

**DRAFT SERVICES AGREEMENT BETWEEN
THE CITY OF SUNNYVALE AND INFOSEND, INC.
FOR UTILITY BILLING SERVICES**

THIS AGREEMENT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and INFOSEND, INC. ("CONTRACTOR").

WHEREAS, CITY is in need of services for utility bill printing, mailing, electronic bill presentment, and remittance processing; and

WHEREAS, CONTRACTOR possesses the skill and expertise to provide the required services; and

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONTRACTOR

CONTRACTOR shall provide services in accordance with Exhibit "A". All exhibits referenced in this Agreement are attached hereto and are incorporated herein by reference.

Except as specified in this Agreement, CONTRACTOR shall furnish all technical services, including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to satisfactorily complete the services required in this Agreement.

2. Time for Performance

The term of this Agreement shall five years, commencing on December 1, 2022 and through November 30, 2027, unless otherwise terminated.
continuing

3. Compensation

CITY agrees to pay CONTRACTOR at the rates shown in Exhibit "A". In no event shall the total amount of compensation payable under this agreement exceed the sum of Two Million Seven Hundred Thousand and No/100 Dollars (\$2,700,000.00) unless upon written modification of this Agreement.

CONTRACTOR shall submit invoices to CITY no more frequently than monthly for services provided to date. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707 or accountspayable@sunnyvale.ca.gov. Payment shall be made within thirty days upon receipt of an accurate itemized invoice by CITY's Accounts Payable unit.

Should CITY dispute any invoices, it must do so in writing within sixty (60) days of the invoice date with specific details as to the matters in dispute or any dispute shall be deemed waived.

4. Conflict of Interest

CONTRACTOR shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of

interest. CONTRACTOR is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONTRACTOR shall not accept employment or an obligation which is inconsistent or incompatible with CONTRACTOR'S obligations under this Agreement.

5. Confidential Information

CONTRACTOR shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONTRACTOR may become aware in the performance of its services.

6. Compliance with Laws

- a) CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, gender, age (persons 40 years or older), disability, or any other basis to the extent prohibited by federal, state, or local law. All employees of CONTRACTOR shall be treated during employment without regard to their race, creed, color or national origin.
- b) CONTRACTOR shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

7. Independent Contractor

CONTRACTOR is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR. CONTRACTOR is responsible for paying all required state and federal taxes.

8. Indemnity and Limitation of Liability

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the services described in Exhibit "A", caused in whole or in part by any negligent act or omission of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of the CITY. The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement. CONTRACTOR responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement.

9. Insurance

The City requires that all contractors maintain insurance requirements on the Pacific Insurance Network System (PINS). CONTRACTOR shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "B" attached and incorporated by reference, and shall provide all certificates or endorsements as specified in Exhibit "B"

10. CITY Representative

Stephen Napier, Utility Billing Manager, as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

11. CONTRACTOR Representative

Russ Rezai, President, shall represent CONTRACTOR in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONTRACTOR pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONTRACTOR representative.

12. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and sent by first class with postage prepaid, or sent by commercial courier, to address below as follows:

To CITY: Tim Kirby, Director
Finance Department
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONTRACTOR: InfoSend Inc.
Attn: Russ Rezai, President
4240 East La Palma Avenue
Anaheim, CA 92807

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by email or fax, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing.

13. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

14. Termination

- a) If CONTRACTOR defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY shall provide CONTRACTOR a thirty (30) day period in which to cure the default (the "Cure Period"). If CONTRACTOR fails to cure the default to CITY's satisfaction during the Cure Period, CITY, at its option may terminate this Agreement by giving written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the

percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.

- b) Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon thirty (30) days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.
- c) If CITY fails to pay CONTRACTOR, CONTRACTOR at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

15. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

16. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law or choice of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

17. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

18. Force Majeure

Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, and/or war which is beyond that party's reasonable control. City may terminate the Purchase Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

INFOSEND, INC. ("CONTRACTOR")

By _____
City Attorney

By _____

Name and Title

By _____

Name and Title

EXHIBIT “A”

INFOSEND PRIMARY SERVICES

CITY shall select one or more of INFOSEND’s Primary Services from the list below by checking the box next to the Primary Service name. Any Primary Services not selected prior to the execution of this Agreement can be added at a later date via an Agreement Amendment.

✓	<p>Data Processing, Printing and Mailing Service (“DPPM Service”): During the term of this Agreement, InfoSend will provide data processing, printing and mailing services. The Service consists of processing data, printing documents, mail preparation, applying postage (where applicable) and sending via the United States Postal Service. Document types include but are not limited to bills, postcards and letters.</p>
✓	<p>eBusiness Services (the “eBusiness Services”): During the term of this Agreement InfoSend will provide eBusiness Services. These services can include presenting bills online and/or accepting and reporting payment transaction information to facilitate ACH and/or credit card payments via web, Interactive-Voice-Response (IVR), SMS, or Bank Billpay (e-Lockbox).</p>

Section 1. Data Processing, Printing and Mailing (DPPM) Service Description

A. Data Transfer and Processing

- CITY to transmit data to InfoSend in an agreed upon format. Should CITY make changes to data file format after initial setup is complete, it agrees to pay for the professional services required to accommodate the new file format. See Exhibit C – Professional Services – for information on initial setup and ongoing programming changes.
- CITY will monitor transfer confirmation emails to ensure InfoSend is in receipt of the data. CITY acknowledges that InfoSend will not be responsible or liable for any transferred data which does not result in a confirmation receipt to CITY.
- A File Transfer Report will be emailed to the CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.
- CITY will have access to an online Job Tracking application that shows the progress of each file as it is processed and becomes a batch of documents to be printed and mailed. CITY can see both the original input file name and the InfoSend-assigned “Job Code”.
- InfoSend will process the mailing addresses and perform the following functions:

- Apply CASS-certified address validation
- Comply with USPS requirements to obtain pre-sort automation rates for qualified CITY mail pieces
- Stay current with all USPS regulations required to mail presorted first-class mail
- InfoSend will optionally provide proofs of the final print-ready PDF files to CITY to be reviewed and approved before printing begins (if requested).

B. Document Printing and Mailing

- Batches are printed by InfoSend using a high-speed production process onto the agreed upon forms.
- Printed documents are put through a quality control process and then released to the mailing department to be inserted into outgoing envelope. A return envelope and any applicable inserts are included as defined by CITY workflow.
- After a batch of mail is completed in InfoSend's system it will be marked as such in the online Job Tracker and a Process Confirmation Report will be emailed to CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.

Section 2. eBusiness Service Description

InfoSend shall deliver to CITY to permit CITY's customers ("Users") to use the products and services to view and pay their bills. These EBPP services will include presenting bills online and/or accepting and reporting payment transaction information to facilitate ACH and/or credit card payments via web, Interactive-Voice-Response (IVR), SMS, or Bank Billpay (e-Lockbox).

A. General System Description

- Mobile-Ready Customer Engagement: all products are mobile compatible out of the box, with no app store downloads required of customers. Powered by InfoSend's CCM platform, customer specific messaging and payment reminders are delivered electronically.
- Multi-Channel Payment Collection: InfoSend's payment platform will consolidate web, telephone, SMS, CSR, in-person EMV and bank payments into a single lockbox file.
- One-Time and Automatic Payments: allow customers to quickly make a one-time payment, as well as sign up to have their payment account auto debited with each billing cycle.
- Bill Notification and Presentment: notify customers via email when a new bill is available, and securely deliver exact replica of printed document to customers inbox or show online via the secure portal.
- Interactive Voice Response (IVR): accept customer payments via automated phone service with InfoSend-hosted phone number, enabling CITY phone systems to redirect customers with ease.
- SMS Text-to-Pay: enrolled customers may opt in to receive text notifications of new bills, and reply to have the registered payment method drafted for the amount due, speeding up the time to payment.

- Bank Payments (MasterCard RPPS): InfoSend can collect payments made via the customer bank and include them within the lockbox file.
- PCI-Compliant Cloud Based Solution: electronic billing and payment related products hosted in the cloud by InfoSend in a secure PCI-Level 1 compliant environment.

B. Data Transfer and Processing

- CITY to transmit data to InfoSend in an agreed upon format, using the Data Transfer and Processing workflow described in Section 1.
- CITY acknowledges that InfoSend will not be responsible or liable for any transferred data which does not result in a confirmation receipt to CITY.
- If the CITY is not using InfoSend's DPPM Service, USPS address workflow will not be applied.
- Data loaded into the eBusiness system is used to facilitate accurate payments via Web, IVR, SMS or Bank BillPay.

C. Customer Enrollment and Bill Notification

- Data loaded into the system will be used to facilitate customer enrollment, using two pieces of information specific to the customer bill.
- For enrolled customers, system will send a notification of the new bill available via email.
- For enrolled customers who have opted in, system will send an SMS alert.
- For customers using the IVR system, bill information will be dictated by text to voice.
- For customers paying via Bank BillPay, the account number can be validated by the system prior to accepting payment.
- The system may optionally be configured to display a PDF replica of the bill image.

D. Customer Payment and Reporting

- Customers can make payment via Web, SMS, IVR or Bank BillPay, depending on channels which CITY has requested InfoSend setup.
- Payments can be configured to allow Users to pay by bank account and/or credit/debit card.
- All payments will be reported in a standard daily "lockbox" file.

INFOSEND FEES

Section 1. Price Escalations to InfoSend Fees

InfoSend can request for an increase in fees once every twenty-four (24) months to account for increases in the cost of materials, labor, and other overhead costs in accordance with the anniversary date the contract was executed. The CITY will be notified, in writing, at least ninety (90) days prior to such requested fee increase. InfoSend will be amenable to discussing and providing support for the requested fee increases to the CITY.

Additionally, InfoSend reserves the right to increase paper and envelope fees as needed, with thirty days' notice to CITY, in the event of extraordinary increases to the cost of paper rolls. Extraordinary increases mean an increase of 10% or more over any 12-month period. This is necessary because paper mills do not offer fixed contract pricing and can increase the price of their commodity products at any time, and these rolls are required for InfoSend to produce statements, letters, notices, and envelopes on behalf of CITY.

InfoSend pricing is predicated on CITY representations of CITY and CITY User transactional usage. Should CITY's actual continuous volume and/or recurring frequency deviate by more than thirty percent (30%) from what CITY has represented to InfoSend in Section 2 below, then InfoSend reserves the right to notify CITY immediately and negotiate with CITY in good faith to determine potential costs to CITY, in line with actual CITY and CITY User transactional usage.

Section 2. CITY Representations

CITY Volume Representations

Customers Contacted or Billed Monthly

-Approximately 24,000 customers monthly

Average Customer Payments Amount

-Approximately 4,000-6,000 payments per month

Section 3. DPPM Fees:

InfoSend Data Processing, Print and Mail Pricing

Printing and Mailing Service	
Data Processing Printing and Mailing	
Statements (SNW program – 3/1 printing)	\$0.0966
Return Statements (SNY program – data processing only)	\$0.0966
Past Due Notice (SNZ program – 4/1 printing)	\$0.1150
USPS Postage	Pass-through
Excess Pages Handwork Surcharge (per mail piece)	\$0.3798
Address Updates – per “hit” (address that gets updated)	\$0.30 NCOA \$0.30 ACS

Materials	
Standard Paper Stock (per sheet)	\$0.0163
Standard Outgoing #10 Envelope	\$0.0174
Standard Return #9 Envelope	\$0.0152
Outgoing Flat Envelope – used for mail pieces with excess pages	\$0.1736

Insert Services	
InfoSend Produced	Quoted based on specification
Envelope Messaging (Snipes)	Quoted based on specification
Electronic Inserts	\$0.015 per insert
Inserting Fee	\$0.008 per insert

Optional Document Services	
Professional Services Rate (per hour)	\$150.00

Section 3.1. Custom Forms/Envelopes

If CITY has selected the Printing and Mailing Service and at any time requests that InfoSend Fees include the cost of custom CITY-specific materials, then CITY understands and accepts that these materials will be purchased in a manageable amount to achieve the lowest possible per-unit cost. CITY agrees to purchase any remaining supplies of requested custom materials (normally forms or envelopes) if CITY stops using InfoSend’s Service for any reason. CITY agrees to purchase the remaining supply of custom forms/envelopes upon CITY’s request to change the custom forms/envelopes before the supply has been depleted and may request an update on the amount of materials on-hand at any specific time.

Section 3.2. USPS Postage Rates

Postage rates are determined by the United States Postal Service. All postage rate changes are determined directly by USPS and are independent of any InfoSend service or materials fees. In no event shall any change in the postage rates affect the InfoSend service or materials fees. The CITY will be invoiced the amount of excess for overweight and foreign mail.

Section 3.3. Postage Deposit

This section has been waived.

Section 4. eBusiness Service Fees:

InfoSend Electronic Payments and Presentment Pricing

Multi-Channel Payments	
Bank Account (ACH)	\$0.40 per payment
Credit Card (CC) Interchange: Pass-through	\$0.40 per payment

Above fees cover payment initiation through all channels hosted by InfoSend.

All Payment Processing fees will be assessed by a registered ISO of TSYS and included in a merchant statement. All pricing is based on “CITY Volume Assumptions” (Section 2) and excludes applicable sales tax.

Online BillPay Platform	
Online BillPay Setup Fee	WAIVED (\$2995 project value)
Monthly Maintenance	\$249.00
Per eBill Loaded	\$0.05
Per Enrolled Customer Fee	\$0.00 -Waived

IVR Platform (Optional)	
IVR Setup Fee	WAIVED (\$2995 project value)
Second Language Recording Setup Fee (Optional)	\$550.00
Monthly Maintenance	\$199.00
IVR Per Call Fee	\$0.23

SMS Platform (Optional)	
SMS Setup Fee	\$0.00 - Waived
Monthly Maintenance	\$0.00 - Waived
SMS Per Text Fee	\$0.03

Misc. Payment Fees	
ACH Return Fee	\$3.50
Chargeback Fee	\$20.00
Monthly Minimum	\$1,499.99
In-Person Virtual Terminal Payments	Included (Must purchase device separately)

Online Banking Payment Consolidation (Optional)	
Setup Fee	WAIVED
Per Bank Payment Fee	\$0.13
Per Reversal (Optional)	\$3.00

Section 5. CITY Go-Live and Fees

InfoSend will provide CITY with a Demo instance of the System to approve configuration and simulation of Services. Upon CITY approval of the Demo instance of the System and sample outputs from Services, InfoSend will create a copy of Demo System in Production for completion of final User Acceptance Testing (UAT). CITY will be given the UAT Period to complete internal testing prior to initiating Go-Live. All Setup and recurring Monthly Fees will become due upon the sooner of (a) CITY Go-Live with the application or (b) 60 days from InfoSend delivery of Production System for UAT.

Section 6. Implementation Project Cost Subsidization:

InfoSend's internal costs to complete the project is higher than the Setup fees given. InfoSend has subsidized these fees by factoring in years of service given the term of the Agreement. Should City cancel the project or terminate the Agreement at its convenience less than one (1) year from the Effective Date then it must pay according to the below:

- **EBPP Setup Fee:** \$4995.00
- **IVR Setup Fee:** \$2995.00

INFOSEND PROFESSIONAL SERVICES

Section 1. Price Escalations to InfoSend Professional Services Fees

InfoSend can request for an increase in fees once every twenty-four (24) months to account for increases in the cost of materials, labor, and other overhead costs in accordance with the anniversary date the contract was executed. The CITY will be notified, in writing, at least ninety (90) days prior to such requested fee increase. InfoSend will be amenable to discussing and providing support for the requested fee increases to the CITY.

Section 2. Definition of Professional Services

InfoSend Professional Services are the technical services that are required to perform the initial setup of the InfoSend Primary Services and the technical services required to make changes to these Primary Services after the initial setup is complete. Once any Primary Service is live and operational Professional Services will not be required unless CITY requests a change or makes changes to its data file format or business rules which necessitates a change to InfoSend's system configuration or programming. Examples of InfoSend Professional Services:

- Project requirements gathering and analysis hours
- Project management and/or consulting hours
- Software development and system configuration hours related to the processing of CITY's data
- Software development and system configuration hours related to document design, web portal setup, business rule configuration, or any other applicable technical services
- Application testing and deployment hours

Section 3. Professional Services Fee and Process for Approval and Payment of Fee

The current Professional Services Fee is \$150.00 per hour. In the event that a project will incur billable Professional Services hours, CITY will be informed before work begins. InfoSend and CITY will execute a Statement of Work for the project that CITY wants InfoSend to undertake. The payment terms for the project depend on the size and scope of the project. The Statement of Work can include payment terms that are different than the terms listed in this Agreement for InfoSend Fees, otherwise these terms will apply and the project fees will be invoiced upon project completion. Small projects that incur less than five (5) hours of Professional Services can be initiated without a Statement of Work if CITY accepts and executes a Programming Quote for this work.

Any project that will take more than five (5) hours of Professional Services work will require both parties to execute a formal Statement of Work. Depending on the nature of the work required, InfoSend will provide one of the following quotation methods:

- **Fixed Quote** – a fixed project cost will be set. InfoSend may elect to waive this cost in some circumstances. CITY understands and accepts that it must accept the terms and conditions of the Statement of Work for the project and that changes made to the project requirements, data file structure, etc., after the Statement of Work and any amendments to it have been finalized will require CITY to pay for these changes on a Time and Materials basis. CITY will be notified immediately if this scenario arises and will be given an option to keep the original project specifications to keep the fixed quote in place.
- **Time and Materials Quote** – should it not be possible to provide a fixed quote due to the nature of a CITY's requested project, then InfoSend will provide an estimated number of

hours to complete the project and bill the hours on a Time and Materials basis. The Statement of Work will include the terms and conditions for these project types and CITY will be invoiced weekly for the hours spent on the project.

Section 4. Initial Setup Cost: InfoSend Primary Services

The Initial Setup cost for the InfoSend Primary Services are listed in the InfoSend Fees section, beginning on page 6. These costs have been provided using a Fixed Quote process, explained in Section 3 above. CITY understands and agrees to these terms, and to the project-specific terms and conditions that will be provided in the Statement of Work that will be created to capture CITY's specific requirements and data types.

INFOSEND FEDEX DOOR HANGER SERVICES

CONTRACTOR shall provide data processing, printing, packaging and delivery to FedEx of Door Hanger Shut Off notices, on behalf of CITY, for delivery using the FedEx delivery option chosen by CITY.

- CITY must transmit required data to CONTRACTOR in an agreed upon format by 9AM PST. If CITY selects the option to review and approve sample files, sample files must be approved by 9AM PST in order to ensure desired notice delivery times.
- CONTRACTOR will email a File Transfer Report to CITY representatives who have opted into this feature. The File Transfer Report will also be available to download from the CONTRACTOR website.
- CONTRACTOR will process shut off data and mailing addresses
- CONTRACTOR will create a Shut Off Notice with 8.5 x 11-inch forms (to include the SB998 multiple language requirement) on one side and a FedEx Label on the reverse side
- CONTRACTOR will insert this Shut Off Notice into a FedEx Envelope and deliver it to FedEx for standard delivery using the FedEx method selected by CITY
- CONTRACTOR will comply with all FedEx requirements
- CONTRACTOR will Provide immediate email notice to CITY of any delivery exceptions and/or FedEx follow up requests to get notice delivered same day
- CONTRACTOR will provide CITY with optional access to tracking portal to review delivery confirmations
- If CITY seeks to make changes to data file format after initial setup is complete, CITY agrees to pay for the Professional Services required to accommodate the new file format. See – Professional Services – for information on initial setup and ongoing programming changes.

INFOSEND FEES FOR FEDEX DOOR HANGER SERVICES

Section 1. Price Escalations to INFOSEND Fees

CONTRACTOR reserves the right to increase CONTRACTOR Monthly Service Fees on a yearly basis (starting with the first anniversary of the Agreement date). CITY will be notified, in writing, at least 30 days prior to such price increase.

Section 2. Service Fees

Sales tax is not included. Any applicable sales tax will be charged at the current rate for Sunnyvale, CA.

FedEx Delivery and Service Fees	
Priority Overnight Delivery	\$28.35
Standard Overnight Delivery	\$27.19 (current service used)
2-Day Standard Delivery	\$24.29
Base Delivery Charges	Included
Per Additional Page Inserted	\$0.15
FedEx Delivery Surcharges Includes processing of your unique data, printing, and mail insertion. Finished mail pieces are delivered to FedEx same day as long as data file is transferred and accepted by InfoSend by 9 AM PST. Some delivery addresses and zip codes can incur a surcharge from FedEx and will be charged as pass through.	Passthrough Current DAS - \$5.20 Current Extended DAS - \$6.50

Section 2.1 FedEx and other Carrier Rates

Shipping rate and service fee changes are determined directly by FedEx and are independent of any CONTRACTOR service or materials fee. In no event shall any change in the FedEx rates affect the CONTRACTOR service or material fees. The typical FedEx delivery method is Standard Overnight delivery. If Priority, 2-Day standard or another shipping method is selected the City will pay the exact cost of any shipping fee rate for that service.

Section 2.2. Professional Service Fees

Changes made by CITY to the document template after the date that production begins (the “Go-Live Date”) will be assessed an hourly Professional Services Fee at a rate of \$150 per hour. A quote will be provided to CITY for approval before work is performed.

Section 3. Delivery Commitments

CONTRACTOR will not be obligated to refund or credit CITY’s transportation charges as follows:

- Shipments that are delayed due to weather, natural disasters and other uncontrollable events are not eligible for a refund or credit.
- Failing to meet FedEx’s delivery commitment (both date and time) for any shipments with an incomplete or incorrect address.
- Shipments that are refused by the recipient or where FedEx cannot deliver due to potential harm to its drivers.
- The shipment was scheduled for delivery on the Wednesday immediately prior to Thanksgiving or during the seven calendar days before Christmas Day via any FedEx Express U.S. service, and was delivered within 90 minutes of the published delivery commitment time for the selected service and destination.
- If the FedEx money-back guarantee is suspended by FedEx (due to weather, and other events beyond their control), there is no remedy or recovery of charges for a service failure. There are no delivery commitments for shipments on which the money-back guarantee is suspended.

Deliveries normally scheduled to be made on the day of a holiday observance will be rescheduled for delivery on the next business day. The delivery commitment for application of the money-back guarantee policy will be extended for a period equal to the length of the holiday.

A credit or refund will be applied only against charges for the shipment giving rise to the credit.

FedEx will determine the routing of all shipments, including the mode of transportation used, the use of any National Distribution Centers, and may use air transportation, ground transportation or any combination thereof in providing express services. FedEx reserves the right to divert any shipment (including use of other carriers) in order to facilitate its delivery.

Section 4. FedEx Deposit

This section is waived.

EXHIBIT "B"
INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance. Contractor shall maintain limits no less than:

1. **Commercial General Liability**: coverage written on an occurrence basis with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form shall be at least as broad as CG 0001.
2. **Automobile Liability**: coverage with a combined single limit of not less than \$1,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract for bodily injury and property damage. ISO Form shall be at least as broad as CA 0001.
3. **Workers' Compensation** Statutory Limits and **Employer's Liability**: \$1,000,000 per accident for bodily injury or disease.

Industry Specific Coverages. If checked below, the following insurance is also required:

- Professional Liability / Errors and Omissions Liability** coverage with limits not less than \$2,000,000 per occurrence or claim.
- Valuable Papers and Electronic Data Processing** with limits not less than \$10,000 each.
- Cyber Liability** coverage with limits not less than of \$1,000,000 per occurrence or claim.
- Crime coverage** with limits not less than \$300,000 to include third party premises endorsement.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale, Risk Manager. The Contractor shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

The aforementioned insurance requirements can be met through any combination of self-insured, primary, and excess/umbrella policies that fulfill the stipulated coverage as cited above.

Other Insurance Provisions

1. During the term of the contract, the City of Sunnyvale, its officers, officials, employees, agents, and volunteers are to be covered as an additional insured in the Contractor's commercial general liability policy (and if applicable valuable papers and electronic data processing, and cyber liability policies) with respects to liability arising out of activities

performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, officials, employees, agents, or volunteers.

Additional Insured Endorsement for ongoing operations at least as broad as ISO CG 20 10 Scheduled, or automatic CV 20 38 and completed operations shall be at least as broad as ISO CG 2037 scheduled or automatic ISO CG 2040.

2. During the term of the contract, the Contractor's Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sunnyvale.
3. For all Architects, Engineers and Design Professionals - If Industry Specific Coverage box is check above **and** if the Contractor's Professional Liability/Errors and Omissions coverage is written on a claims made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract of work.*
 - c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of *three (3) years after completion of contract work.*
4. For any claims related to this agreement, the Contractor's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it and shall be at least as broad as ISO CG 20 01 04 13.
5. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
6. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
7. Contractor agrees that coverage shall not be shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.
8. Any umbrella or excess Insurance Liability policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this document, including the additional insured, SIR, and primary and non-contributory insurance requirements for the benefit of City (if agreed to in a written contract or agreement) until all coverage carried by or available to the Contractor's primary and excess liability policies are exhausted and before the City's own Insurance or self-insurance shall be called upon to contribute to a loss.

- 9 The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONTRACTOR'S policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, and who are admitted and authorized to do business and in good standing in California, unless otherwise acceptable to the City of Sunnyvale's Risk Manager.

Verification of Coverage

Contractor shall furnish the City of Sunnyvale with and original Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale, Risk Manager prior to commencement of work.

The Contractor shall provide certificate(s) evidencing renewals of all insurance required herein prior to the expiration date of any such insurance. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

For all insurance policy renewals during the term of this Contract, Contractor shall submit insurance certificates reflecting the policy renewals through PINS.

Subcontractors

CONTRACTOR shall require all sub-contractors to procure and maintain insurance policies subject to these requirements. Failure of CONTRACTOR to verify existence of sub-contractor's insurance shall not relieve CONTRACTOR from any claim arising from sub-contractors work on behalf of CONTRACTOR.

EXHIBIT "C"
ADDITIONAL TERMS AND CONDITIONS FOR EBUSINESS SERVICES

eBusiness Contract Terms Superseding Master Agreement Terms

This Exhibit "C" contains contract terms specific to InfoSend's eBusiness Services, as described in Primary Services Section 2, page 7, which shall supplement and supersede any potentially conflicting terms contained in the Master Agreement.

Definitions

The following terms and words shall have the meaning ascribed to them, unless the context clearly indicates otherwise.

"User(s)" shall mean a customer or employee of CITY accessing InfoSend hosted applications via the Internet. Users of the System will agree to accept all the terms and conditions herein, and may be issued a unique User ID and/or password by InfoSend or CITY.

"Services" shall include the performance of the Services detailed in Exhibit "A" of this Agreement.

"System" shall include all InfoSend hosted data and software applications.

License Grant and Restrictions

Grant of License

InfoSend agrees to provide to Users the right to use software and the provision of Services, but in all cases only in full and complete compliance with all of the terms and conditions of this Agreement. Subject to the terms of this Agreement, InfoSend hereby grants, and CITY hereby accepts, for the Term (as defined herein) of this Agreement, a non-exclusive, non-transferable license to access and use and to permit its Users to access and use the System via the Internet (the "License").

License Restrictions

CITY hereby agrees not to: (i) reproduce, download, modify, create derivative works from, distribute, or attempt to reverse engineer, decompile, disassemble, or access the source or object code for, the System; (ii) use the System, or any component thereof, in any manner contrary to applicable laws or government regulations; or (iii) otherwise affect or attempt to enable the unauthorized use (with or without User ID and/or password) of the System.

Confidentiality & Intellectual Property

Confidentiality

All information and data relating to CITY's business, as well as all User information, submitted by CITY to InfoSend under this Agreement shall be treated as confidential by InfoSend and shall not, except as required to perform the Services under this Agreement or otherwise required by law, be disclosed to any third party by InfoSend without CITY's written consent. InfoSend shall promptly notify CITY should InfoSend be served with a summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admission, or other discovery request or court order (a "Request to Disclose") from any third party regarding this Agreement, the Services performed under this Agreement, and/or seeking

such information or data. CITY shall be responsible to timely make appropriate objections to any Request to Disclose.

CITY will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential or proprietary non-public information it obtains during the term of this Agreement about InfoSend's business (the "Confidential Information"). InfoSend acknowledges that CITY is a California public entity subject to the California Public Records Act (Cal. Gov. Code § 6250 et seq.). If InfoSend submits information to CITY that InfoSend considers to be confidential, proprietary, or trade secret information, InfoSend shall clearly designate such information in writing as "Confidential Information." Upon request or demand of any third person or entity ("Requestor") for the production, inspection, and/or copying of Confidential Information, CITY shall notify InfoSend that such request has been made. InfoSend shall be solely responsible for taking whatever legal steps are necessary to protect Confidential Information and to prevent its release to the public without limiting CITY's right and obligation to disclose Confidential Information as may be required by law. If InfoSend takes no such action after receiving the foregoing notice from CITY, Buyer shall be permitted to release the Confidential Information. CITY will ensure that its employees and agents similarly abide by the requirements hereof.

Intellectual Property

InfoSend, and its licensors, where applicable, owns all rights, title and interest, including all related Intellectual Property Rights, in and to InfoSend technology, the content and the Services. The InfoSend name, the InfoSend logo, and the product names associated with the Service are trademarks of InfoSend or third parties, and no right or license is granted to use them.

Representations & Warranties

InfoSend Representations and Warranties

InfoSend represents and warrants that it has the legal power and authority to enter into this Agreement and that Services will be provided in a professional and workmanlike manner.

InfoSend warrants that the Services will materially perform the functions that the CITY has selected under normal use and circumstances and that InfoSend shall use commercially reasonable measures to protect CITY Data to the extent that it retains such data in the operation of the Services. Provided that CITY gives InfoSend written notice of failure to meet the foregoing warranty within sixty (60) days following delivery of any Services, or as otherwise specified in a Statement of Work ("SOW"), InfoSend warrants that it will use commercially reasonable efforts to correct any Services that fail to comply with the foregoing warranty. If there is no notice by CITY within sixty (60) days following delivery of any Services, or as otherwise specified in a Statement of Work ("SOW"), it shall be deemed CITY has accepted the Services and waived any claims to the otherwise.

CITY Representations and Warranties

CITY represents and warrants that it has the legal power and authority to enter into this Agreement and provide to InfoSend all information and data necessary for InfoSend to perform the Services. CITY further warrants that it will comply with all laws, regulations, and compliance requirements applicable to CITY's and User's activities covered by this Agreement.

Warranty Disclaimer

Except as expressly set forth above, InfoSend disclaims all other representations or warranties, express or implied, made to CITY or any other party, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or otherwise of any services or any good provided incidental to the Services provided under this Agreement, to the extent permitted by applicable law.

InfoSend and its licensors and payment processors do not represent or warrant that (i) the use of the Services will be uninterrupted or error-free, or operate in combination with any other hardware, software, system or data; or (ii) the Services will not delay in processing or paying to the extent such delay is caused by things outside the control of InfoSend. Services may be subject to the limitations, delays, and other problems inherent in the use of the Internet and electronic communications. InfoSend is not responsible for any delays, delivery failures, or other damage resulting from such problems.

In performing the Services, InfoSend is responsible for producing for print or online display the content that CITY provides to InfoSend. InfoSend is not responsible for reviewing the content for spelling or typos, nor is InfoSend responsible for verifying the accuracy or legality of the content. It is CITY's sole responsibility to verify that the content that InfoSend's applications will produce on CITY's behalf is appropriate for distribution.

Inbound Communication Services Disclaimer

InfoSend Inbound Communication services are intended to receive communications and data from clients to facilitate the performance of InfoSend Services. While the inbound services have been created with the best available tools and practices, they are dependent on infrastructure that is inherently not fail-proof, including but not limited to infrastructure such as United States Postal Service ("USPS") delivery standards, software, computer hardware, network services, telephone and SMS services, and email. Examples of situations that could cause failure include but are not limited to: USPS failure to deliver, down phone lines, all lines busy, equipment failure, email address changes, and Internet service disruptions. CITY acknowledges that it is aware of the potential hazards associated with using such infrastructure and will be responsible for ensuring InfoSend is in receipt of any communication or data destined for InfoSend. CITY releases InfoSend from any and all liability that results from an unsuccessful communication or data transfer to InfoSend, one which does not produce a confirmation receipt from InfoSend.

Outbound Services Disclaimer

InfoSend Outbound Communication services are intended to create additional methods of communication for clients in support of existing processes. These services are not intended to replace all interaction with CITY's end users or employees. While the outbound services have been created with the best available tools and practices, they are dependent on infrastructure that is inherently not fail-proof, including but not limited to infrastructure such as United States Postal Service ("USPS") delivery standards, software, computer hardware, network services, telephone and SMS services, and email. Examples of situations that could cause failure include but are not limited to: USPS failure to deliver, down phone lines, all lines busy, equipment failure, email address changes, and Internet service disruptions. For this reason, while outbound services are valuable in providing enhanced communication, they are specifically not designed to be used as the sole method to deliver critical messages. CITY acknowledges that CITY is aware of the potential hazards associated with relying on an automated outbound service feature when using InfoSend services. CITY agrees that it is

giving up in advance any right to make any claim against InfoSend, and that CITY forever releases InfoSend from any and all liability caused by (a) any failed USPS delivery; (b) any failed email delivery; (c) any failed SMS or call attempts (including excess of calls over and above network or system capacity), incomplete calls, or any busy-outs; or (d) any failure to transmit, obtain or collect data from callers or for human and machine errors, faulty or erroneous input, inarticulate caller communication, caller delays or call lengths exceeding estimated call lengths or omissions, delays and losses in connection with the Services provided hereunder. Such release shall include instances where CITY, CITY's employees, or CITY's end user suffer injury or damage due to the failure of outbound services to operate, even though InfoSend may know or suspect what or how extensive those injuries or damages might be, unless such losses were directly attributable to InfoSend's gross negligence or willful misconduct.