

**UNITY IT LLC. MASTER CUSTOMER AGREEMENT**  
**GENERAL TERMS**

This **MASTER CUSTOMER AGREEMENT** (the "**Agreement**") is entered into as of 4/1/2017 ("**Effective Date**") between Unity IT LLC., a Managed Services Provider, located at 55 Shaw Ave Suite 204 Clovis CA 93612 ("**MSP**") and the City of Reedley located at 845 G St. Reedley CA 93654 ("**Customer**").

**1. SCOPE OF AGREEMENT.** This Agreement serves as a master agreement and applies to Customer's and its Affiliates' purchases from MSP, or any of its Affiliates, of services ("**Services**"), as well as licenses for software, hardware, support and maintenance services, and/or subscription services (collectively, "**Product**"). For purposes of this Agreement, "**Affiliate**" means any entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or under common control with Customer or MSP, as the case may be. No Product or Services will be provided under this Agreement alone, but may require the execution of a written or electronic order form, or other mutually acceptable order documentation (including, without limitation, Statements of Work for Products and Services as further described below) (each, an "**Order**"), which contains terms relating to this Agreement, each of which must be executed by both parties and, upon such execution, is deemed incorporated in this Agreement for all purposes. Any Statement of Work will contain the information listed in and will be substantially in the form of Exhibit A attached hereto. The parties hereby further agree that the parties may execute multiple Orders and Statements of Work under this Agreement. In the event of any conflict between the terms of the Statement of Work and those of this Agreement, the terms of the Statement of Work will prevail.

**2. TERM AND TERMINATION.** This Agreement will begin on the Effective Date and will continue until March 31, 2018. MSP may: (a) terminate a specific Order if Customer fails to pay any applicable fees due for that Order within 30 days after receipt of written notice from MSP of non-payment; and/or (b) terminate this Agreement or an Order if Customer commits any other material breach of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice from MSP. Upon any termination of the right to use a Product, Customer will immediately uninstall (if the Product is software) and cease to use the terminated Product and, upon MSP's written request, immediately return such Product to MSP, together with all related documentation, and copies thereof. Upon written request of MSP, Customer will promptly certify in writing to MSP that all copies of the Product have been returned, and that any copies not returned have been destroyed. If an Order for Services is terminated, Customer will promptly pay MSP for Services rendered, and expenses incurred through the termination date. MSP may terminate any license granted for a Deliverable (as defined below) if (i) Customer does not pay MSP for that Deliverable in accordance with this Agreement, or (ii) if Customer materially breaches any part of Section 4 of this Agreement.

**3. PAYMENT AND DELIVERY.** Customer will pay MSP all fees due upon receipt of an invoice specifying the amounts due ("**Fees**"). All Fees payable under this Agreement are exclusive of sales, use, VAT, customs duties, excise, and any other applicable transaction taxes, which Customer will pay (excluding taxes based upon the net income of MSP). If payment is not received on or before any invoice due date, interest shall begin to accrue and be payable at the lesser of the maximum rate permitted under applicable law or at the rate of one and one-half percent (1.5%) per month from the date due until paid in full. Customer shall pay all expenses,

including actual attorneys' fees, incurred by MSP or its representatives in enforcing its rights under this Agreement, provided that MSP is successful on the merits. Customer's obligation to pay undisputed amounts due for Services and MSP's right to all such amounts are absolute and unconditional. Customer is not entitled to setoff of such amounts. All Product is FOB shipping point. All Fees will be detailed in an Order. Unless otherwise stated in a Statement of Work, Customer agrees to pay or reimburse MSP for all actual, necessary, and reasonable expenses incurred by MSP in performance of such Statement of Work, which are capable of verification by receipt. MSP will submit invoices to Customer for such fees and expenses either upon completion of the Services, or at stated intervals, in accordance with the applicable Statement of Work.

**4. PROPRIETARY RIGHTS AND CONFIDENTIALITY.**

**4.1. Proprietary Rights.** MSP, or its Affiliates or licensors, retains all right, title and interest in any and all intellectual property, informational, industrial property and moral rights in the Product, and copies thereof. MSP neither grants nor otherwise transfers any rights of ownership in the Product to Customer. The Product is protected by applicable copyright and trade secrets laws, and other forms of intellectual property, informational and industrial property protection.

**4.2. Product.** Customer may only use and disclose Product in accordance with the terms of this Agreement and applicable Order. MSP reserves all rights in and to the Product not expressly granted in this Agreement. Customer may not disassemble or reverse engineer any software Product, or decompile or otherwise attempt to derive any software Product's source code from executable code, except to the extent expressly permitted by applicable law despite this limitation, or provide a third party with the results of any functional evaluation, or benchmarking or performance tests on the Products, without MSP's prior written approval. Except as expressly authorized in this Agreement or an Order, Customer may not (a) distribute the Product to any third party (whether by rental, lease, sublicense or other transfer), or (b) operate the Product in an outsourcing or service provider business to process the data of third parties. Additional usage restrictions may apply to certain third-party files or programs embedded in the Product - applicable installation instructions or release notes will contain the relevant details.

**4.3. Services Deliverables licensed under this Agreement.**

(a) **License.** Subject to the terms of this Agreement, MSP grants Customer a perpetual, non-exclusive, non-transferable license to use and modify all programming, documentation, reports, and any other deliverables provided as part of the Services ("**Deliverables**") solely for its own internal use.

(b) **Pre-Existing License Agreements.** Any software product provided to Customer by MSP as a reseller for a third party, which is licensed to Customer

under a separate software license agreement with such third party (such agreement, an "SLA"), will continue to be governed by the SLA. The fulfillment of the Services will not relieve or alter the obligations or responsibilities of either party or of any third party in regards to the software product licensed under the SLA.

(c) **Ownership.** MSP owns all right, title and interest in the Deliverables, *including* all intellectual property rights embodied therein. Nothing in this Agreement is intended to or will have the effect of vesting in or transferring to Customer rights in MSP's or its affiliates' or its or their suppliers' software, methods, know-how or other intellectual property, regardless of whether such intellectual property was created, used or first reduced to practice or tangible form in the course of performance of the Services, whether solely by MSP or jointly with Customer.

**4.4 Mutual Confidentiality.** This Section sets out the terms for identification of information which is considered confidential and proprietary by a party (the "**Discloser**"), and restrictions against use and disclosure of such Confidential Information after disclosure to the other party (the "**Recipient**").

(a) **Definition.** The term "**Confidential Information**" means all proprietary or confidential information that is disclosed to the Recipient by the Discloser, and includes, among other things (i) any and all information relating to products or services provided by a Discloser, its customer-related and financial information, source and executable code, flow charts, drawings, techniques, specifications, development and marketing plans, strategies, forecasts, and sales and marketing materials; (ii) the Product; and (iii) the terms of this Agreement. Confidential Information does not include information that Recipient can show: (A) was rightfully in Recipient's possession without any obligation of confidentiality before receipt from the Discloser; (B) is or becomes a matter of public knowledge through no fault of Recipient; (C) is rightfully received by Recipient from a third party without violation of a duty of confidentiality; or (D) is or was independently developed by or for Recipient.

(b) **Disclosure Restrictions.** Recipient may not disclose Confidential Information of Discloser to any third party without the prior written consent of Discloser.

(c) **Proprietary Legends.** Recipient may not remove, obscure, or alter any proprietary legend relating to the Discloser's rights on or from any form of Confidential Information of the Discloser, without the prior written consent of the Discloser, except as expressly authorized in an Order.

## **5. ALLOCATION OF RISK**

**5.1. Disclaimer of Damages.** EXCEPT FOR VIOLATIONS OF SECTION 4, NEITHER PARTY, NOR ITS AFFILIATES AND LICENSORS, ARE LIABLE TO THE OTHER PARTY, OR ITS AFFILIATES OR LICENSORS, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PRODUCT (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST COMPUTER USAGE, AND DAMAGE OR LOSS OF USE OF DATA), EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND IRRESPECTIVE OF THE NEGLIGENCE OF EITHER

PARTY OR WHETHER SUCH DAMAGES RESULT FROM A CLAIM ARISING UNDER TORT OR CONTRACT LAW.

**5.2. Limitation of Liability.** EXCEPT FOR VIOLATIONS OF SECTION 4, MSP'S LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT IS LIMITED TO THE GREATER OF THE AMOUNT PAID OR PAYABLE BY CUSTOMER FOR THE APPLICABLE PRODUCT.

**5.3. Injunctive Relief.** Both parties acknowledge that their violation of Section 4 may cause the other party immediate and irreparable harm. In the event of such breach, the breaching party agrees that the other party may seek, in addition to any and all other remedies available at law, an injunction, specific performance or other appropriate relief.

## **6. SERVICES-SPECIFIC TERMS.**

**6.1. All Necessary Rights.** If, as part of MSP's performance of Services, MSP is required to use, copy or modify any third party system (hardware, software or other technology) provided or licensed to Customer, then prior to MSP's performance of such Services, Customer will acquire all rights necessary for MSP to perform such Services.

**6.2. Limited Warranty.** MSP warrants that the Services performed will be of a quality conforming to generally accepted practices that are standard within the software services industry for a period of ninety (90) days from completion of the Services under the applicable Statement of Work. Customer's exclusive remedy and MSP's entire liability under this warranty will be for MSP to re-perform any non-conforming portion of the Services within a reasonable period of time, or if MSP cannot remedy the breach during such time period then refund the portion of the fee attributable to such non-conforming portion of the Services. This warranty will not apply to the extent Customer, its contractors or agents have modified any Deliverable, unless otherwise authorized by MSP in writing. THIS WARRANTY AND CONDITION IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

### **6.3. Intellectual Property Indemnity**

(a) **Infringement Claims.** If a third party asserts a claim against Customer asserting that the Deliverables and/or MSP's performance of the Services in accordance with the terms of this Agreement violates a patent, trade secret or copyright (an "**Intellectual Property Right**") owned by that third party ("**Infringement Claim**"), then MSP will, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify Customer for any damages finally awarded against Customer, but only if Customer promptly notifies MSP of any Infringement Claim, MSP retains sole control of the defense of any Infringement Claim and all negotiations for its settlement or compromise, and Customer provides all reasonable assistance requested by MSP. MSP will not be liable for any expenses or settlements incurred by Customer without MSP's prior written consent.

(b) **Remedies.** If an injunction or order is obtained against MSP performing the Services for Customer and/or Customer using the Deliverables by



reason of the allegations of infringement, or if in MSP's opinion the Services and/or Deliverables may violate a third party's proprietary rights, then MSP will, at its expense: (a) procure for Customer the right to continue to receive the Services and/or use the Deliverables; (b) modify or replace the Services and/or Deliverables with a compatible, functionally equivalent substitute; or (c) if neither (a) nor (b) are commercially practical, terminate this Agreement and release Customer from its obligation to make future payments for the Services and/or Deliverables. Sections 5.1 and 5.2 contain Customer's exclusive remedies and MSP's sole liability for claims of infringement.

**6.4. Independent Contractor.** Nothing in this Agreement will be construed to make either party an employer, employee, agent or partner of the other, and this Agreement will not be construed to create rights, express or implied, on behalf of or for the use of any party other than MSP and Customer. All of the Services performed by MSP will be performed as an independent contractor. MSP will perform such Services under the general direction of Customer, but MSP will have sole discretion to determine the manner, method and means of performing such Services subject to the provisions of this Agreement and applicable Statement of Work. Neither party will have any authority to make any contract in the name of or otherwise to bind the other party. MSP will be responsible for and will pay all unemployment, social security and other payroll taxes, and all worker's compensation claims, worker's compensation insurance premiums and other insurance premiums, with respect to MSP and MSP's employees.

**6.5. Mutual Non-Solicitation.** During the term of this Agreement, and for a period of six (6) months thereafter, neither party will solicit for employment any employees of the other party or its affiliates who, within six (6) months prior to such solicitation: (a) directly performed under this Agreement, (b) had substantial contact with the hiring party in relation to this Agreement, or (c) the hiring party became aware of due to, or derived from information learned through the performance of, this Agreement. For this purpose, "solicitation" does not include contact resulting from indirect means such as public advertisement, placement firm searches or similar means not directed specifically at the employee to which the employee responds on his or her own initiative. Notwithstanding the foregoing, either party may at any time, directly or indirectly, solicit and hire any employee of the other party if such employee did not resign but was terminated by the other party. The parties acknowledge and agree that a breach of this "Non-Solicitation" clause will not give rise to a right of termination of this Agreement; the party not in breach will only have the right to seek and recover direct damages from the breaching party.

**6.6. Mutual Indemnity.** Each party will indemnify, defend and hold harmless the other party from all claims, liabilities or expenses for physical damage to real property or tangible personal property and bodily injury, including death, to the extent caused by the gross negligence or willful misconduct of the indemnifying party's employees or contractors arising out of this Agreement and while at the Customers premises. The foregoing indemnities are contingent upon the party seeking indemnity giving prompt written notice to the indemnifying party of any claim, demand or action, and cooperating with the indemnifying party in the defense or settlement of any such claim, demand or action.

## **7. MISCELLANEOUS/OTHER PROVISIONS.**

**7.1. Severability.** Should any provision of this Agreement be invalid, or unenforceable, the remainder of the provisions will remain in effect. In the event of a dispute, the prevailing party in any litigation or arbitration will be entitled to recover its attorneys' fees and cost incurred from the other party.

**7.2. Notices.** Unless otherwise provided, notices to either party will be in writing to the address indicated above, or as later amended, and deemed effective when received.

**7.3. Verification.** Upon MSP's written request, Customer will provide MSP with a certification signed by an officer of Customer verifying that Product is being used pursuant to the terms of this Agreement, including without limitation the licensed capacity of the Product. MSP may, at its expense, audit Customer's use of Product to confirm Customer's compliance with this Agreement. Any such audit will be conducted during regular business hours at Customer's facilities and will not unreasonably interfere with Customer's business activities. If an audit reveals that Customer has underpaid Fees to MSP, Customer will pay such underpaid Fees. If the underpaid Fees exceed five percent (5%) of the Fees paid, then Customer will also pay MSP's reasonable costs of conducting the audit.

**7.4. Assignment.** Customer may not assign this Agreement or any rights granted in this Agreement to any third party, except with the prior written consent of MSP.

**7.5. No Waivers.** Failure of a party to require performance by the other party under this Agreement will not affect the right of such party to require performance in the future. A waiver by a party of any breach of any term of this Agreement will not be construed as a waiver of any continuing or succeeding breach.

**7.6. Force Majeure.** Any delay or failure of any party to perform any obligation under this Agreement caused by governmental restrictions, labor disputes, storms or natural disasters, emergency, or other causes beyond the reasonable control of the party, will not be deemed a breach of this Agreement. This provision does not apply to the payment of monies or any breach of Section 4.

**7.7. Independent Contractors.** The parties are independent contractors of each other, and no partnership or joint venture is intended or created by this Agreement.

**7.8. Entire Agreement.** This Agreement, together with each Statement of Work and Order, constitutes the entire agreement between Customer and MSP, and supersedes any prior or contemporaneous negotiations or agreements, whether oral or written, concerning this subject matter. This Agreement, and each Statement of Work and Order, may be modified only in a mutually signed writing between Customer and MSP. In the event of a conflict between this Agreement, any Statement of Work or an Order, the terms of the Order will control, followed by the terms of the applicable Statement of Work and then this Agreement.

**7.9. Export Controls.** Customer will cooperate with MSP as reasonably necessary to permit MSP to comply with the laws and regulations of the United States and all other relevant countries, relating to the control of exports ("Export Laws"). Customer may not import, nor export or

re-export directly or indirectly, including via remote access, any part of the Product into or to any country for which a validated license is required for such import, export or re-export under applicable Export Laws, without first obtaining such a validated license.

**7.10. Referencing.** Customer agrees that MSP and its Affiliates may refer to Customer as a customer of MSP, both internally and in externally published media. Customer also agrees to instruct appropriate personnel within its organization that Customer has agreed to receive and participate in calls, from time to time, with potential customers of MSP who wish to evaluate the technical specifications of Product.

**7.11. Dispute Resolution and Governing Law.** ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THE PRODUCT AND/OR THIS AGREEMENT WILL BE SUBJECT TO ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES. THE AWARD AND ANY FINDINGS OF THE ARBITRATOR MUST BE FILED WITHIN THIRTY (30) DAYS OF THE FINAL

ARBITRATION HEARING. JUDGMENT ON ANY AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. NOTHING CONTAINED IN THIS SECTION WILL LIMIT EITHER PARTY'S ABILITY TO SEEK INJUNCTIVE RELIEF IN ANY COURT. THE PARTIES WILL ARBITRATE DISPUTES IN CONFIDENCE. THIS AGREEMENT WILL BE GOVERNED BY THE SUBSTANTIVE LAWS OF THE STATE OF CALIFORNIA. THE CHOICE OF LAW RULES OF ANY JURISDICTION AND THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS WILL NOT APPLY.

**7.12. Survival.** Sections 2, 4, 5, 6 and 7 will survive the termination or expiration of this Agreement. The prevailing party in any litigation or arbitration proceeding is entitled to recover, from the other party, its reasonable attorneys' fees and necessary costs incurred in such proceeding.

This Agreement is effective only upon execution by MSP and Customer. Each party hereto warrants and represents that this Agreement constitutes the legal, valid and binding obligation of such party as of the Effective Date.

Unity IT LLC.

Signature:



Name: Kip Haroldsen

Title: President

Date: 03/21/2017

City of Reedley

Signature:



Name: Nicole R. Zieba

Title: City Manager

Date: 3/21/2017

**EXHIBIT A**  
**Statement of Work**

**STATEMENT OF WORK No. 1**

**Monthly Managed IT Services (Encompass)**

This Statement of Work ("**SOW No.1**") dated 4/1/2017 ("**SOW Effective Date**") supplements the Master Customer Agreement effective as of 4/1/2017 (the "**Agreement**") by and between Unity IT LLC. ("**MSP**") and City of Reedley ("**Customer**"). This SOW No. 1 consists of the terms below, the signature page, and any unique attachments to this SOW No. 1, which are all incorporated into the Agreement by this reference and are made a part of the Agreement by all intents and purposes.

Capitalized terms used herein, unless otherwise defined, will have the meanings given to them in the Agreement.

**1. Services Description.**

- a. The Service is designed to provide pro-active support services that anticipate and prevent IT problems before they occur. The Service is built upon the successful installation and configuration of technologies that MSP's Helpdesk Team, Professional Services Team, and Network Operations Center (NOC) Team utilize to monitor and maintain critical technology systems.

**2. Encompass Deliverables Description**

- a. MSP will deliver the Service pursuant to the terms of this SOW. This SOW will serve to describe the on-going Services in detail.
- b. **Help Desk Support and Network Monitoring**  
Remote Help Desk for Customer's IT Network will be provided through remote means by MSP to Customer on a 24/7 basis 365 days per year. Access to the MSP Help Desk by authorized personnel is made by calling Customer's telephone number at 559-297-1007 . Network Monitoring Services will be provided 24/7/365. All services qualifying under these conditions, as well as Services that fall outside this scope will fall under the provisions of Section 6 of this SOW. Hardware and Software costs of any kind are not covered under the terms of this Agreement.
- c. **Support Tickets and Escalation**  
MSP will respond to Customer's Support Tickets under the provisions of attached Section 6.0, and with best efforts after hours or on holidays. Support Tickets begin at Level 1 and must be opened by the MSP Helpdesk Team which will also handle Level 2 Support Tickets. If the Helpdesk team is unable to remediate the issue, the Support Ticket is escalated to Level 3 at which time the MSP Professional Services Team will take over. Each Customer Issue will be assigned a Support Ticket number for tracking.
- d. **Hardware and Software Licensing and Support**  
MSP shall provide support of all hardware and systems specified in Section 6.0, provided that all Hardware is covered under a currently active Vendor Support Contract; or replaceable parts are readily available, and all Software is Genuine, Currently Licensed and Vendor-Supported. Should any hardware or systems fail to meet these provisions, they will be excluded from this Service Agreement. Should 3<sup>rd</sup> Party Vendor Support Charges be required in order to resolve any issues, these will be passed on to the Customer after first receiving the Customer's authorization to incur them.
- e. **Virus Recovery for Current, Licensed Antivirus Protected Systems**  
Operating System Damages caused by, and recovery from, virus infection not detected and quarantined by the latest Antivirus definitions are covered under the terms of this Agreement. This Service is limited to those systems protected with a Currently Licensed, Vendor-Supported Antivirus Solution.
- f. **Monitoring Services**  
MSP will provide on-going monitoring and security services of all critical devices as indicated in attached Section 6.0. MSP will provide monthly reports as well as document critical alerts, scans and event resolutions to Customer. Should a problem be discovered during monitoring, MSP shall make every attempt to rectify the condition in a timely manner through remote means.
- g. **Project Services Outside Standard Business Hours**  
Emergency project based services performed outside of the hours of 8:00 am – 5:00 pm Monday through Friday, excluding public holidays, shall be subject to provisions of Section 6.0.



#### **4. SOW No. 1 Terms**

##### **4.1 Minimum Compliance Standards**

In order for Customer's existing environment to qualify for MSP Services, the following requirements must be met:

- a. All Servers with Microsoft Windows Operating Systems must be running Windows 2008 Server or later, and have all of the latest Microsoft Service Packs and Critical Updates installed.
- b. All Desktop PC's and Notebooks/Laptops with Microsoft Windows Operating Systems must be running Windows 7 Pro or later, and have all of the latest Microsoft Service Packs and Critical Updates installed.
- c. All Server and Desktop Software must be Genuine, Licensed and Vendor-Supported.
- d. The environment must have a currently licensed, up-to-date and Vendor-Supported Server-based Antivirus Solution protecting all Servers, Desktops, Notebooks/Laptops, and Email.
- e. The environment must have a currently licensed, Vendor-Supported Server-based Backup Solution.
- f. The environment must have a currently licensed, Vendor-Supported Hardware Firewall between the Internal Network and the Internet.
- g. Any Wireless data traffic in the environment must be secured with a minimum of 128bit data encryption.

Costs required to bring Customer's environment to Minimum Standards are additional and outlined on the attached Section 6.0.

##### **4.3 Included Services**

Service rendered under this Agreement includes the following features:

- a. 24/7 Helpdesk
- b. 24/7 Network Monitoring
- c. Virus Definition Updates
- d. Microsoft Patch Management
- e. On-Site and Remote Backup Monitoring
- f. Spyware Monitoring and Removal
- g. Add and Remove Users from Server (Active Directory)
- h. Executive Monthly Report
- i. Semi-Annual On-Site Strategy Meeting
- j. Vendor Liaison

##### **4.4 Excluded Services**

Service rendered under this Agreement does not include:

- a. Parts, equipment or software not covered by vendor/manufacture warranty or support.
- b. The cost of any parts, equipment, or shipping charges of any kind.
- c. The cost of any Software, Licensing, or Software Renewal or Upgrade Fees of any kind.
- d. The cost of any 3<sup>rd</sup> Party Vendor or Manufacturer Support or Incident Fees of any kind.
- e. The cost to bring Customer's environment up to minimum standards required for Service Compliance.
- f. Failure due to acts of God, building modifications, power failures or other adverse environmental conditions or factors.
- g. Service and repair made necessary by the alteration or modification of equipment other than that authorized by MSP, including alterations, software installations or modifications of equipment made by Customer's employees or anyone other than MSP.
- h. Maintenance of Application software packages, whether acquired from MSP or any other source unless as specified in Section 6.0.
- i. Programming (modification of software code) and program (software) maintenance unless as specified in Section 6.0.
- j. Travel Costs outside the County of Fresno.
- k. Training Services of any kind.

4.5 Travel costs to customer location are included.

##### **5.0 Service and Fee Schedule**

Fees for the Service will be \$4243.99 per Section 6.0, and will be charged to Customer on the 20<sup>th</sup> of each month. The Service will begin on 4/01/2017. The Service will be suspended if payment is not received within 5 days following date due. Fees for service will be adjusted each month based on the number of devices covered under the agreement. Rates may be adjusted with 90-day notification to Customer.

5.1 It is understood that any and all Services requested by Customer that fall outside of the terms of this Agreement will be considered Projects, and will be quoted and outline in a separate SOW.

6.0 Supported Technologies and Personnel

Supported Equipment:	QTY	Price	Subtotal
Managed Workstation	117	\$27.50	\$3217.50
Managed Server	14	\$110.00	\$1540.00
Managed Router/Switch/Firewall	13	\$0.00	\$0.00
Website Maintenance	1	\$500.00	\$500.00 (increased to \$750 Starting 7/1/2017)

Monthly Licenses:

Endpoint Security (anti-virus)	131	\$1.00	\$131.00
Backup Manager	1	\$49.99	\$49.99
Offsite Data Storage (p/GB)	1372	\$0.19	\$260.68
DNS Hosting (Failover)	2	\$1.50	\$3.00
Antispam (per mailbox)	139	\$1.00	\$139.00
		Total	\$5841.17

6.1 3<sup>rd</sup> Party Supported Providers

Customer authorizes MSP to contact the 3<sup>rd</sup> party support providers on behalf of Customer. MSP will provide a Vendor Authorization Letter to Customer. It is the Customer's responsibility to send this Letter to 3<sup>rd</sup> party vendor in order to authorize MSP to make changes on behalf of Customer.

Professional Services that are performed on behalf of Customer with a non-authorized 3<sup>rd</sup> Party Vendor, that is a 3<sup>rd</sup> Party Vendor that has not signed a Vendor Authorization letter will be billed outside the scope of the Services.

Communications with vendors listed below will be incorporated into the scope of this Agreement. The addition of 3<sup>rd</sup> Party Vendors not listed at the signing of this Agreement, if acceptable to MSP, shall result in an adjustment to the Customer's monthly charges.

This SOW No. 1 is effective only upon execution by MSP and Customer. Each party hereto warrants and represents that this SOW No. 1, and the Agreement, constitute the legal, valid and binding obligation of such party as of the SOW Effective Date.

Unity IT LLC.

Signature:

Name: Kip Haroldsen

Title: President

Date: 03/21/2017

City of Reedley

Signature:

Name: Nicole R. Zieba

Title: City Manager

Date: 3/21/2017




## REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing
- ☐ Receive/Review

ITEM NO: 5

**DATE:** March 14, 2017

**TITLE:** APPROVE A ONE YEAR SERVICES MASTER CUSTOMER AGREEMENT WITH UNITY IT, LLC (FORMERLY DBA AS FRESNO NETWORKS, LLC) FOR CITYWIDE INFORMATION TECHNOLOGY SERVICES

**SUBMITTED:** Paul A. Melikian, Assistant City Manager 

**APPROVED:** Nicole R. Zieba, City Manager

---

### **RECOMMENDATION**

That the City Council approve and authorize the City Manager to execute a one year Master Services Agreement with Unity IT, LLC (formerly DBA Fresno Networks, LLC) for citywide information technology services.

### **EXECUTIVE SUMMARY**

On March 26, 2013, the City Council approved a three year services agreement with Fresno Networks, LLC, with one additional year extension for a total possible contract period of four years. In January 2016 Fresno Networks changed their company name to Unity IT. The City last issued a request for proposals (RFP) for information technology services in 2008. In 2013, staff recommended a new contract with Unity IT without conducting an RFP because the City of Kerman had recently went through a competitive process for citywide IT support services very similar to Reedley. At that time Unity IT was the winning bidder in their evaluation, based in part by the recommendation from the City of Reedley and their extensive experience supporting municipal agencies. The pricing in the City's current agreement was identical to that proposed to the City of Kerman; therefore staff conveyed that 'piggybacking' on this competitive process was appropriate.

An RFP for citywide information technology services was planned for the fall 2016, so that the process would be undertaken during the current contract term ending March 31, 2017; however the project was not able to be completed due to impacts from staff turnover. Unity IT has expressed a strong desire to continue supporting the City, and is willing to honor their current contract pricing for one additional year with one exception of website support. The City currently pays \$500 per month for Unity IT to maintain/update the website. Unity has proposed an increase to \$750 per month in order to begin closing the gap in covering the actual cost of providing this service. Over the past 12 months, Unity IT staff have logged 229 hours maintaining the website, which works out to \$26.20 per hour, which is below the hourly billing rate for the firm. Since the City's budget assumes the existing cost, Unity IT has agreed to delay the increase until July 2017 therefore there will be no impact to this fiscal year's budget.



Report to the City Council  
One Year Master Services Agreement with Unity IT, LLC  
March 14, 2017

An RFP for citywide information technology services will be conducted in summer/fall 2017, with the recommended vendor brought before the Council for consideration prior to the end of the one year contract term ending March 31, 2018.

### **BACKGROUND**

Network Providers opened their doors in 2004 and started working for the Reedley Police Department shortly thereafter. In Jan 2006 they changed their name from Network Providers to Fresno Networks, LLC. The first invoice to the City under Fresno Networks is dated January 2006. The original agreement with the City was approved in November 2008, after an RFP was completed.

### **FISCAL IMPACT**

Pricing for this one year agreement will be identical to the current contract, with the exception of website support, which will increase from the current \$500 per month, to \$750 per month starting July 2017. The total additional cost of the increase will be \$2,250 (\$250 increase x 9 months), and will be incorporated into the City's proposed 2017-18 budget.

### **ATTACHMENTS**

One Year Master Services Agreement with Unity IT, LLC  
March 26, 2013 Report to the City Council with the 2013 (Current) Contract Attached