City of Fayetteville Staff Review Form

2018-0773

Legistar File ID

1/15/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Keith Macedo
Submitted By
12/21/2018
Submitted Date
INFORMATION TECHNOLOGY (170)
Division / Department

Action Recommendation:

Approval of an annual maintenance renewal form for NeoGov’s Applicant Tracking and Performance Evaluation Software Maintenance pursuant to the exiting City of Fayetteville NeoGov agreement.

Budget Impact:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>General Fund</th>
<th>Project Number</th>
<th>Project Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1010.120.1220.5416.00</td>
<td>$ 40,110.00</td>
<td>$ 14,400.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Current Budget</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Funds Obligated</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$ 25,710.00</td>
<td>Current Balance</td>
<td></td>
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<tr>
<td></td>
<td>$ 24,707.03</td>
<td>Item Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Budget Adjustment</td>
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<td>Remaining Budget</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 1,002.97</td>
<td></td>
</tr>
</tbody>
</table>

Approval Date: _______________________

Purchase Order Number: _______________
Change Order Number: _______________
Original Contract Number: _______________

Previous Ordinance or Resolution #: 215-17

Comments:
MEETING OF JANUARY 15, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Michele Bechhold, Assistant HR Director

FROM: Keith Macedo, Director of Information Technology

DATE: December 21, 2018

SUBJECT: Approval of an annual maintenance renewal form for NeoGov’s Applicant Tracking and Performance Evaluation Software Maintenance pursuant to the exiting City of Fayetteville NeoGov agreement.

RECOMMENDATION:
Staff Approval of an annual maintenance renewal form for NeoGov’s Applicant Tracking and Performance Evaluation Software Maintenance pursuant to the exiting City of Fayetteville NeoGov agreement.

BACKGROUND:
The City initially contracted with NeoGov, on December 16, 2010, to provide applicant tracking and online job posting software in the amount of $7,000.00 per year. The City added NeoGov’s job performance evaluation software, in the amount of $12,000.00 per year, on December 20, 2013. Both of these contracts were administratively approved since the total cost of the annual contract was less than $20,000.00. Since 2013 the City has paid NeoGov $19,000.00 per year for their applicant tracking, online job posting, and performance evaluation software. Although NeoGov’s 2010 and 2013 service agreement contracts both contained price increase clauses per service agreement, NeoGov did not increase their prices until 2017. City Council approved a renewal agreement with NeoGov on October 17, 2018 per resolution 215-17.

DISCUSSION:
The attached renewal is subject to the terms within the existing service agreement contracts and quotes a new renewal rate, in the amount of $24,707.03. Per the existing service agreements, NeoGov can request an increase in annual maintenance, which is capped per service agreement term. Staff reviewed the increase in annual maintenance, contained within the attached renewal form, and verified it falls within the service agreement terms.

BUDGET/STAFF IMPACT:
Staff recommends approving the NeoGov applicant tracking and performance evaluation software renewal amendment in the amount of $24,707.03, with a 5% escalation per service agreement term, as documented in the service agreements. Annual software maintenance for NeoGov is funded within the General Fund Human Resources division operating budget.

Attachments: Staff Review Form, Staff Review Memo, Renewal Form, NeoGov Agreements
## EXHIBIT A – ORDER FORM

**Customer & Customer Address:**

Keith Macedo, CGCIO  
Information Technology Director  
City of Fayetteville, Arkansas

**Bill To (if different than Customer Address):**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Initial Annual Recurring Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Insight Enterprise Edition (IN) Subscription</td>
<td>$11,477.03</td>
</tr>
<tr>
<td>2.</td>
<td>GovernmentJobs.com Job Posting Subscription (GJC)</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Perform (PE) Subscription</td>
<td>$13,230.00</td>
</tr>
<tr>
<td>4.</td>
<td>Onboard (ON) Subscription</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Learn (LE) Subscription</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>NEOGOV Integrations Subscription</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total:** $24,707.03

### Non-Recurring Fees

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Non-Recurring Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.</td>
<td>Insight (IN)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Setup and Implementation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Training</td>
<td></td>
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<tr>
<td>7.</td>
<td>Perform (PE)</td>
<td></td>
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<tr>
<td></td>
<td>Setup and Implementation</td>
<td></td>
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<tr>
<td></td>
<td>Training</td>
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<tr>
<td>8.</td>
<td>Onboard (ON)</td>
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<tr>
<td></td>
<td>Setup and Implementation</td>
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<tr>
<td></td>
<td>Training</td>
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<tr>
<td>9.</td>
<td>Learn (LE)</td>
<td></td>
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<tr>
<td></td>
<td>Setup and Implementation</td>
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<tr>
<td></td>
<td>Training</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>NEOGOV Integrations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Setup and Configuration</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total:** N/A

**Order Total:** $24,707.03

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1. Items designated as Not Applicable, N/A or NA on the Order Form are not included in the Services. Customer may request a quote for these items at their discretion throughout the Term.

2. The annual recurring Fees for a Renewal Term are subject to increase pursuant to the Agreement.

1. **Description of Services.**

   (a) **Insight Enterprise (IN).** Insight Enterprise (IN) is designed to address five major areas of human resource activities including recruitment, selection, applicant tracking, reporting and analysis, and HR automation. As described below, Insight Enterprise (IN) enables agencies to post class specifications online, post job announcements on Customer websites, accept online applications, conduct applicant tracking including EEO and other statistical analysis, create email/hardcopy applicant notices, complete item analysis, create/route/approve requisitions and hire actions online, and certify eligible lists electronically. A subscription to Insight Enterprise (IN) will include the following:

   **Recruitment:**
   - Online job application
   - Configurable Career site
   - Automatic online job interest cards
   - Recruitment and examination planning

   **Selection:**
   - Configurable supplemental questions
   - Define unique automatic scoring plans
   - Test analysis and pass-point setting
   - Score, rank, and refer applicants

   **Applicant Tracking:**
   - Email and hardcopy notifications
   - EEO Data collection and reports

   **Reporting and Analysis:**
   - 90 standard system reports
   - Ad hoc reporting tool
● Track applicants by step/hurdle
● Schedule written, oral, and other exams
● Candidate self-service portal for scheduling and application status

Career Pages:
● NEOGOV will provide the URLs for the Career Pages, which the Customer will use to advertise on their website. Customer will need to change the IP addresses for the following three Customer website links (NEOGOV will provide the new link addresses):
   ∙ Job openings
   ∙ Promotional job openings
   ∙ Transfer Job openings
   ∙ Class Specifications
   ∙ Job Interest Cards

Optional Integrations:
● Customer may export data from and to Insight Enterprise (IN) to integrate with other systems. Specifications regarding optional, for cost, NEOGOV integrations can be made available to Customer, including:
   ∙ Configure New Hire Export Interface
   ∙ Configure Position Control Import Interface
   ∙ Class Spec Interface
   ∙ Employee Integration
● As part of each such integration, NEOGOV shall:
   ∙ Conduct project scope, review integration plan, discuss timeline, and set schedule for required meetings.
   ∙ Provide Integration Worksheets and/or guides.

(b) GovernmentJobs.com Job Posting Subscription. A subscription to GovernmentJobs.com Job Posting Subscription will include the following functionality:
● Enables organizations to advertise their job postings created in Insight on the GovernmentJobs.com website.
● May add an unlimited number of postings
● Note: Jobs advertised on the promotional and transfer webpages are not advertised on GovernmentJobs.com as these are typically for internal employees.

(c) Perform (PE). Perform (PE) is designed to address the major areas of human resource activities centered around employee performance management. As described below, Perform (PE) includes built-in workflow for business processes, configurable tasks, performance evaluations and reports. A subscription to Perform (PE) will include the following:
● Configurable Performance Evaluations
● Ability to build Library of Goals, Competencies, and Writing Assistants
● Shareable Competency Content
● Development Plans
● Configurable Process Workflows
● Scored and Non-scored Rating Scales
● Log of Performance Observations throughout the year
● Peer Reviews & Multi-rater capability
● Configurable Email Notifications
● Automatic Evaluation Creation
● Ability to perform actions in bulk for Employees & Evaluations

(d) Onboard (ON). Onboard (ON) is designed to facilitate the onboarding process for new hires. As described below, NEOGOV maintains standard forms as part of the annual subscription. Agencies shall maintain any custom forms created by Customer. A subscription to Onboard (ON) will include the following functionality:
● Electronic Employee File of Onboard forms
● Federal I9 and W4 forms
● Checklists of tasks to create specific Onboard process by position, department, division or class spec
● Configurable new hire portal
● Ability to promote, rehire and offboard employees (task assignment based on new position)
● Global form bank
● Configurable Email Notifications
● Automation of Onboard process
● Build your own Onboarding forms. Onboard (ON) includes Federal I9 and Federal W4 forms which are updated as new versions are released. Additional forms or form maintenance is available from NEOGOV at the following cost:
   ∙ Background forms $295 per form
   ∙ Dynamic Forms $195 per form
   ∙ Updates to existing forms $200 per hour

(e) Learn (LE). Learn (LE) is designed to provide a seamless experience for organizations to train and develop employees. LE addresses the critical need of organizations to ensure completion of required trainings. By tracking both in-person and online training in one central place, organizations can improve employee performance and safety and reduce risk and liability claims. A subscription to Learn (LE) will including the following:
● Create, schedule, enroll learners in, and track completion of online and in-person, classroom trainings
● Ability to upload SCORM course content files
● Certificates after course completion
● Learner transcripts & class rosters
● Course catalog with configurable categories for learners to browse
● Centralized dashboard that displays all required and elective trainings (online and in-person) that employees are enrolled in
● Hundreds of ‘off-the-shelf’ online courses
● Learn Setup and Implementation will include the following activities:
  ● NEOGOV will work with Customer staff to understand the existing processes, as well as other workforce business practices, where applicable.
  ● NEOGOV will establish Customer’s production environment.
  ● All NEOGOV products will be implemented off-site.

(f) NEOGOV Training.
   ● NEOGOV training is available online (web-based, pre-built, content) unless otherwise proposed as included in the Order Form.
   ● NEOGOV’s pre-built, online training consists of a series of tutorials to introduce the standard features and functions and may be used as reference material by the staff conducting day-to-day activities.

(g) NEOGOV Implementation. The following activities will be conducted as a part of the Services:
   ● Customer to review the project kick-off tutorial for information on the project timeline, deliverables, and establish project expectations.
   ● NEOGOV will work with Customer staff to understand the existing processes as well as other workforce business practices where applicable.
   ● NEOGOV will establish Customer’s production environment.
   ● All NEOGOV products will be implemented off-site. Customer may integrate NEOGOV solutions with other systems using standard NEOGOV integration tools, export data from Insight Enterprise (IN) using web services and/or flat files to integrate with other systems, but the specifications and scope must be defined prior to agreeing to a timeline or price.
   ● Following NEOGOV product rollout, NEOGOV and Customer will confirm the rollout was completed successfully and that any production questions are addressed promptly.

(h) NEOGOV Integrations. NEOGOV offers Standard Integrations as well as platform APIs for third party system integration(s). A subscription to Standard Integrations includes the following:
   ● Conduct project scope, review integration plan, discuss timeline, and set schedule for required meetings
   ● Annual maintenance by NEOGOV
   ● Employee import and export
   ● Department division position import and export
   ● Note: NEOGOV APIs are to be configured directly by Customer staff using NEOGOV documentation. If required, professional services may be included by NEOGOV to help define and validate scope, business requirements, timelines, and associated costs (if applicable).

2. Order Form Terms.
   (a) Payment Terms. Customer will pay all Fees set forth in the Order Form or SOW in accordance with the following: (i) NEOGOV Fees are invoiced annually in advance and NEOGOV may invoice all Fees due under this Agreement in one invoice for each invoice period; (ii) invoices shall be delivered to the stated “Bill To” party on the Order Form (iii) Customer shall pay NEOGOV the applicable fees (collectively, the “Fees”) within the applicable time periods as follows:

   (A) Customer shall pay all annual recurring Fees (including for any NEOGOV Integrations) for the Initial Term within thirty (30) days of the date of Customer’s execution and delivery of this Order Form;
   (B) Customer shall pay all training Fees within thirty (30) days of the date of Customer’s execution and delivery of this Order Form;
   (C) Customer shall pay all setup and implementation Fees within thirty (30) days of the date of Customer’s execution and delivery of this Order Form;
   (D) any other Fees owed by Customer to NEOGOV pursuant to this Agreement shall be paid by Customer within thirty (30) days of Customer’s receipt of NEOGOV’s invoice therefor;
   (E) Customer shall pay all annual recurring Fees (including for any NEOGOV Integrations) for any Renewal Term within thirty (30) days of Customer’s receipt of NEOGOV’s invoice therefor.

NEOGOV may, in its sole discretion, increase the Fees for any Renewal Term. NEOGOV shall provide Customer with written notice of any such Fee increase at least sixty (60) days prior to the commencement of such Renewal Term. Upon execution by Customer and NEOGOV, each Order Form and/or SOW is non-cancellable and non-refundable except as provided in this Agreement, and the Term as set forth in the Order Form for NEOGOV subscriptions is a continuous and non-divisible commitment for the full duration of the Term regardless of any invoice schedule.

(b) Online Services Agreement. This Order Form is an attachment to and part of that certain Online Services Agreement (the “Agreement”) by and between NEOGOV and Customer. Terms not defined in this Order Form shall have the meanings set forth in the Agreement. THERE ARE SIGNIFICANT ADDITIONAL TERMS AND CONDITIONS, WARRANTY DISCLAIMERS AND LIABILITY LIMITATIONS CONTAINED IN THE AGREEMENT. CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT IT HAS READ THE AGREEMENT IN ITS ENTIRETY AND AGREE TO BE BOUND BY ITS PROVISIONS.

(c) Effectiveness. Neither Customer nor NEOGOV will be bound by this Order Form until this Order Form has been signed by authorized representatives of both parties.

(d) Modifications. This Order Form may not be modified or amended except through a written instrument signed by the party to be bound.
IN WITNESS WHEREOF, the parties have caused this Order Form to be executed by their respective duly authorized officers as of the date set forth below.

<table>
<thead>
<tr>
<th>Customer:</th>
<th>NEOGOV: GovernmentJobs.com, Inc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature:</td>
<td>Signature:</td>
</tr>
<tr>
<td>Print Name:</td>
<td>Print Name: John Closs</td>
</tr>
<tr>
<td>Title:</td>
<td>Title: Controller</td>
</tr>
<tr>
<td>Date:</td>
<td>Date: 12/26/2018</td>
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</table>
The attached contract is for the City to purchase software that would enable job applicants to apply for jobs online. The increased efficiencies associated with this are part of the HR Strategic Plan endorsed by the Administration.

<table>
<thead>
<tr>
<th>Cost of this request</th>
<th>Category / Project Budget</th>
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<tbody>
<tr>
<td>$12,000</td>
<td>$</td>
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**Account Number**: 1010.1220.5296.09

**Funds Used to Date**: 

**Remaining Balance**: 

**Budgeted Item**: √  

**Budget Adjustment Attached**: 

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**Department Director**

**City Attorney**

**Finance and Internal Services Director**

**Chief of Staff**

**Mayor**

**Previous Ordinance or Resolution #**

**Original Contract Date**: 

**Original Contract Number**: 

**Received in City Clerk's Office**: 12-15-10 03:22 RCVD

**Received in Mayor's Office**: 12-20-10

**Comments:**
Service Agreement

THIS ON-LINE SERVICES AGREEMENT (this "Agreement") is made and entered into this 21st day of December, 2010, by and between GovernmentJobs.com, Inc., a California corporation (d/b/a "NEOGOV"), and the City of Fayetteville, Arkansas a public entity acting by and through its duly appointed representative ("Customer").

1. **Provision of On-line Services.**

(a) Customer hereby engages NEOGOV, and NEOGOV hereby agrees (subject to the terms and conditions set forth herein), to provide the services (the "Services") more fully described in this Agreement and in Exhibit A (Order Form). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder.

2. **Additional NEOGOV Responsibilities.** In connection with the performance of this Agreement, NEOGOV shall be responsible for the following:

(a) NEOGOV shall provide all required hosting and operations support for the applications provided through this agreement.

(b) NEOGOV shall follow those support, maintenance and other procedures and shall provide those support, maintenance and other services to Customer more fully described in this Agreement.

3. **Customer Responsibilities.** In connection with the performance of this Agreement and the provision of the Services, Customer shall be responsible for the following:

(a) Customer shall be responsible for ensuring that Customer's use of the Services and the performance of Customer's other obligations hereunder comply with all laws applicable to Customer.

(b) Customer shall be responsible, as between NEOGOV and Customer, for the accuracy and completeness of all records and databases provided by Customer in connection with this Agreement for use on NEOGOV's system.

4. **Ownership, Protection and Security.**

(a) Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by Customer hereunder for incorporation into or delivery through the application(s) described in this agreement shall remain with Customer, and NEOGOV shall cease use of all such material upon termination of this Agreement.

(b) Customer acknowledges and agrees that nothing in this Agreement or any other agreement grants Customer any licenses or other rights with respect to NEOGOV's software system (source code or object code) other than the right to receive Services as expressly provided herein. NEOGOV shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with NEOGOV's software system and Services and all components thereof and associated documentation, except as expressly provided herein.

(c) NEOGOV grants to Customer a limited license during the term of this Agreement to use and reproduce NEOGOV's trademarks and logos for purposes of including such trademarks and logos in advertising, and publicity materials and links solely as permitted hereunder. All uses of such trademarks and logos shall conform to Customer's standard guidelines and requirements for use of such trademarks and logos.
5. **NEOGOV Representations and Warranties.**

(a) **Service Performance Warranty.** NEOGOV warrants that it will perform the Services in a manner consistent with industry standards reasonably applicable to the performance thereof.

(b) No Other Warranty. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 5, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

(c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALLY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDingly, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

6. **Publicity.** Following execution of this Agreement, the parties hereto may issue a press release, the form and substance of which shall be mutually agreeable to the parties, announcing the relationship created by this Agreement. Except as expressly contemplated herein, neither party shall issue any additional press release which mentions the other party or the transactions contemplated by this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld.

7. **NonDisclosure.** Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret ("Confidential Information") and trade secrets. In recognition of the other party's need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law including the Freedom of Information Act of the State of Arkansas, redistribute, market, publish, disclose or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity, (i) any of the other party's Confidential Information during the term of this Agreement; or for a period of three (3) years after the termination of this Agreement or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party's trade secrets at any time during which such information shall constitute a trade secret under applicable law.

8. **Liability Limitations.**

(a) If promptly notified in writing of any action brought against Customer based on a claim that NEOGOV's Services infringe a United States patent, copyright or trademark right of a third party (except to the extent such claim or infringement relates to any third party software incorporated into NEOGOV's applications), NEOGOV will defend such action at its expense and will pay any and all fees, costs or damages that may be finally awarded in such NEOGOV, Inc. Proprietary and Confidential Page 2 of 8
action or any settlement resulting from such action (provided that Customer shall permit NEOGOV to control the defense of such action and shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without NEOGOV’s prior written approval).

(b) Customer acknowledges and agrees: (i) that NEOGOV has no proprietary, financial, or other interest in the goods or services that may be described in or offered through Customer’s web site; and (ii) that except with respect to any material supplied by NEOGOV, Customer is solely responsible (as between NEOGOV and Customer) for the content, quality, performance, and all other aspects of the goods or services and the information or other content contained in or provided through Customer’s web site.

(c) OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEOGOV DOES NOT MAKE ANY WARRANTIES TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER. NEOGOV SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY, UNDER ANY CIRCUMSTANCE OR DUE TO ANY EVENT WHATSOEVER, FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE OR BUSINESS STOPPAGE.

(d) Under no circumstances shall NEOGOV’s total liability to Customer or any other person, regardless of the nature of the claim or form of action (whether arising in contract, tort, strict liability or otherwise), exceed GovernmentJobs.com Inc.’s Certificate of Insurance and NEOGOV has agreed to name Customer as an insured on said liability insurance per attached Exhibit “A” provided by NEOGOV; provided, however, that the foregoing limitations set forth in this Section 8(d) shall not apply to actions brought under 8(a) above or to any injury to persons or damages to property arising out of NEOGOV’s gross negligence or willful, gross misconduct.

9. Term and Termination

(a) This Agreement shall commence as of January 1, 2011 and remain in effect for twelve (12) months unless terminated by either party as set forth herein (“Initial Term”).

(b) This Agreement may be renewed for additional terms (“Renewal Term”) equal in duration to the Initial Term provided Customer notifies NEOGOV at least thirty (30) days prior to the end of the Initial Term or a Renewal Term. It is anticipated that the parties shall in good faith commence active discussions each September concerning whether and under what terms to renew for the following calendar year.

(c) NEOGOV reserves the right to terminate this Agreement immediately if the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation or public policy. Each party shall have the right to terminate this Agreement upon sixty (60) days prior written notice to the other party.

(d) Within sixty (60) days of notification of termination of this Agreement, NEOGOV shall provide Customer with a dedicated data files suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of Customer’s data contained in NEOGOV’s system. The structure of the relational database will be specific to the Customer’s data and will not be representative of the proprietary NEOGOV database. NEOGOV shall likewise refund Customer its pro-rata share of pre-payment by Customer for twelve (12) months of service and/or maintenance fees or any other amounts pre-paid by Customer to NEOGOV.

10. Payments

(a) Initial Term. See Exhibit A (Order Form).

(b) Renewal Term(s). For each Renewal Term, NEOGOV will continue to provide Customer with the Services, and will provide maintenance and support services as described herein, provided Customer issues a purchase order or


NEOGOV, Inc. Proprietary and Confidential Page 3 of 8
modification to this Agreement and pays NEOGOV in advance the annual recurring charges then in effect. If there is an increase in annual maintenance and support charges, NEOGOV shall give Customer written notice of such increase at least thirty (30) days prior to the expiration of the applicable term.

11. Force Majeure. NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to circumstances or events beyond NEOGOV’s reasonable control, including, without limitation: (i) acts of God; (ii) changes in or in the interpretation of any law, rule, regulation or ordinance; (iii) strikes, lockouts or other labor problems; (iv) transportation delays; (v) unavailability of supplies or materials; (vi) fire or explosion; (vii) riot, military action or usurped power; or (viii) actions or failures to act on the part of a governmental authority other than Customer.

12. Miscellaneous. Either party may not assign its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be governed by and construed in accordance with the laws of the State of Arkansas, without giving effect to conflict of law rules. Customer acknowledges and agrees that this Agreement is not intended to be and shall not be construed to be a franchise or business opportunity.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth above.

Customer
Signature: ____________________________
Print Name: LIONELD JORDAN
Title: MAYOR
Date: 12/12/15

GovernmentJobs.com, Inc., a California corporation

Signature: ____________________________
Print Name: ____________________________
Title: ____________________________
Date: ____________________________
### Order Form

**EXHIBIT A - ORDER FORM**

<table>
<thead>
<tr>
<th>Customer:</th>
<th>Bill To:</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME</td>
<td>Attention To:</td>
</tr>
<tr>
<td>AGENCY</td>
<td>Address:</td>
</tr>
<tr>
<td></td>
<td>Phone:</td>
</tr>
<tr>
<td></td>
<td>Email:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Quote Date: 12/16/2016</th>
<th>Revision: 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid From: 12/16/2016</td>
<td></td>
</tr>
<tr>
<td>Valid To: Today plus 30 days</td>
<td>Order Number:</td>
</tr>
<tr>
<td>Requested Service Date: TBD</td>
<td>Initial Term: 12 Months</td>
</tr>
</tbody>
</table>

**Order Summary**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Annual Receiving Cost</th>
<th>Non-Recurring Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Insight Enterprise Edition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>Subscription License</td>
<td>$7,000.00</td>
<td></td>
</tr>
<tr>
<td>1.2</td>
<td>Provisioning</td>
<td>$7,000.00</td>
<td></td>
</tr>
<tr>
<td>1.3</td>
<td>Training</td>
<td>$1,500.00</td>
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</tr>
<tr>
<td>2.0</td>
<td>Governmentjobs.com Annual License *optional</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sub Total: $7,000.00 $5,000.00

Order Total: $12,000.00

1 More detailed descriptions of the services are contained in the order detail for each service, which are incorporated herein and made a part hereof by this reference.
1.0 Insight Enterprise Edition

1.1 License Subscription

The Customer's subscription to the Insight Hiring Management Software includes the following functionality:

Recruitment

- Customized online job application
- Accept job applications online
- Online applications integration with current agency website
- Online job announcements and descriptions
- Automatic online job interest cards
- Proactively search your applicant database
- Real-time database of all applicant information
- Recruitment and examination planning

Selection

- Create, store, and reuse supplemental questions in the Insight item bank
- Screen applicants automatically as they apply
- Define unique scoring plans per recruitment, or copy existing scoring plans
- Test item bank (optional in TMS)
- Conduct item analysis
- Test processing (automatically input Scantron test data sheets)*
- Test analysis and pass-point setting
- Score, rank, and refer applicants

Applicant Tracking

- Email and hardcopy notifications
- EEO Data collection and reports
- Track applicants by step/hurdle
- Schedule written, oral, and other exams
- Detailed applicant history record
- Skills tracking and matching

Reporting and Analysis

- Collect and report on EEO data
- Analyze and report on adverse impact and applicant flow
- Track and analyze data such as time-to-hire, recruitment costs, staff workload, applicant quality, etc.
- Over 30 standard system reports
- Ad Hoc reporting tool

HR Automation

- Create and route job requisitions
- Refer and certify applicants electronically
- Scan paper application materials

* Cost of the scanner is not included unless listed on Exhibit A – ORDER FORM
* Requires a Scantron or similar Optical Mark Reader (OMR) scanner, special forms, form set-up, and scanner software, which are not included unless listed on Exhibit A – ORDER FORM
Additionally, during the term of the subscription, the Customer will be provided:

**Unlimited Customer Support (6:00 AM – 6:00 PM PT)**

Customer Support shall be provided to the Customer both on-line and by telephone Monday – Friday, 6:00 AM – 6:00 PM PT (excluding NEOGOV holidays).

**Product Upgrades to Licensed Software**

Customer shall receive all product upgrades to purchased package. Product upgrades are automatic and available upon the next login following a product upgrade rollout. Product upgrade rollouts are generally released every three months.

1.2 **Provisioning**

The following activities are conducted as part of the Insight Enterprise implementation:

- Conduct a project kick off meeting to review the project timeline, deliverables, and establish project expectations
- NEOGOV will establish an Agency-specific training environment that will be used during training and post-training to allow the Agency to learn the system and begin defining new roles, responsibilities, and activities within the HR staff
- NEOGOV will conduct eight hours of on line instructor led training. NEOGOV will provide all required user exercises and user guides to the Agency.
- Once the core user community is comfortable with the system (typically within 10 hours of hands-on use) they will train the remaining HR staff to complete their tasks using Insight.
- Between the training and go-live, NEOGOV will complete the following activities:
  - Creating an agency-specific training environment which is used by your agency during training and afterwards to train in prior to moving into production
  - Configure printable job bulletin
  - Integrate your new production job opportunities, promotional opportunities, and class specifications web pages into your existing agency website
  - Establish the Agency's Insight Enterprise production environment

1.3 **Training**

NEOGOV will deliver training to Agency recruiters. We will provide all required user exercises and user guides to the Agency.

Following the training, your agency will have full access to the training environment. Additionally, your agency has full access to our Customer Support Help Desk during the training to help new users fully utilize Insight. Our existing customers find that this unique implementation approach enables their users to become familiar with Insight in a safe environment, promoting system use and leading to a more successful rollout.
Order Form Terms and Conditions:

(1) The Customer hereby orders and GovernmentJobs.com, Inc. (d/b/a NEOGOV, Inc., hereafter "NEOGOV") agrees to provide the services described in this Order Form. THE SERVICES ARE PROVIDED PERSUANT TO THE TERMS AND CONDITIONS OF THIS ORDER FORM AND THE SERVICE AGREEMENT BETWEEN NEOGOV AND THE CUSTOMER.

(2) The Customer agrees that the payment schedule is as follows:

Provide all required software and Licenses
- One hundred percent (100%) of the annual license price is payable within thirty (30) days of execution of this Order Form and Service Agreement. ($7,000.00)

Software Provisioning for first half of Insight Enterprise
- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days of the execution of this Order Form and Service Agreement. ($2,500.00)

Software Provisioning for second half of Insight Enterprise (Completion of post evaluation)
- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days following the thirty day post-training period. ($2,500.00)

(3) Neither the Customer nor NEOGOV will be bound by this Order Form until it has been signed by authorized representatives of both parties.

(4) Changes or alterations to this Order Form will not be accepted.

THERE ARE SIGNIFICANT ADDITIONAL TERMS AND CONDITIONS, WARRANTY DISCLAIMERS AND LIABILITY LIMITATIONS CONTAINED IN THE SERVICE AGREEMENT BETWEEN THE CUSTOMER AND NEOGOV.

DO NOT SIGN THIS ORDER FORM BEFORE YOU HAVE READ THE SERVICE AGREEMENT IN ITS ENTIRETY. YOUR SIGNATURE BELOW INDICATES THAT YOU HAVE READ THE SERVICE AGREEMENT AND AGREE TO BE BOUND BY ITS PROVISIONS.

<table>
<thead>
<tr>
<th>Customer</th>
<th>NEOGOV, Inc.</th>
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<tbody>
<tr>
<td>Signature:</td>
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<tr>
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<td>Print Name:</td>
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<tr>
<td>Title:</td>
<td>Title:</td>
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<tr>
<td>Date:</td>
<td>Date:</td>
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</tbody>
</table>

[Signature]

[Print Name]

[Title]

[Date]
**CERTIFICATE OF LIABILITY INSURANCE**

**DATE (MM/DD/YYYY)**  
12/16/2010

---

**PRODUCER**  
Techinsure  
1301 Central Expwy, South, Suite 115  
Allen, TX 75013

**INSURER(S) AFFORDING COVERAGE**  
- Hartford Casualty Insurance Company  
  Insuree A:  
  NAIC #: 20424
- Hartford Casualty Insurance Company of the Midwest  
  Insuree B:  
  NAIC #: 37178
- Property and Casualty Insurance Company of Hartford  
  Insuree C:  
  NAIC #: 34690
- ACE Insurance Company of Ohio  
  Insuree D:  
  NAIC #: 22607

---

**COVERAGES**  

<table>
<thead>
<tr>
<th>INSURER</th>
<th>POLICY NUMBER</th>
<th>LIMITS</th>
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</thead>
<tbody>
<tr>
<td>Hartford Casualty Insurance Company</td>
<td>1260531</td>
<td>EACH OCCURRENCE $2,000,000</td>
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<tr>
<td>Hartford Casualty Insurance Company of the Midwest</td>
<td>4855489654</td>
<td>GENERAL LIABILITY $3,500,000</td>
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<tr>
<td>Property and Casualty Insurance Company of Hartford</td>
<td>4GUS-0F41</td>
<td>OCCUR $3,200,000</td>
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<tr>
<td>ACE Insurance Company of Ohio</td>
<td>46MEC6415</td>
<td>OCCUR $3,200,000</td>
</tr>
</tbody>
</table>

**CANCELLATION**  

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

**AUTHORIZED REPRESENTATIVE**

---

City of Fayetteville  
113 W. Mountain  
Fayetteville AR 72701

---

© 1983-2009 ACORD CORPORATION. All rights reserved.  
*EXHIBIT A*
City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year: 2010
Department: Chief of Staff
Division: Human Resources
Program: Employee Benefits/Services
Request Date: 12/17/2010
Adjustment Number

JUSTIFICATION TO INCREASE PROJECT / ITEM:
Additional funds are needed in software maintenance to purchase NeoGov.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

<table>
<thead>
<tr>
<th>Account Name</th>
<th>Account Number</th>
<th>Increase Budget</th>
<th>Decrease Budget</th>
<th>Project/Sub Number</th>
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<tbody>
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<tr>
<td>Software</td>
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</table>

TOTAL 2,300 2,300

Requested By: BARBARA FELL

Budget & Research Use Only

Type: A B C D E
Description: 

General Ledger Date

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

Division Head

Budget Director

Department Director

Finance Director

Chief of Staff

Mayor
Service Agreement

THIS ON-LINE SERVICES AGREEMENT (this "Agreement") is made and entered into this _______ day of ________, 2010, by and between GovernmentJobs.com, Inc., a California corporation (d/b/a "NEOGOV"), and the City of Fayetteville, Arkansas a public entity acting by and through its duly appointed representative ("Customer").

1. Provision of Online Services.

(a) Customer hereby engages NEOGOV, and NEOGOV hereby agrees (subject to the terms and conditions set forth herein), to provide the services (the "Services") more fully described in this Agreement and in Exhibit A (Order Form). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder.

2. Additional NEOGOV Responsibilities. In connection with the performance of this Agreement, NEOGOV shall be responsible for the following:

(a) NEOGOV shall provide all required hosting and operations support for the applications provided through this agreement.

(b) NEOGOV shall follow the support, maintenance and other procedures and shall provide those support, maintenance and other services to Customer more fully described in this Agreement.

3. Customer Responsibilities. In connection with the performance of this Agreement and the provision of the Services, Customer shall be responsible for the following:

(a) Customer shall be responsible for ensuring that Customer's use of the Services and the performance of Customer's other obligations hereunder comply with all laws applicable to Customer.

(b) Customer shall be responsible, as between NEOGOV and Customer, for the accuracy and completeness of all records and databases provided by Customer in connection with this Agreement for use on NEOGOV's system.


(a) Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by Customer hereunder for incorporation into or delivery through the application(s) described in this agreement shall remain with Customer, and NEOGOV shall cease use of all such material upon termination of this Agreement.

(b) Customer acknowledges and agrees that nothing in this Agreement or any other agreement grants Customer any licenses or other rights with respect to NEOGOV's software system (source code or object code) other than the right to receive Services as expressly provided herein. NEOGOV shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with NEOGOV's software system and Services and all components thereof and associated documentation, except as expressly provided herein.

(c) NEOGOV grants to Customer a limited license during the term of this Agreement to use and reproduce NEOGOV's trademarks and logos for purposes of including such trademarks and logos in advertising and publicity materials and links solely as permitted hereunder. All uses of such trademarks and logos shall conform to Customer's standard guidelines and requirements for use of such trademarks and logos.
5. **NEOGOV Representations and Warranties.**

(a) **Service Performance Warranty.** NEOGOV warrants that it will perform the Services in a manner consistent with industry standards reasonably applicable to the performance thereof.

(b) **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 5, THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS, AND CUSTOMER’S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/or IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

(c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER’S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALLY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

6. **Publicity.** Following execution of this Agreement, the parties hereto may issue a press release, the form and substance of which shall be mutually agreeable to the parties, announcing the relationship created by this Agreement. Except as expressly contemplated herein, neither party shall issue any additional press release which mentions the other party or the transactions contemplated by this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld.

7. **Non-disclosure.** Though exercise of each party’s rights under this Agreement, each party may be exposed to the other party’s technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret (“Confidential Information”) and trade secrets. In recognition of the other party’s need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law, including the Freedom of Information Act of the State of Arkansas, redistribute, market, publish, disclose or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party’s Confidential Information during the term of this Agreement and for a period of three (3) years after the termination of this Agreement or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party’s trade secrets at any time during which such information shall constitute a trade secret under applicable law.

8. **Liability Limitations.**

(a) If promptly notified in writing of any action brought against Customer based on a claim that NEOGOV’s Services infringe a United States patent, copyright or trademark right of a third party (except to the extent such claim or infringement relates to any third party software incorporated into NEOGOV’s applications), NEOGOV will defend such action at its expense and will pay any and all fees, costs or damages that may be finally awarded in such...
action or any settlement resulting from such action (provided that Customer shall permit NEOGOV to control the defense of such action and shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without NEOGOV’s prior written approval).

(b) Customer acknowledges and agrees: (i) that NEOGOV has no proprietary, financial, or other interest in the goods or services that may be described in or offered through Customer’s web site; and (ii) that except with respect to any material supplied by NEOGOV, Customer is solely responsible (as between NEOGOV and Customer) for the content, quality, performance, and all other aspects of the goods or services and the information or other content contained in or provided through Customer’s web site.

(c) OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEOGOV DOES NOT MAKE ANY WARRANTIES TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SERVICES PROVIDED HEREBY. NEOGOV SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY, UNDER ANY CIRCUMSTANCE OR DUE TO ANY EVENT WHATSOEVER, FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE OR BUSINESS STOPPAGE.

(d) Under no circumstances shall NEOGOV’s total liability to Customer or any other person, regardless of the nature of the claim or form of action (whether arising in contract, tort, strict liability or otherwise), exceed GovernmentJobs.com Inc.’s Certificate of Insurance and NEOGOV has agreed to name Customer as an insured on such liability insurance per attached Exhibit “A” provided by NEOGOV; provided, however that the foregoing limitations set forth in this Section 8(d) shall not apply to actions brought under 8(a) above or to any injury to persons or damages to property arising out of NEOGOV’s gross negligence or willful, gross misconduct.

9. Term and Termination.

(a) This Agreement shall commence as of January 1, 2011 and remain in effect for twelve (12) months unless terminated by either party as set forth herein ("Initial Term").

(b) This Agreement may be renewed for additional terms ("Renewal Term") equal in duration to the Initial Term provided Customer notifies NEOGOV at least thirty (30) days prior to the end of the Initial Term or a Renewal Term. It is anticipated that the parties shall in good faith commence active discussions each September concerning whether and under what terms to renew for the following calendar year.

(c) NEOGOV reserves the right to terminate this Agreement immediately if the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation or public policy. Each party shall have the right to terminate this Agreement upon sixty (60) days prior written notice to the other party.

(d) Within sixty (60) days of notification of termination of this Agreement, NEOGOV shall provide Customer with a dedicated data file suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of Customer’s data contained in NEOGOV’s system. The structure of the relational database will be specific to the Customer’s data and will not be representative of the proprietary NEOGOV database. NEOGOV shall likewise refund Customer its pro-rata share of pre-payment by Customer for twelve (12) months of service and/or maintenance fees or any other amounts paid by Customer to NEOGOV.


(a) Initial Term. See Exhibit A (Order Form).

(b) Renewal Term(s). For each Renewal Term, NEOGOV will continue to provide Customer with the Services, and will provide maintenance and support services as described herein, provided Customer issues a purchase order or
modification to this Agreement and pays NEOGOV in advance the annual recurring charges then in effect. If there
is an increase in annual maintenance and support charges, NEOGOV shall give Customer written notice of such
increase at least thirty (30) days prior to the expiration of the applicable term.

11. **Force Majeure.** NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred
by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to
circumstances or events beyond NEOGOV's reasonable control, including, without limitation: (i) acts of God; (ii)
changes in, or in the interpretation of any law, rule, regulation or ordinance; (iii) strikes, lockouts or other labor
problems; (iv) transportation delays; (v) unavailability of supplies or materials; (vi) fire or explosion; (vii) riot,
military action or usurped power; or (viii) actions or failures to act on the part of a governmental authority other than
Customer.

12. **Miscellaneous.** Either party may not assign its rights or obligations under this Agreement without the prior
written consent of the other party. This Agreement may not be modified or amended (and no rights hereunder may
be waived) except through a written instrument signed by the party to be bound. This Agreement constitutes the
entire agreement between the parties with respect to the subject matter hereof and shall be governed by and
construed in accordance with the laws of the State of Arkansas, without giving effect to conflict of law rules.
Customer acknowledges and agrees that this Agreement is not intended to be and shall not be construed to be a
franchise or business opportunity.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly
authorized officers as of the date set forth above.

Customer

Signature: [Signature]
Print Name: LIONEL JORDAN
Title: MAYOR

GovernmentJobs.com, Inc., a California corporation

Signature: [Signature]
Print Name: SCOTT M. ZIMMERMAN
Title: PRESIDENT
Date: 12/14/12
**Order Form**

**EXHIBIT A - ORDER FORM**

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<thead>
<tr>
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<tbody>
<tr>
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Order Detail

1.0 Insight Enterprise Edition

1.1 License Subscription

The Customer’s subscription to the Insight Hiring Management Software includes the following functionality:

Recruitment
- Customized online job application
- Accept job applications online
- Online applications integration with current agency website
- Online job announcements and descriptions
- Automatic online job interest cards
- Proactively search your applicant database
- Real-time database of all applicant information
- Recruitment and examination planning

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- Screen applicants automatically as they apply
- Define unique scoring plans per recruitment, or copy existing scoring plans
- Test item bank (optional in TMS)
- Conduct item analysis
- Test processing (automatically input Scantron test data sheets)*
- Test analysis and pass-point setting
- Score, rank, and refer applicants

Applicant Tracking
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- EEO Data collection and reports
- Track applicants by stayout/hire
- Schedule written, oral, and other exams
- Detailed applicant history record
- Skills tracking and matching

Reporting and Analysis
- Collect and report on EEO data
- Analyze and report on adverse impact and applicant flow
- Track and analyze data such as time-to-hire, recruitment costs, staff workload, applicant quality, etc.
- Over 80 standard system reports
- Ad Hoc reporting tool

HR Automation
- Create and route job requisitions
- Refer and certify applicants electronically
- Scan paper application materials

* Cost of the scanner is not included unless listed on Exhibit A – ORDER FORM
* Requires a Scantron or similar Optical Mark Reader (OMR) scanner, special forms, form set-up, and scanner software, which are not included unless listed on Exhibit A – ORDER FORM
Additionally, during the term of the subscription, the Customer will be provided:

**Unlimited Customer Support (8:00 AM – 6:00 PM PT)**

Customer Support shall be provided to the Customer both on-line and by telephone Monday – Friday, 6:00 AM – 6:00 PM PT (excluding NEOGOV holidays).

**Product Upgrades to Licensed Software**

Customer shall receive all product upgrades to purchased package. Product upgrades are automatic and available upon the next login following a product upgrade rollout. Product upgrade rollouts are generally released every three months.

### 1.2 Provisioning

The following activities are conducted as part of the Insight Enterprise implementation:

- Conduct a project kick off meeting to review the project timeline, deliverables, and establish project expectations.
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  - Configure printable job bulletin
  - Integrate your new production job opportunities, promotional opportunities, and class specifications web pages into your existing agency website
  - Establish the Agency's Insight Enterprise production environment

### 1.3 Training

NEOGOV will deliver training to Agency recruiters. We will provide all required user exercises and user guides to the Agency.

Following the training, your agency will have full access to the training environment. Additionally, your agency has full access to our Customer Support Help Desk during the training to help new users fully utilize Insight. Our existing customers find that this unique implementation approach enables their users to become familiar with Insight in a safe environment, promoting system use and leading to a more successful rollout.
Order Form

Order Form Terms and Conditions:

(1) The Customer hereby orders and GovernmentJobs.com, Inc. (d/b/a NEOGOV, Inc., hereafter "NEOGOV") agrees to provide the services described in this Order Form. THE SERVICES ARE PROVIDED PERSUANT TO THE TERMS AND CONDITIONS OF THIS ORDER FORM AND THE SERVICE AGREEMENT BETWEEN NEOGOV AND THE CUSTOMER.

(2) The Customer agrees that the payment schedule is as follows:

Provide all required software and Licenses

- One hundred percent (100%) of the annual license price is payable within thirty (30) days of execution of this Order Form and Service Agreement. ($7,000.00)

Software Provisioning for first half of Insight Enterprise

- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days of the execution of this Order Form and Service Agreement. ($2,500.00)

Software Provisioning for second half of Insight Enterprise (Completion of post evaluation)

- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days following the thirty day post-training period. ($2,500.00)

(3) Neither the Customer nor NEOGOV will be bound by this Order Form until it has been signed by authorized representatives of both parties.

(4) Changes or alterations to this Order Form will not be accepted.

THERE ARE SIGNIFICANT ADDITIONAL TERMS AND CONDITIONS, WARRANTY DISCLAIMERS AND LIABILITY LIMITATIONS CONTAINED IN THE SERVICE AGREEMENT BETWEEN THE CUSTOMER AND NEOGOV.

DO NOT SIGN THIS ORDER FORM BEFORE YOU HAVE READ THE SERVICE AGREEMENT IN ITS ENTIRETY. YOUR SIGNATURE BELOW INDICATES THAT YOU HAVE READ THE SERVICE AGREEMENT AND AGREE TO BE BOUND BY ITS PROVISIONS.

<table>
<thead>
<tr>
<th>Customer</th>
<th>NEOGOV, Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature:</td>
<td>Signature:</td>
</tr>
<tr>
<td>Print Name:</td>
<td>Print Name:</td>
</tr>
<tr>
<td>Title:</td>
<td>Title:</td>
</tr>
<tr>
<td>Date:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

NEOGOV, Inc.  Proprietary and Confidential  Page 8 of 8
**CERTIFICATE OF LIABILITY INSURANCE**

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE INSURING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: IF THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED, THE POLICY(IES) MUST BE ENDORSED. IF ENDORSEMENT IS WAIVED, SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY, CERTAIN POLICIES MAY REQUIRE AN ENDORSEMENT. A STATEMENT ON THIS CERTIFICATE DOES NOT CONFER RIGHTS UPON THE CERTIFICATE HOLDER IN LIEU OF SUCH ENDORSEMENTS.**

**PRODUCER**
GovernmentJobs.Com, Inc. dba Neagov
222 Market Square Blvd, Ste 2000
El Segundo, CA 90245

**INSURED**
GovernmentJobs.Com, Inc. dba Neagov
222 Market Square Blvd, Ste 2000
El Segundo, CA 90245

**COVERAGES**

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<td>423</td>
</tr>
</tbody>
</table>

**DESCRIPTION OF OPERATINGLOCATIONS / VEHICLES**

City of Fayetteville is treated as an additional insured with respect to the general liability.

**CERTIFICATE HOLDER**

City of Fayetteville
113 S. Mountain
Fayetteville AR 72701

**CANCELLATION**

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE ELEVATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

Authorized Representative

© 1986-2009 ACORD CORPORATION. All rights reserved.

EXHIBIT "A"
Service Agreement

THIS ON-LINE SERVICES AGREEMENT (this "Agreement") is made and entered into this ____ day of __________, 2010, by and between GovernmentJobs.com, Inc., a California corporation (d/b/a "NEOGOV"), and the City of Fayetteville, Arkansas a public entity acting by and through its duly appointed representative ("Customer").

1. Provision of Online Services.

(a) Customer hereby engages NEOGOV, and NEOGOV hereby agrees (subject to the terms and conditions set forth herein), to provide the services (the "Services") more fully described in this Agreement and in Exhibit A (Order Form). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder.

2. Additional NEOGOV Responsibilities. In connection with the performance of this Agreement, NEOGOV shall be responsible for the following:

(a) NEOGOV shall provide all required hosting and operations support for the applications provided through this agreement.

(b) NEOGOV shall follow all support, maintenance and other procedures and shall provide those support, maintenance and other services to Customer more fully described in this Agreement.

3. Customer Responsibilities. In connection with the performance of this Agreement and the provision of the Services, Customer shall be responsible for the following:

(a) Customer shall be responsible for ensuring that Customer's use of the Services and the performance of Customer's other obligations hereunder comply with all laws applicable to Customer.

(b) Customer shall be responsible, as between NEOGOV and Customer, for the accuracy and completeness of all records and databases provided by Customer in connection with this Agreement for use on NEOGOV's system.


(a) Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by Customer heretofore for incorporation into or delivery through the application(s) described in this agreement shall remain with Customer, and NEOGOV shall cease use of all such material upon termination of this Agreement.

(b) Customer acknowledges and agrees that nothing in this Agreement or any other agreement grants Customer any licenses or other rights with respect to NEOGOV's software system (source code or object code) other than the right to receive Services as expressly provided herein. NEOGOV shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with NEOGOV's software system and Services and all components thereof and associated documentation, except as expressly provided herein.

(c) NEOGOV grants to Customer a limited license during the term of this Agreement to use and reproduce NEOGOV's trademarks and logos for purposes of including such trademarks and logos in advertising and publicity materials and links solely as permitted hereunder. All uses of such trademarks and logos shall conform to Customer's standard guidelines and requirements for use of such trademarks and logos.
5. **NEOGOV Representations and Warranties.**

(a) **Service Performance Warranty.** NEOGOV warrants that it will perform the Services in a manner consistent with industry standards reasonably applicable to the performance thereof.

(b) **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 5, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

(c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALLY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

6. **Publicity.** Following execution of this Agreement, the parties hereto may issue a press release, the form and substance of which shall be mutually agreeable to the parties, announcing the relationship created by this Agreement. Except as expressly contemplated herein, neither party shall issue any additional press release which mentions the other party or the transactions contemplated by this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld.

7. **Nondisclosure.** Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret ("Confidential Information") and trade secrets. In recognition of the other party's need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each piece of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law including the Freedom of Information Act of the State of Arkansas, redistribute, market, publish, disclose or divest to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party's Confidential Information during the term of this Agreement and for a period of three (3) years after the termination of this Agreement or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party's trade secrets at any time during which such information shall constitute a trade secret under applicable law.

8. **Liability Limitations.**

(a) If promptly notified in writing of any action brought against Customer based on a claim that NEOGOV's Services infringe a United States patent, copyright or trademark right of a third party (except to the extent such claim or infringement relates to any third party software incorporated into NEOGOV's applications), NEOGOV will defend such action at its expense and will pay any and all costs, fees or damages that may be finally awarded in such action. NEOGOV, Inc. Proprietary and Confidential
action or any settlement resulting from such action (provided that Customer shall permit NEOGOV to control the defense of such action and shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without NEOGOV’s prior written approval).

(b) Customer acknowledges and agrees: (i) that NEOGOV has no proprietary, financial, or other interest in the goods or services that may be described in or offered through Customer’s web site; and (ii) that except with respect to any material supplied by NEOGOV, Customer is solely responsible (as between NEOGOV and Customer) for the content, quality, performance, and all other aspects of the goods or services and the information or other content contained in or provided through Customer’s web site.

(c) OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEOGOV DOES NOT MAKE ANY WARRANTIES TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER. NEOGOV SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY, UNDER ANY CIRCUMSTANCE OR DUE TO ANY EVENT WHATSOEVER, FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE OR BUSINESS STOPPAGE.

(d) Under no circumstances shall NEOGOV’s total liability to Customer or any other person, regardless of the nature of the claim or form of action (whether arising in contract, tort, strict liability or otherwise), exceed Governmentjobs.com Inc.’s Certificate of Insurance and NEOGOV has agreed to name Customer as an insured on said Liability insurance per attached Exhibit “A” provided by NEOGOV; provided, however that the foregoing limitations set forth in this Section 8(d) shall not apply to actions brought under 8(a) above or to any injury to persons or damages to property arising out of NEOGOV’s gross negligence or willful, gross misconduct.

9. Term and Termination.

(a) This Agreement shall commence as of January 1, 2011 and remain in effect for twelve (12) months unless terminated by either party as set forth herein (“Initial Term”).

(b) This Agreement may be renewed for additional terms (“Renewal Term”) equal in duration to the Initial Term provided Customer notifies NEOGOV at least thirty (30) days prior to the end of the Initial Term or a Renewal Term. It is anticipated that the parties shall in good faith commence active discussions each September concerning whether and under what terms to renew for the following calendar year.

(c) NEOGOV reserves the right to terminate this Agreement immediately if the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation or public policy. Each party shall have the right to terminate this Agreement upon sixty (60) days prior written notice to the other party.

(d) Within sixty (60) days of notice of termination of this Agreement, NEOGOV shall provide Customer with a dedicated data file suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of Customer’s data contained in NEOGOV’s system. The structure of the relational database will be specific to the Customer’s data and will not be representative of the proprietary NEOGOV database. NEOGOV will likewise refund Customer its pro-rata share of pre-payment by Customer for twelve (12) months of service and/or maintenance fees or any other amounts pre-paid by Customer to NEOGOV.


(a) Initial Term. See Exhibit A (Order Form).

(b) Renewal Term(s). For each Renewal Term, NEOGOV will continue to provide Customer with the Services, and will provide maintenance and support services as described herein, provided Customer issues a purchase order or

NEOGOV, Inc. Proprietary and Confidential Page 2 of 8
11. **Force Majeure.** NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to circumstances or events beyond NEOGOV's reasonable control, including, without limitation: (i) acts of God; (ii) changes in or in the interpretation of any law, rule, regulation or ordinance; (iii) strikes, lockouts or other labor problems; (iv) transportation delays; (v) unavailability of supplies or materials; (vi) fire or explosion; (vii) riot, military action or warlike power; or (viii) actions or failures to act on the part of a governmental authority other than Customer.

12. **Miscellaneous.** Either party may not assign its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be governed by and construed in accordance with the laws of the State of Arkansas, without giving effect to conflict of law rules. Customer acknowledges and agrees that this Agreement is not intended to be and shall not be construed to be a franchise or business opportunity.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth above.

**Customer**

Signature: ____________________________

Print Name: LONELD JORDAN

Title: MAYOR

Date: 3/16/16

**GovernmentJobs.com, Inc., a California corporation**

Signature: ____________________________

Print Name: SCOTT LEEORENN

Title: PRESIDENT

Date: 10/16/16
# Order Form

## EXHIBIT A - ORDER FORM

<table>
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<th>Customer:</th>
<th>Bill To:</th>
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<tbody>
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<td></td>
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<td></td>
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## Order Summary

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Sub Total: $7,000.00

Sub Total: $12,500.00

1 More detailed descriptions of the services are contained in the order detail for each service, which are incorporated herein, and made a part hereof by this reference.
Order Form

Order Detail

1.0 Insight Enterprise Edition

1.1 License Subscription

The Customer’s subscription to the Insight Hiring Management Software includes the following functionality:

Recruitment
- Customized online job application
- Accept job applications online
- Online applications integration with current agency website
- Online job announcements and descriptions
- Automatic online job interest cards
- Proactively search your applicant database
- Real-time database of all applicant information
- Recruitment and examination planning

Selection
- Create, store, and reuse supplemental questions in the Insight item bank
- Screen applicants automatically as they apply
- Define unique scoring plans per recruitment, or copy existing scoring plans
- Test item bank (optional in TMS)
- Conduct item analysis
- Test processing (automatically input Scantron test data sheets)*
- Test analysis and pass-point setting
- Score, rank, and refer applicants

Applicant Tracking
- Email and hardcopy notifications
- EEO Data collection and reports
- Track applicants by step/hurdle
- Schedule written, oral, and other exams
- Detailed applicant history record
- Skills tracking and matching

Reporting and Analysis
- Collect and report on EEO data
- Analyze and report on adverse impact and applicant flow
- Track and analyze data such as time-to-hire, recruitment costs, staff workload, applicant quality, etc.
- Over 80 standard system reports
- Ad Hoc reporting tool

HR Automation
- Create and route job requisitions
- Refer and certify applicants electronically
- Scan paper application materials

* Cost of the scanner is not included unless listed on Exhibit A – ORDER FORM

Requires a Scantron or similar Optical Mark Reader (OMR) scanner, special forms, form set-up, and scanner software, which are not included unless listed on Exhibit A – ORDER FORM
Additionally, during the term of the subscription, the Customer will be provided:

**Unlimited Customer Support (6:00 AM – 8:00 PM PT)**

Customer Support shall be provided to the Customer both on-line and by telephone Monday – Friday, 6:00 AM – 8:00 PM PT (excluding NEOGOV holidays).

**Product Upgrades to Licensed Software**

Customer shall receive all product upgrades to purchased package. Product upgrades are automatic and available upon the next login following a product upgrade rollout. Product upgrade rollouts are generally released every three months.

### 1.2 Provisioning

The following activities are conducted as part of the Insight Enterprise implementation:

- Conduct a project kick-off meeting to review the project timeline, deliverables, and establish project expectations.
- NEOGOV will establish an Agency-specific training environment that will be used during training and post-training to allow the Agency to learn the system and begin defining new roles, responsibilities, and activities within the HR staff.
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NEOGOV, Inc. Proprietary and Confidential Page 8 of 8
CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
Techinsurance
1301 Central Expwy, South, Suite 115
Allen, TX 75013

INSURED
Governmentjobs.com, Inc. d/b/a Nangov
222 N Sepulveda Blvd, Ste 2000
El Segundo, CA 90245

COVERAGES

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY APPLY, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE

A. COMMERCIAL GENERAL LIABILITY
   -CLAUSES-MADE
   -OCUR
   -USE OF REALIZED PROPERTY
   -liche

B. PROFESSIONAL LIABILITY
   -MAINTAINED

C. ECONOMIC Gleason
   -MENitives
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D. EXCISIVE LIABILITY
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E. OCCUPATIONAL LIABILITY
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F. FIRE AND OTHER PERILS
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G. AUTOwagon LIABILITY
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   -M通

H. WORKER'S COMATHERY
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I. LONG TERM CARE
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   -M通

J. GENERAL LIABILITY
   -M通
   -M通

K. DENTAL LIABILITY
   -M通
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L. MEAL LIABILITY
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M. MEDICAL MALPRACTICE
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N. PROFESSIONAL LIABILITY
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O. EMPLOYEE LIABILITY
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P. GENERAL LIABILITY
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Q. EXECUTIVE LIABILITY
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R. PROFESSIONAL LIABILITY
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S. EMERGENCY LIABILITY
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T. LEGAL LIABILITY
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U. PROFESSIONAL LIABILITY
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   -M通

V. EXECUTIVE LIABILITY
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W. GENERAL LIABILITY
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X. EXECUTIVE LIABILITY
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   -M通

Y. PROFESSIONAL LIABILITY
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   -M通

Z. GENERAL LIABILITY
   -M通
   -M通

CERTIFICATE HOLDER:
City of Fayettevile
113 W. Mountain
Fayetteville AR 72701

CANCELLATION:

GI HOW ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE:

City of Fayetteville
113 W. Mountain
Fayetteville AR 72701

EXHIBIT "A"
The Mayor's signature is needed on this $14,500 contract, which is a non-agenda item. This is the software the City will start using for job performance evaluations.

Once implemented, the recurring cost will be $12,000 annually.

Does this item have a cost? Yes

$14,500.00
Cost of this request

$14,500.00
Category or Project Budget

1010.1220.5416.00
Account Number

$0.00
Funds Used to Date

$0.00
Remaining Balance

Budgeted Item? Yes

Budget Adjustment Attached? 

Previous Ordinance or Resolution #

Original Contract Number:

Comments:
Per Purchasing, not subject to competitive bidding as a sole source. This is an add-on component available as a separate purchase that we can add on to the Neogov job application software system the City already has in place.
NON-AGENDA ITEM MEMO

To: Mayor Jordan

Thru: Don Marr, Chief of Staff

From: Missy Lefflar, Human Resources Director

Date: December 12, 2013

Subject: Job Performance Software Contract

PROPOSAL:

This proposal is for the City and Neogov to enter into a contract for job performance evaluation software. This item is sold as an independent “add on” to the Neogov job application software the City already uses for hiring, PA sheets, and requisitions. Purchasing an “add on” provides the City with better software than it could get for the same money from a brand new source, plus has the advantage of being software many managers already use.

It is anticipated that greater efficiencies will be realized with this software, as was the case when the City switched from paper job applications to electronic ones. Electronic items can be electronically routed for review and signature, managers will be empowered to look up due dates / overdue dates on their employee evaluations, and they will also be able to see exactly where a given document is in the review process.

Further, software will permit the City to do peer evaluations and reverse evaluations, which measure interactions with non-departmental colleagues and managers’ treatment of subordinates, respectively. Many employers do these but the City never has, so this will help elevate the level of job performance feedback.

As with the prior Neogov implementation, no IT staff time will be required. The platform is housed on Neogov’s server, and HR staff will handle the implementation, as before.

RECOMMENDATION:

Staff recommends the purchase of this software.

BUDGET IMPACT:

This item is already in the approved budget, for the purchase price requested.
THIS ON-LINE SERVICES AGREEMENT (this "Agreement") is made and entered into this 20th day of December, 2013, by and between GovernmentJobs.com, Inc., a California corporation ("NEOGOV"), and the City of Fayetteville, Arkansas, a public entity acting by and through its duly appointed representative ("Customer").

1. **Provision of On-Line Services.**

(a) Customer hereby engages NEOGOV, and NEOGOV hereby agrees (subject to the terms and conditions set forth herein), to provide the services (the "Services") more fully described in this Agreement and in Exhibit A (Order Form). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder.

2. **Additional NEOGOV Responsibilities.** In connection with the performance of this Agreement, NEOGOV shall be responsible for the following:

(a) NEOGOV shall provide all required hosting and operations support for the applications provided through this agreement.

(b) NEOGOV shall follow those support, maintenance and other procedures and shall provide those support, maintenance and other services to Customer more fully described in this Agreement.

3. **Customer Responsibilities.** In connection with the performance of this Agreement and the provision of the Services, Customer shall be responsible for the following:

(a) NEOGOV's logos, including the "powered by" logo, may appear on the "employment opportunities", "job description" and other pages of Customer's web site that the Customer agrees to in writing.

(b) Customer shall be responsible for ensuring that Customer's use of the Services and the performance of Customer's other obligations hereunder comply with all laws applicable to Customer.

(c) Customer shall be responsible, as between NEOGOV and Customer, for the accuracy and completeness of all records and databases provided by Customer in connection with this Agreement for use on NEOGOV's system.

4. **Ownership, Protection and Security.**

(a) The parties agree that the NEOGOV marks and the Customer marks shall both be displayed on and through NEOGOV's system(s).

(b) Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by Customer hereunder for incorporation into or delivery through the application(s) described in this agreement shall remain with Customer, and NEOGOV shall cease use of all such material upon termination of this Agreement.

(c) Customer acknowledges and agrees that nothing in this Agreement or any other agreement grants Customer any licenses or other rights with respect to NEOGOV's software system (source code or object code) other than the right to receive Services as expressly provided herein. NEOGOV shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with NEOGOV's software system and Services and all components thereof and associated documentation, except as expressly provided herein.

(d) NEOGOV grants to Customer a limited license during the term of this Agreement to use and reproduce NEOGOV'S trademarks and logos for purposes of including such trademarks and logos in advertising and publicity.
5. **NEOGOV Representations and Warranties.**

(a) **Service Performance Warranty.** NEOGOV warrants that it will perform the Services in a manner consistent with industry standards reasonably applicable to the performance thereof.

(b) **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 5, THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS, AND CUSTOMER’S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

(c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER’S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIAL REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

6. **Publicity.** Following execution of this Agreement, the parties hereto may issue a press release, the form and substance of which shall be mutually agreeable to the parties, announcing the relationship created by this Agreement. Except as expressly contemplated herein, neither party shall issue any additional press release which mentions the other party or the transactions contemplated by this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld.

7. **Nondisclosure.** Through exercise of each party’s rights under this Agreement, each party may be exposed to the other party’s technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret (“Confidential Information”) and trade secrets. In recognition of the other party’s need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law including the Freedom of Information Act of the State of Arkansas, redistribute, market, publish, disclose or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party’s Confidential Information during the term of this Agreement and for a period of three (3) years after the termination of this Agreement or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party’s trade secrets at any time during which such information shall constitute a trade secret under applicable law.

8. **Liability Limitations.**

(a) If promptly notified in writing of any action brought against Customer based on a claim that NEOGOV’s
Services infringe a United States patent, copyright or trademark right of a third party (except to the extent such claim or infringement relates to any third party software incorporated into NEOGOV’s applications), NEOGOV will defend such action at its expense and will pay any and all fees, costs or damages that may be finally awarded in such action or any settlement resulting from such action (provided that Customer shall permit NEOGOV to control the defense of such action and shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without NEOGOV’s prior written approval).

(b) Customer acknowledges and agrees: (i) that NEOGOV has no proprietary, financial, or other interest in the goods or services that may be described in or offered through Customer’s web site; and (ii) that except with respect to any material supplied by NEOGOV, Customer is solely responsible (as between NEOGOV and Customer) for the content, quality, performance, and all other aspects of the goods or services and the information or other content contained in or provided through Customer’s web site.

(c) OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEOGOV DOES NOT MAKE ANY WARRANTIES TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER. NEOGOV SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY OTHER PERSON OR ENTITY, UNDER ANY CIRCUMSTANCE OR DUE TO ANY EVENT WHATSOEVER, FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE OR BUSINESS STOPPAGE.

(d) Under no circumstances shall NEOGOV’s total liability to Customer or any other person, regardless of the nature of the claim or form of action (whether arising in contract, tort, strict liability or otherwise), exceed the aggregate amount of fees and revenue received by NEOGOV hereunder for the prior twelve (12) month period; provided, however, that the foregoing limitations set forth in this Section 8(d) shall not apply to actions brought under 8(a) above or to any injury to persons or damages to property arising out of NEOGOV’s gross negligence or willful, gross misconduct.

9. Term and Termination

(a) This Agreement shall commence as of the date hereof and remain in effect for thirty-six (36) months unless terminated by either party as set forth herein (“Initial Term”).

(b) This Agreement may be renewed for additional terms (“Renewal Term”) equal in duration to the Initial Term provided Customer notifies NEOGOV at least thirty (30) days prior to the end of the Initial Term or a Renewal Term.

(c) NEOGOV reserves the right to terminate this Agreement immediately if the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation or public policy. Each party shall have the right to terminate this Agreement upon sixty (60) days prior written notice to the other party.

(d) Within sixty (60) days notification of termination of this Agreement, NEOGOV shall provide Customer with a dedicated data file suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data file will be comprised of Customer's data contained in NEOGOV’s system. The structure of the relational database will be specific to the Customer’s data and will not be representative of the proprietary NEOGOV database. NEOGOV shall likewise refund Customer its prorate share of prepayment by customer for twelve (12) months of service and/or maintenance fees or any other amounts pre-paid by customer to NEOGOV.

10. Payments

(a) Initial Term. See Exhibit A (Order Form).

(b) Renewal Term(s). For each Renewal Term, NEOGOV will continue to provide Customer with the Services, and
will provide maintenance and support services as described herein, provided Customer issues a purchase order or modification to this Agreement and pays NEOGOV in advance the annual recurring charges then in effect. If there is an increase in annual maintenance and support charges, NEOGOV shall give Customer written notice of such increase at least thirty (30) days prior to the expiration of the applicable term. For each Renewal Term, increases in annual maintenance and support charges shall not exceed the five percent (5%).

11. **Force Majeure.** NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to circumstances or events beyond NEOGOV’s reasonable control, including, without limitation: (i) acts of God; (ii) changes in or in the interpretation of any law, rule, regulation or ordinance; (iii) strikes, lockouts or other labor problems; (iv) transportation delays; (v) unavailability of supplies or materials; (vi) fire or explosion; (vii) riot, military action or usurped power; or (viii) actions or failures to act on the part of a governmental authority.

12. **Miscellaneous.** Either party may not assign its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be governed by and construed in accordance with the laws of the State of Arkansas, without giving effect to conflict of law rules. Customer acknowledges and agrees that this Agreement is not intended to be and shall not be construed to be a franchise or business opportunity.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth above.

**Customer**

Signature: 

Print Name: Lionel Jordan

Title: Mayor

**GovernmentJobs.com, Inc., a California corporation**

Signature: 

Print Name: Scott Letourneau

Title: President

Date: 12/13/13
**Order Form**

**EXHIBIT A – ORDER FORM**

<table>
<thead>
<tr>
<th>Customer: Fayetteville, City of Arkansas</th>
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<tbody>
<tr>
<td>Missy Leflar</td>
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<tr>
<td>Human Resources Director</td>
</tr>
<tr>
<td><a href="mailto:mleflar@fayetteville-ar.gov">mleflar@fayetteville-ar.gov</a></td>
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<tr>
<td>(479) 575-8298</td>
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<tr>
<td>Bill To: Fayetteville, City of Arkansas</td>
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<tr>
<td>Missy Leflar</td>
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<td>113 West Mountain</td>
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<td>Fayetteville, AR 72701</td>
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<td>Valid From: 12/12/2013</td>
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<td>Valid To: 12/31/2013</td>
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<tr>
<td>Requested Service Date: TBD</td>
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<thead>
<tr>
<th>Order Summary</th>
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<tbody>
<tr>
<td>1.0 Performance Evaluation</td>
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<tr>
<td>1.1 License Subscription</td>
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<tr>
<td>1.2 Provisioning</td>
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<tr>
<td>1.3 On-line User Training</td>
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<td>Total</td>
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<tr>
<th>Included Items:</th>
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<tbody>
<tr>
<td>Unlimited Customer Support M – F, 6:00 AM – 6:00 PM PT</td>
</tr>
<tr>
<td>Product Upgrades to Licensed Software</td>
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</tbody>
</table>

**Revision:** 1

**Initial Term:** 12 Months
EXHIBIT A – ORDER FORM

Order Detail

1.0 NEOGOV Performance Evaluation (PE)

1.1 PE Subscription License

The annual license for the NEOGOV Performance Evaluations Software includes the following:

- Configurable Performance Evaluations
- Team Grouping
- Goal Library
- Shareable Competency Content
- Goal Copying
- Ability to Re-use Goals
- Org Charts
- Archiving Forms
- Uploading Content
- Development Goals
- Configurable Workflow
- Ability to Design Custom Forms
- Form Templates
- Configurable Rating Scales
- Batch Form Creation
- Goal Alignment
- Goal Hierarchy
- Writing Assistant – Shared Content

Additionally, during the term of the subscription, the Customer will be provided:

Product Upgrades to Licensed Software

Agencies receive all product upgrades to purchased package. Product upgrades are automatic and available upon the next login following a product upgrade rollout. Product upgrade rollouts are generally released every three months.

1.2 PE Provisioning

The following activities are conducted as part of the NEOGOV PE implementation:

- Assign a NEOGOV project implementation specialist
- Conduct project kick off conference call to provide an overview of the system, review implementation plan, and discuss deliverables timeline, project roles and assignments
- Establish your agency’s performance evaluation production environment
- Provide import of existing employee data into the system

1.3 PE Training

Training is a one-time cost and includes the following:

- Unlimited online training with on-demand, self-running tutorials
- Access to monthly conference calls with PE users
- Access to the online NEOGOV Community, a discussion forum to network with other users and provide answers to your PE questions
- Customer Support shall be provided to the Customer both on-line and by telephone Monday – Friday, 6:00 AM – 6:00 PM PT (excluding NEOGOV holidays).
Order Form Terms and Conditions:

(1) The Customer hereby orders and GovernmentJobs.com, Inc. (d/b/a NEOGOV, Inc., hereafter “NEOGOV”) agrees to provide the services described in this Order Form. THE SERVICES ARE PROVIDED PERSUANT TO THE TERMS AND CONDITIONS OF THIS ORDER FORM AND THE SERVICE AGREEMENT BETWEEN NEOGOV AND THE CUSTOMER.

(2) The Customer agrees that the payment schedule is as follows:

Provide all required software and licenses

One hundred percent (100%) of the annual license price is payable within thirty (30) days of execution of this Order Form and Service Agreement. ($12,000.00)

Software Provisioning

One hundred percent (100%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days of the execution of this Order Form and Service Agreement. ($2,500.00)

Training

One hundred percent (100%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days of the execution of this Order Form and Service Agreement. ($0)

(3) Neither the Customer nor NEOGOV will be bound by this Order Form until it has been signed by authorized representatives of both parties.

(4) Changes or alterations to this Order Form will not be accepted.

THERE ARE SIGNIFICANT ADDITIONAL TERMS AND CONDITIONS, WARRANTY DISCLAIMERS AND LIABILITY LIMITATIONS CONTAINED IN THE SERVICE AGREEMENT BETWEEN THE CUSTOMER AND NEOGOV.

DO NOT SIGN THIS ORDER FORM BEFORE YOU HAVE READ THE SERVICE AGREEMENT IN ITS ENTIRETY. YOUR SIGNATURE BELOW INDICATES THAT YOU HAVE READ THE SERVICE AGREEMENT AND AGREE TO BE BOUNDED BY ITS PROVISIONS.

<table>
<thead>
<tr>
<th>Customer</th>
<th>NEOGOV, Inc.</th>
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<tbody>
<tr>
<td>Signature:</td>
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<td>Print Name:</td>
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**NEOGOV, Inc.** Proprietary and Confidential Page 7 of 8