

**RESOURCE ASSOCIATES OF NEVADA, INC.
PROFESSIONAL SERVICE AGREEMENT
MAINTENANCE AGREEMENT-BIZTRAK**

This is an agreement between the City of Columbus and Resource Associates of Nevada, Inc. (hereinafter RAI), to perform services for the City of Columbus (hereinafter City) for software maintenance and professional support services not to exceed \$5,000.00 for the BizTrak Program (hereinafter Program).

DURATION OF PERFORMANCE

This agreement shall be effective from 7/1/12 through 6/30/13.

SCOPE OF SERVICES:

- I. In consideration of \$2,000.00 to be paid upon the execution of this agreement. RAI shall provide the following maintenance and support services for the Program:
 - a. **Technical support contacts** for troubleshooting, general software use, installation, and database management questions.
 - i. Contact methods:
 1. **Telephonic:** RAI will maintain a toll-free phone line
 2. **Email:** RAI shall provide the city with an email address for reporting support issues
 - ii. Support staff will be available 8:00 am to 4:00 pm (PST), excluding City celebrated holidays. In the event technical support staff must be consulted for troubleshooting, RAI staff will respond to all support requests within 24 hours.
 - b. **General Product support:** RAI will provide personnel familiar with the product to answer basic questions regarding installation, configuration, as well as usage questions regarding product functionality and use of Program.
 - c. **Documentation/Manual Updates:** RAI will update user instructions, manuals or other materials, and help files regarding the use of the Program with any system changes and upgrades.
 - d. **Compatibility with Operating System, database and user interface tools:** RAI shall ensure current release is compatible with designated Microsoft Windows platforms (currently windows 2000 and XP), including Service Pack releases. RAI will maintain product to be compatible with all service pack releases of the database and graphical user interface the Program is designed to use (currently Microsoft OFFICE/ACCESS 2003). RAI shall promptly make any and all necessary revisions to the Program so that the Program operates fully and functionally when service packs are applied.
 - e. **Security Permissions:** RAI and EBOCO application lead will maintain security files and user permissions.
- II. The City, through its designated Technology Account Managers in its Department of Technology, may request the following services on an *as needed basis* from RAI, as part of the annual support agreement:

- a. **Advanced Technical Support:** In the event the City's support needs exceed general usage, installation, or configuration issues, RAI will provide access to Program developers and technical staff. Advanced Technical Support includes rectifying a City defined problem related to the original intent and design of the software, determining actions that need to be taken to recover from a data or database corruption problem, correcting problems pertaining to an input stream, and resolving issues identified by the City as to desired functionality of the Program.
- b. **Upgrade** implementation services and customization requests.
- c. **Onsite Support:** RAI will provide '*one*' on-site technical support via remote login to ensure the Program is functioning in accordance with expectations.
- d. **User Training for EBOCO Staff:** If requested by the City, RAI will train City staff on use of system and when any system upgrades performed.
- e. **Database Maintenance:** at the request of the City, RAI will perform detailed data compacting and integrity checks to ensure data processing efficiency. RAI will perform referential integrity and data link checks to ensure there are no broken or corrupted links in Program.
- f. **Product maintenance/upgrades:** City will be eligible to receive any Product upgrades, maintenance releases, and enhancements to product, as released by RAI at an additional cost to the City; upgrade requests must be made in writing by the City and submitted for service pricing by RAI. In the event of an upgraded release, RAI will assure that the product will operate fully and completely on the current operating system platform, database, and graphical user interface.

The above services will be invoiced as requested/approved from the remaining contract balance of \$3,000.00. *The billing rate per hour shall be \$150.00.*

Work under this section shall not commence without a valid Statement of Work (SOW) and authorization to proceed from the City's designated Technology Account Manager. The SOW shall be mutually agreed upon by RAI and the City and shall contain the following information:

1. Title: Include a short title of services or a general description work being performed.
2. Background: Justify this effort in relationship to the customers' agency mission. Provide historical and/or additional information related to this SOW.
3. Objectives: Provide a concise overview of the customer's goals and expectations as a result of this task order
4. Scope: Describe the general scope of work.
5. Tasks: Provide a performance-based narrative of the specific tasks and/or products that make up the SOW and fee associated with each task.
6. Deliverables/Delivery Schedule: Describe precisely the items to be delivered, both during the period of performance and at completion of the SOW. The schedule may be identified either in terms of calendar days from date Notice to Proceed is issued or specific dates identified in advance by RAI and the City.
7. Funding: Identify standard funding documentation such as Purchase Order number. A statement must be made that funds are available for the SOW.

PERFORMANCE \ DELAYS AND EXTENSIONS

During performance of SOW and until SOW is completed and items are delivered, RAI shall provide the City with periodic updates on the progress of the delivery schedule

In the event RAI is delayed in performance of its services by circumstances beyond its control, the City in its discretion shall grant a reasonable adjustment in the SOW delivery schedule.

If RAI neglects to perform work properly, refuses or delays extensively to remedy inferior quality workmanship or material, or in any manner fails to perform any provision of this contract, the City (after 5 business days written notice) may make good such deficiencies and deduct the cost thereof from payment then or thereafter due to RAI. Delay of the city to notify RAI shall not result in a waiver of any rights provided within.

INVOICING\PAYMENT

Upon completion of the SOW, invoices shall contain the reference Purchase Order number, description of the work performed as tasks from SOW, and shall be submitted with all required supporting documentation. The retainer fee (\$2,000.00) shall be due upon signing of this agreement.

Payment shall be made upon proper invoicing by RAI, client acceptance and testing, and acceptance of tasks by approval of Department of Technology designated Technology Account Manager. Payment Terms are Net 30 days. The City agrees to use its best efforts to process payment within 30 days, but will not be subject to late fees.

The City of Columbus, being a municipality, is tax exempt and will provide appropriate certification upon request

INDEPENDENT CONTRACTOR STATUS

RAI shall perform its duties as an independent RAI and not as an employee. Neither RAI nor any agent or employee of RAI shall be or shall be deemed to be an agent or employee of the City of Columbus. RAI shall pay when due all required employment taxes and income tax on any monies paid pursuant to the contract. RAI shall acknowledge that RAI and its employees are not entitled to unemployment insurance benefits unless RAI or a third party provides such coverage and that the City does not apply for or otherwise provide such coverage. RAI shall have no authorization, express or implied, to bind the City to any agreements, liability, or understanding except as expressly set forth in the contract. RAI shall provide and keep in force worker's compensation (and show proof of such insurance) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of RAI, its employees and agents.

WITHHOLDING

RAI hereby further agrees to withhold all City income taxes due or payable under the provisions of Chapter 361, Columbus City Codes, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under said chapter for services performed under this contract.

WORKER'S COMPENSATION INSURANCE

RAI shall take out and maintain, during the life of the contract, adequate worker's compensation insurance for all his employees employed at the site of the project and, in case any work is sublet, RAI shall require the subcontractor similarly to provide worker's compensation insurance for the latter's employees, unless such employees are covered by the protection afforded by RAI. RAI shall furnish three (3) copies of the worker's compensation certificate showing that RAI has paid his industrial insurance premium.

PUBLIC LIABILITY INSURANCE

RAI shall take out and maintain during the life of the contract, such public liability (bodily injury and property damage) Insurance as shall protect him from claims from damages for personal injury, including accidental death, as well as from claims for property damage which may arise from operations under the contract, whether such operation be by himself or any subRAI or by anyone directly or indirectly employed by either of them. Such insurance policy shall include the City as named insured. RAI shall maintain coverage of the types and in the amounts specified below. Proof of such insurance coverage shall be evidenced by submitting a certificate of insurance. RAI's "umbrella" type policy with limits specified below may be submitted for this requirement with the City as named insured.

The amount of such insurance shall be as follows:

Bodily Injury Liability:

Each Person	\$ 500,000.00
Each Accident	1,000,000.00

Property Damage Liability:

Each Person	\$ 500,000.00
All Accidents	1,000,000.00

Such insurance shall remain in full force and effect during the life of the contract.

Insurance may not be changed or cancelled unless the insured notifies the City in writing not less than thirty days prior to such change or cancellation. If any part of the contract is sublet, RAI is responsible for the part sublet being adequately covered by insurance hereinabove described.

RAI assumes all risk of loss and damage to the equipment provided unless loss or damage occurs at the time the operator and equipment are being operated for the purpose designated by the City and such loss or damages is caused by an act of the City or its employee which constitutes gross negligence or wanton misconduct.

SAVE HARMLESS

RAI shall protect, indemnify and save the City harmless from and against any damage, cost, or liability, including reasonable attorneys' fees resulting from claim, by third parties for any or all injuries to persons or damage to property arising from the acts or omissions of RAI, its officers, employees, agents, or Subcontractor in providing goods or services under the terms and conditions of this contract.

RAI agrees to indemnify and hold harmless the City of Columbus, Ohio and their respective officials, employees and other agents and representatives, against loss, claim, liability in tort or by statute imposed, charge, cost or expense, including without limitation, attorneys fees to the extent permitted; by law, which may be incurred in connection with, or in any manner of any damage or loss arising from disclosure of proprietary information.

APPLICABLE LAW/REMEDIES

This agreement shall be governed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Contractor arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio. The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

TERMINATION FOR CONVENIENCE

The City upon thirty days written notice may terminate this agreement at its convenience. RAI shall be entitled compensation for goods provided or services rendered under the terms of this contract up to the date of notification of termination.

TERMINATION FOR DEFAULT

If either the City or RAI violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party shall give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be the sole discretion of the aggrieved party. If it determined for any reason the failure to perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

CONFIDENTIALITY

In the course of providing services to the City, RAI will have access to city confidential and proprietary information. RAI shall hold the City's data in the strictest of confidence. RAI shall not make City information available to any third party or use the City's information for any purpose other than the implementation of and in the course of providing services for use of Program by the City and for the City's use only. The City's information shall remain the sole and exclusive property of the City.

RAI will take all reasonable security cautions to ensure the City's confidential information is not disclosed, distributed, or used by its employees, agents, or consultants in violation of the provisions of this agreement.

The provisions of this "Confidentiality" section shall survive termination or expiration of this agreement for any reason.

PUBLICATIONS

RAI agrees to submit to the City's Contract Administrator all advertising, sales promotion, and other publicity matters relating to this Contract wherein the City's name is mentioned or language used from which the connection of the City's name therewith may, in the City's judgment, be inferred or implied. RAI further agrees not to publish, or use such advertising, sales promotion, or publicity matter without the prior written consent of the City except that may be required under law.

RAI'S PROPRIETARY INFORMATION

Per agreement, the City shall be provided with the system documentation and system source code. The system documentation and source code is provided solely and exclusively to the City. The furnishing of the system documentation and source code does not give the City or its representatives, assignors or employees any license to reproduce or distribute. The City may not re-market the system without the consent of RAI. RAI shall not be responsible for technical support after any software modifications are made. RAI expressly preserves its intellectual property rights and any other legally protected rights in the system documentation and source code furnished to the City pursuant to the terms of this agreement.

RAI acknowledges that the City is subject to chapter R.C.149.43, the State of Ohio Public Records Law. The City agrees to keep any information confidential except as otherwise required to be disclosed by law including but not limited to the contract.

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

(1) RAI will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. RAI will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. RAI agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this Equal Opportunity Clause.

(2) RAI will, in all solicitations or advertisements for employees placed by or on behalf of RAI, state that RAI is an equal opportunity employer.

(3) It is the policy of the City of Columbus that business concerns owned and operated by minority and female persons shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the City.

(4) RAI shall permit access to any relevant and pertinent reports and documents by the Executive Director for the sole purpose of verifying compliance with this Article, and with the regulations of the Contract Compliance Office. All such materials provided to the Executive Director by RAI shall be considered confidential.

(5) RAI will not obstruct or hinder the Executive Director or his deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Article I, Title 39.

(6) RAI and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. RAI will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the Equal Opportunity Clause.

(7) RAI agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Article I, Title 39.

(8) Failure or refusal of a contractor or subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this contract

ASSIGNMENT

This agreement may not be assigned or otherwise transferred to others by RAI without the prior written consent of the City.

CHANGES OR MODIFICATIONS

This Contract constitutes the entire agreement between the parties, and any changes or modifications to this agreement shall be made and agreed to in writing.

IN WITNESS WHEREOF, the parties hereto have set their signatures the day and year first written above.

Director Equal Business Opportunity
Commission Office
City of Columbus

Date Approved

Stephanie Shirit
Founder & CEO
Resource Associates of Nevada, Inc.
Federal Tax ID# 88-0465132

Date Approved