doc	City	
		Utility and Wastewater Applications (if applicable)	Existing application forms for scanning and import into OpenCoun-ter database (i.e.utility applications, change or meter and or service level, water water dis-charge, environmental questionnaires)	.pdf or .doc	City	
		Finance Forms	Existing application forms for scanning and import into OpenCoun-ter database (i.e. ficti-tious business name applications, business property tax registra-tions, business license applications)	.pdf or .doc	City	
		Building Forms	Existing application forms for scanning and import into OpenCoun-ter database (building plan check applications, building permit applica-tions, inspection appli-cations, annual re-inspection require-ments)	.pdf or .doc	City	
		Economic Development Data	Existing application forms for scanning and import into OpenCoun-ter database (i.e. incen-tive applications, facade improvement grant applications or revolv-ing loan fund applica-tions)	.pdf or .doc	City	

Imple-mentation Date	Implemen-tation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
		Special District Data	Existing application forms for scanning and import into OpenCounter database (i.e. registration for BIDs or Chamber of Commerce membership or material from the Long Beach Economic Development Partnership)	.pdf or .doc	City	
		Police Forms	Existing application forms for scanning and import into OpenCounter database (i.e. entertainment permits, alarm permits, business specific registrations)	.pdf or .doc	City	
		Fire / Life Safety Forms	Existing application forms for scanning and import into OpenCounter database (i.e. alarm permits, fire inspection applications, annual inspection requirements)	.pdf or .doc	City	
		Fee Schedule	FY 2015 Long Beach Unified Fee Schedule	.xls or .doc	City	
		Departmental Addresses and Contacts	Departmental Addresses, website links, phone numbers and contact information for subject matter experts	.xls	City	
8/15/15	Server Set-up for Man-aged Ser-vice	Create Long Beach tenant on opencounter.com	Set up initial framework for import of data	.html link	OpenCounter	
		SSL	Enable SSL Service	ssl	OpenCounter	
		CNAME setup	Create a CNAME from opencounter.longbeach.gov to long-beach.opencounter.com	DNS	OpenCounter and City (IT)	1 hour
8/15/15	Project Manage-ment	Send Configu-ration Sched-ule / Steps	Send configuration documents outlining project scope and steps to be taken. Set up bi-weekly project management update conference calls with key project staff.	.pdf	OpenCounter and IT	10 hours (1 hour call bi-weekly during configuration schedule)
		Create Base-camp	Deploy Project Management software and invite Long Beach staff		OpenCounter	

Imple-mentation Date	Implemen-tation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
	GIS Con-figuration	Import Shape-files	Zoning, Jurisdictional, utility and special district shapefiles		OpenCounter	
		Scrape HTML zoning ordi-nance or im-port use table	Use Tables or Zoning Ordinance		OpenCounter	
		Set up condi-tional zoning logic	For uses that require additional information other than use and location for zoning clearances, (i.e. restaurants that serve alcohol) set conditional logic questions	zoning.io API	OpenCounter and Development Services	3-5 hours with Zoning Subject Matter Experts
9/15/15	**Content Creation**	Create Data Standard	Scan and analyze provided forms. Set data model for the City, provide as .csv for staff verification.	.csv	OpenCounter	
		Create Permit Models	Based on forms collected, create permit models and triggers for each		OpenCounter	
		Create Page Content	Based on interviews with permitting staff and project update calls, create content to guide applicants through the permitting process, including content related to local business registrations (i.e. business license or FBN process, county health permits, local tax registration, planning applications and building permit processes (including plan check, life safety review, inspections and certificates of occupancy. Provide staff with .csv of content for review	.csv	OpenCounter and City (Development Services, Public Works, BID staff, IT)	20-40 hours (less bi-weekly calls)
		Create Fees models	Create fees model based on unified fee schedule		OpenCounter	
		Create User Accounts	Create user account and provide staff CMS training utilizing help.opencounter.com		OpenCounter	
		Configure ac-cess to help.opencoun ter.com and in-app messaging	Configure access to help.opencounter.com and in-app messaging		OpenCounter	

Implementation Date	Implementation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
8/30/15	**Zoning Check Instance**	Configure and deploy long-beach.zoningcheck.com	Create instance of ZoningCheck tool for Long Beach staff to view and test zoning and BID information. Manage zoning in zoning.io API.		OpenCounter	
9/1/15 - 9/15/15	**Zoning Check Acceptance Testing**	Validation of returns in the ZoningCheck tool	Validation of zoning answers and BID returns inside the ZoningCheck tool by City and BID staff.		City (Development Services and IT)	1-3 hours
9/15/15	**Training**	Schedule bi-weekly training seminars (pre-launch)	Setup staff training on CMS, dashboard and application handling for Long Beach staff and BID allies.		OpenCounter and BID staff / Development Services staff	3 hours
		Set up weekly metrics email	Configure access to weekly metrics and dashboards		OpenCounter	
9/15/15	**Translation**	Begin Database Content Translation	Once given sign off on content (permits, use codes, fees, pages, zoning districts, department names) send to translation service and upload on Spanish version of site	.csv	OpenCounter	
10/1/15 - 10/15/15	**Alpha Acceptance Testing**	Verify proper content triggers	Work with Long Beach staff to confirm accuracy of imported and configured information		City (Development Services, Public Works, IT, BID staff)	3-7 hours
10/15/15	**BID staff Beta Testing**	Closed Alpha Testing	Work with BID staff and PBID staff on closed Alpha testing period of 30 days to qualify returns from the site before public rollout. Beta will be limited to BID staff working directly with permit applicants		BIDs,	
10/30/15 - 11/1/15	**Beta Acceptance Testing**	Verify proper content triggers and behaviors	Working with BID and City Staff, ensure that site is functioning properly for permit applicants. Final testing before go-live		BIDs, City (Development Services, IT and Public Works)	3-7 hours
11/1/15	**Pre-launch PR**	Pre-briefings	Work with Long Beach staff to give previews of site to a group of alpha and beta testers (brokers, chamber, SBDC staff ect)		OpenCounter and City (Development Services, Mayor's office / PIO)	1-5 hours
		Website Integration	Provide banners and logos for integration into Chamber and City website(s). Identity key landing pages for prospective business owners		OpenCounter and IT	1-3 hours

Imple-mentation Date	Implemen-tation Phase	Line Item	Description	Format	Responsible Party	Level of Effort (in hours, City side)
		Metrics (Pre- and Post-OpenCounter)	Set up tracking for total permit / request for services volume from 2014 (pre-OpenCounter) to track economic impact of site		City	
		Press Release	Create press release		OpenCounter and City (PIO or Mayor's)	1-3 hours
		Brochure	Create brochure for OpenCounter: Long Beach		OpenCounter and City (PIO or Mayor's office)	1 hour (ap-provals)
11/15/15	Implemen-tation Tar-get Date	Public Launch Activities	Press Conference, Pres-entation to business groups and town coun-cil,		OpenCounter and City (Mayor's Office or PIO)	3-5 hours depending on format
11/15/15-11/14/16	Support / Hosting	Ongoing Tech-nical Support	OpenCounter will pro-vide ongoing technical support subject to its SLA)	opencoun-ter.com/sla	OpenCounter	
		Ongoing Staff Support	OpenCounter will main-tain help resources available during Busi-ness Hours (9 AM- 5 PM Pacific) at its offices and will be reachable by phone, email and in-app messaging as well as its knowledgebase at help.opencounter.com		OpenCounter	

2. Acceptance Testing

When an implementation milestone is ready for use and testing, OpenCounter will notify City and City will commence acceptance testing of the implementation milestone, with such assistance and support as necessary from OpenCounter personnel. The acceptance test ("Acceptance Test") will be conducted solely for the purpose of demonstrating that the deliverable or functionality performs in accordance with its specifications set forth in the applicable documentation ("Acceptance Criteria"). The Acceptance Test will be in a form mutually agreed upon between the parties, and will be completed within five (5) business days of the date upon which OpenCounter informs City that the deliverable or feature is ready for use ("Acceptance Period").

If the implementation milestone passes the Acceptance Test, City will promptly so notify OpenCounter in writing ("Notice of Acceptance"). If the Implementation Milestone does not pass the Acceptance Test, City will notify OpenCounter, in writing, prior to the expiration of the Acceptance Period, specifying in reasonable detail in what respects the Implementation Milestone has failed to meet the Acceptance Criteria ("Notice of Rejection").

OpenCounter will promptly correct any deficiencies set forth in the Notice of Rejection, and City will have an additional Acceptance Period to repeat the Acceptance Test. The implementation milestone will be deemed accepted by City upon the earlier of (i) the issuance by City of a Notice of Acceptance, (ii) the use by City of the implementation milestone in production or (iii) the expiration of the applicable Acceptance Period prior to the receipt by OpenCounter of a Notice of Rejection (each of the foregoing shall constitute "Acceptance").

3. City Responsibilities and Level of Effort

Commercial Development is a complex project involving multiple departments across the City.

It is critical to the project schedule that City staff are engaged throughout the project in order to ensure successful outcomes. It is also important that stakeholder roles are defined so that decisions can be made effectively and efficiently during the execution of the project.

The Long Beach Department of Technology and Innovation ("IT") will serve as the project sponsor ("Project Sponsor"). IT will appoint a project owner ("Project Owner") as the key executive for the project, and a project manager ("Project Manager") to facilitate ongoing project administration.

The Project Owner will be responsible for accepting project deliverables per the Acceptance Criteria defined above as well as providing strategic oversight for the project.

The Project Manager will provide access to required data and resources, facilitate calls and meetings with City staff, and provide assistance and support during on-site visits and training sessions. OpenCounter will provide bi-weekly updates during the timeframe outlined in the Implementation Plan described above.

The Project Manager will also facilitate calls and meetings with City Subject Matter Experts ("Subject Matter Experts") in specific permitting verticals and provide assistance and support with communications with Subject Matter Experts.

Subject Matter Experts time commitments will be limited to Project Update calls on an as-needed basis and during the verification of content during defined Acceptance Testing periods defined in the Implementation Plan above.

4. Training

The goal of the project is to build a site that will be easy for citizens to use, and for Long Beach City staff to administer. To that end, OpenCounter will offer training sessions to educate Department staff on the tools, technologies, and best practices of the various components of OpenCounter.

Three (3) training sessions will be offered as part of the engagement. One (1) training session will be offered in person; the remainder will be offered via online video conferences. Training sessions will be 90 minutes each. In-person training sessions will be scheduled in conjunction with scheduled on-site visits.

The schedule for the training sessions will be determined by OpenCounter and City project staff and defined during the Project Management Phase of the Implementation Plan outlined above.
OpenCounter maintains online documentation to explain the functionality of the software. Documentation will be updated to reflect new features. The documentation will be accessible through the following links:

- https://help.opencounter.com
- https://opencounter.com/docs
- http://zoning.io/

5. Publicity and Post-Launch Promotion

OpenCounter will link to the City's instance on its webpage, opencounter.com. The City will link to the OpenCounter instance from its homepage, Departmental landing pages and in its outbound marketing and promotional materials in order to ensure that the service is easily accessible to small business owners, homeowners, building professionals and special events promoters.

OpenCounter and the City will collaborate on a launch press release as well as a mid-year press release featuring case studies of end users who utilize the tool in Long Beach. These case studies may be leveraged for existing City of Long Beach marketing / program materials.

6. Change Orders

Should the City request a change or feature that is outside of the scope of services defined in this Statement of Work, OpenCounter will notify City that is has made a change request ("Change Order"), and will submit an estimate of the charges and impact to the project delivery schedule on a Change Order Form for City approval.

OpenCounter shall continue performing the services in accordance with the Statement of Work until the parties agree in writing on the change in scope of work, scheduling, and fees therefore. Any Change Order shall be agreed to by the parties in writing prior to implementation of the Change Order. Any change order shall be signed by OpenCounter and City prior to commencing any activities defined in the Change Order. If the City approves the Change Order, OpenCounter will bill the work on a time and materials basis at the then-standard hourly rate (currently $250/hour). Should a Change Order be estimated to alter the scope of services by more than 10%, OpenCounter will submit a new proposal to City for written approval.

Exhibit B
COSTS AND INVOICE SCHEDULE

1. Costs

Line Item	Cost
Configuration and Professional Services	$25,000
Translation Services (Spanish, Tagalog, Mandarin)	$5,000
Year 1 Subscription (Includes language synchronization)	$40,500

2. Invoice Schedule

Invoices	Date	Amount
Configuration / Translation Costs	July 22, 2015*	$30,000
Year 1 Subscription (50%) – Beta Testing	September 2015*	$20,250
Year 1 Subscription (50%) – Public Launch	October 2015*	$20,250

Upon mutual written agreement, the Subscription may renew in one (1) year increments following the original Term.

*All invoices Net 30.

3. Parties

All invoices will be addressed to attention of the Department of Technology and Innovation.