

Draft

SECOND AMENDMENT TO RH CUSTOMER AGREEMENT FOR SERVICES FOR ROBERT HALF TECHNOLOGY (WITH STATEMENT(S) OF WORK)

This Second Amendment to RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) ("Second Amendment"), dated _____, is by and between Robert Half International Inc., through its division Robert Half Technology ("RH"), and the City of Sunnyvale ("City"), hereinafter referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, the Parties entered into that certain RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) dated October 28, 2015 (the "Agreement");

WHEREAS, the Parties amended the Agreement by way of a First Amendment to RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) dated January 21, 2016 ("First Amendment"); and

WHEREAS, the Parties desire to further amend the Agreement by way of this Second Amendment.

NOW THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. In Section 1.3 of the Agreement, the phrase "Ninety Thousand and No/100 Dollars (\$90,000)" is deleted and replaced with: "One Hundred Ninety Thousand and No/100 Dollars (\$190,000)".
2. In Section 1.6 of the Agreement, the phrase "until July 1, 2016" is deleted and replaced with: "Until December 31, 2016".
3. In Exhibit A to the Agreement, the phrase "Until July 1, 2016" is deleted and replaced with: "Until December 31, 2016".
4. This Second Amendment is effective as of the last date of execution. All capitalized terms used in this Second Amendment and not otherwise defined herein shall have the meanings given to them in the Agreement as amended by the First Amendment. Except as specifically amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

In WITNESS of their agreement to the terms and conditions contained herein, the Parties have caused the following signatures to be affixed hereto:

CITY OF SUNNYVALE
 BY: _____
 PRINT NAME: _____
 TITLE: _____
 DATE: _____

ROBERT HALF INTERNATIONAL INC.^{EOE}
 BY: 
 PRINT NAME: Heather Johnston
 TITLE: BVP
 DATE: 4/12/2016

FIRST AMENDMENT TO RH CUSTOMER AGREEMENT FOR SERVICES FOR ROBERT HALF TECHNOLOGY (WITH STATEMENT(S) OF WORK)

This First Amendment to RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) ("Amendment"), ^{dated PS} ~~entered into as of~~ January 21, 2016, is by and between Robert Half International Inc., through its division Robert Half Technology ("RH"), and the City of Sunnyvale ("City"), hereinafter referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, RH and City entered into that certain RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) dated October 28, 2015 (the "Agreement"); and

WHEREAS, the Parties desire to amend the Agreement by way of this Amendment.

NOW THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. In Section 1.3 of the Agreement, the phrase "Eighty Thousand and No/100 Dollars (\$80,000)" is deleted and replaced with: "Ninety Thousand and No/100 Dollars (\$90,000)".
2. In Section 1.6 of the Agreement, the phrase "for a period of 4 months thereafter" is deleted and replaced with: "until July 1, 2016".
3. In Exhibit A to the Agreement, the phrase "4 months with possible extension" is deleted and replaced with: "Until July 1, 2016".
4. This Amendment is effective as of ^{the last date of execution. PS} ~~January 21, 2016~~. All capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings given to them in the Agreement. Except as specifically amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

In WITNESS of their agreement to the terms and conditions contained herein, the Parties have caused the following signatures to be affixed hereto:

CITY OF SUNNYVALE

BY: 

PRINT NAME: WALTER C. ROBINSON

TITLE: ASST. CITY MANAGER

DATE: 01/27/2016

ROBERT HALF INTERNATIONAL INC.^{BOE}

BY: 

PRINT NAME: Heather Johnston

TITLE: RVP

DATE: 1/22/2016

RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work)

This RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) (the "Agreement") governs transactions by which you retain the Services of Robert Half International Inc., doing business through its division Robert Half Technology ("RH"), to assist the City of Sunnyvale ("you" or "your" or "City") in meeting its staffing needs.

Part 1 - General

1.1 Definitions

"Assigned Individual" means the individual assigned to you by RH.

"Branch" means the RH branch located at the address identified on page 3 of this Agreement.

"Services" means the provision of services by the Assigned Individual to you.

1.2 Agreement Structure

This Agreement is only applicable to the Services memorialized in the statement of work attached hereto as Exhibit A, which, when fully executed by both parties, shall be incorporated into and made a part of this Agreement as though fully set forth herein (the "Statement of Work"). Statement of Work will include, among other things, a description of the Services, fees for Services and the name of your supervisor. In order to initiate Services, the parties will execute a Statement of Work. Once RH agrees to provide the requested Services, RH will send you a job arrangement letter confirming each Assigned Individual's name, bill rate and overtime rate ("Job Arrangement Letters"). The terms in the Job Arrangement Letters are also part of this Agreement.

You accept the terms in a Job Arrangement Letter by your approval of the Assigned Individual's weekly timesheet or electronic time record. Services become subject to this Agreement when a) the parties sign a Statement of Work for the Services or b) RH accepts your order by 1) sending you a job arrangement letter, or 2) providing the Services.

In the event there is a conflict among the terms in the various documents, the order of precedence shall be: (1) the body of this Agreement; (2) the Statement of Work; and (3) the Job Arrangement Letter.

1.3 Charges and Payment

Assigned Individuals will present a time sheet or an electronic time record to you or your representative for verification and approval at the end of each week. RH will bill you weekly for the total hours worked. RH's invoices are due upon receipt, including applicable sales and services taxes, all of which are payable by you. If applicable, overtime will be billed at 1.50 times the normal billing rate. If state law requires double time pay, the double time hours will be billed at 2.00 times the normal billing rate. Federal law defines overtime as hours in excess of 40 hours per week, state laws vary. The total amount paid by City to RH under this contract shall not exceed Eighty Thousand and No/100 Dollars (\$80,000) (the "Not-to-Exceed Amount"). Notwithstanding anything to the contrary in this Agreement, RH may at any time, in its sole discretion, discontinue performance of the Services once the Not-to-Exceed Amount has been attained.

RH may increase its rates for the Services provided under this Agreement to reflect increases in RH's own costs of doing business, including costs associated with higher wages for workers and/or related tax, benefit and other costs. RH will provide written notice of any increase in its rates for the Services, and such increase will be prospective, starting as of the effective date agreed to by both parties.

1.4 Changes to the Agreement Terms

For a change to be valid, both parties must sign it. Additional or different terms in any written communication from you (such as a purchase order) are void.

1.5 General Principles of Our Relationship

- a. Each party will maintain workers' compensation insurance, commercial liability insurance and employer's liability insurance.
- b. RH will be responsible, to the extent applicable, for any workers' compensation insurance, federal, state and local withholding and unemployment taxes, social security, state disability insurance or other payroll charges for its employees.
- c. In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

1.6 Agreement Term

This Agreement is effective as of the date of execution and will continue for a period of 4 months thereafter, unless terminated earlier. Either party may terminate this Agreement on thirty days' written notice to the other.

Either party may terminate this Agreement if the other does not comply with any of its terms, provided the one who is not complying is given written notice and reasonable time to comply.

Any terms of this Agreement which by their nature extend beyond the Agreement termination remain in effect until fulfilled, including the payment obligations set forth in Section 1.3 above, and apply to each party's respective successors and assignees.

1.7 Warranties

RH guarantees your satisfaction with the Services of the Assigned Individual by extending to you a three-day (24 hours) guarantee period. If, for any reason, you are dissatisfied with the Assigned Individual, RH will not charge for the first twenty-four hours worked, provided that you allow RH to replace the Assigned Individual. Unless you contact RH before the end of the first twenty-four hours guarantee period, you agree that the Assigned Individual is satisfactory. **Notwithstanding any language to the contrary contained in this Agreement or a Statement of Work with regard to fixed-prices, deliverables, acceptance of deliverables or milestones, RH is compensated on an hourly basis only. RH is a temporary staffing firm and is not in the business of providing project-based services or deliverables.**

EXCEPT AS SET FORTH IN THIS SECTION 1.8, RH MAKES NO EXPRESS OR IMPLIED WARRANTIES REGARDING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

Part 2 - Services

- 2.1 RH usually checks references only by asking specific questions to select past employers with regard to skills and work history before RH places an individual on his or her first assignment. RH has not engaged in any verification process other than this initial reference check (e.g., RH has not screened for drug use, administered a medical exam or conducted a criminal background or credit check.).
- 2.2 You agree that you are responsible for supervising the Assigned Individuals. You will not permit or require an Assigned Individual (i) to perform Services outside of the scope of his or her assignment; (ii) to sign contracts or statements; (iii) to make any final decisions regarding system design, software development or the acquisition of hardware or software; (iv) to make any management decisions; (v) to sign, endorse, wire, transport or otherwise convey cash, securities, checks, or any negotiable instruments or valuables; (vi) to operate machinery (other than office machines) or automotive equipment or (vii) to perform Services remotely (e.g., on premises other than your or your customer's premises), or to use computers, software or network equipment owned or licensed by the Assigned Individual.
- 2.3 You agree that you will provide safe working conditions. If any assignment under this Agreement is for work to be performed under a government contract or subcontract, you will notify RH immediately (1) of any obligations in the government contract or subcontract relating to wages, and (2) if RH is legally required to initiate E-Verify verification procedures for any Assigned Individual.
- 2.4 You agree that you are responsible for reporting any claim to RH in writing during or within ninety (90) days after the termination of the applicable assignment. RH will not be responsible for any claim related to any Services unless you have reported such claim in writing to RH within ninety (90) days after termination of the applicable assignment.
- 2.5 You agree that you are responsible for implementing and maintaining usual, customary and appropriate internal procedures and controls (including accounting, information technology, proprietary information, creative designs and trade secret safeguards) for your company. You agree that you are fully responsible for, and that RH will not be responsible for, any injuries, claims, damages or losses that may result from your failure to comply with the foregoing.
- 2.6 Assigned Individuals will execute any confidentiality agreement that you may require. You are responsible for obtaining the Assigned Individual's signature. You agree to hold in confidence the identity of any Assigned Individual and the Assigned Individual's resume, social security number and other legally protected personal information, and you agree to implement and maintain reasonable security procedures and practices to protect such information from unauthorized access, use, modification or disclosure.

Part 3 – Additional Terms

- 3.1 RH shall not discriminate against, or engage in the harassment of, any City employee or volunteer or any employee of RH or applicant for employment because of an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS-related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual). This prohibition shall apply to all of RH's employment practices and to all of RH's activities as a provider of services to the City.
- 3.2 RH shall comply with all applicable federal, state and city laws, statutes, ordinances and regulations and the applicable orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.
- 3.3 RH acknowledges that it is responsible for compliance with all applicable requirements of the Patient Protection and Affordable Care Act with respect to its employees.
- 3.4 RH is responsible for submitting a bi-weekly hours report to City which identifies temporary personnel and hours worked for each pay period, as well as a cumulative total. The report shall be based on the City's fiscal year, which is July 1 – June 30. RH is responsible for retaining timecards for temporary personnel and shall provide timecard detail to City upon request. The hours report shall be submitted to:

Doug Baker
 City of Sunnyvale
 Human Resources Manager
 505 W. Olive Avenue, Suite 200
 Sunnyvale, CA 94086
 Phone: (408) 730-2705
 Email: dbaker@sunnyvale.ca.gov

This Agreement is only applicable to, and the only Robert Half International Inc. division and branch obligated under this Agreement are, the Robert Half Technology division of the Branch. This Agreement, its Statement of Work and its Job Arrangement Letter are the complete agreement regarding these transactions, and replace any prior oral or written communications between the Branch and you regarding these transactions.

By signing below, both parties agree to the terms of this Agreement. Once signed, 1) any reproduction of this Agreement, its Statement of Work, or Job Arrangement Letter made by reliable means (for example, photocopy or facsimile) is considered an original and 2) all Services ordered under this Agreement are subject to it.

Agreed to:
City of Sunnyvale

By 
 Authorized signature

Name (type or print): DEANNA SANTANA

Date: 10/25/15

Customer address: _____

Agreed to:
Robert Half International Inc.

By 
 Authorized signature

Name (type or print): Heather Johnston

Date: 10-27-15

Branch address:
 10 S. Almaden Road, Suite 900
 San Jose, CA 95113

After signing, please return a copy of this Agreement to the RH "Branch address" shown above.

Exhibit A

STATEMENT OF WORK FOR RH CUSTOMER AGREEMENT

This is the Statement of Work referred to in the RH Customer Agreement for Services for Robert Half Technology (with Statement(s) of Work) to which this Statement of Work is attached (the "Agreement"), by and between the City of Sunnyvale ("you", "your" or "Client") and Robert Half International Inc., through its division Robert Half Technology ("RH"), which Agreement is incorporated into and made a part of this Statement of Work. This Statement of Work shall be effective as of the last date listed below after it is signed by both parties. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Agreement.

Description of Services: Assisting Client with its installation and maintenance of Cisco networks and/or Nexus Firewalls.

Anticipated Services Start Date: November 2, 2015.

Estimated Timetable: 4 months with possible extension.

Job Skills: Networking and networking configuration.

Client Supervisor: Name: Eddie Soliven
Phone: (408) 730-7557
Email: esoliven@sunnyvale.ca.gov

RH Account Executive: Name: Robert Solis
Phone: (408) 271-9063, ext. 21897
Email: robert.solis@rht.com

RH Assigned Individual:

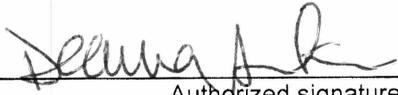
<u>Name:</u>	<u>Job Order:</u>	<u>Bill Rate:</u>
Joeffrey Villegas	00420-139097	\$124.86/hr.

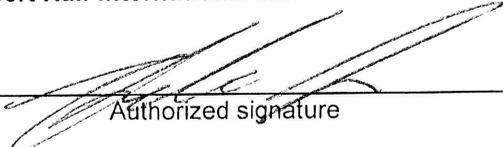
Termination: Either party may terminate this Statement of Work by giving written notice to the other party.

The parties hereby concur to this Statement of Work.

Agreed to:
City of Sunnyvale

Agreed to:
Robert Half International Inc.

By 
Authorized signature

By 
Authorized signature

Name (type or print): DEANNA SANTANA

Name (type or print): Heather Johnston

Date: 10/28/15

Date: 10-27-15