CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

0280-01219-0005

Date: May 21, 2014

To: The City Council
Attn: Innovation, Technology, and General Services Committee

From: Miguel A. Santana, City Administrative Officer /Mugul G Sut

          Steve Reneker, General Manager, Information Technology Agency

Subject: **REQUEST FOR AUTHORITY TO AMEND TWO CONTRACTS WITH CGI TECHNOLOGIES AND SOLUTIONS, INCORPORATED FOR THE PERFORMANCE BUDGETING APPLICATION**

SUMMARY

The City Administrative Officer (CAO) and Information Technology Agency (ITA) jointly request approval of amendments to two contracts with CGI Technologies and Solutions, Incorporated (CGI). These contracts include the City's existing Software License (City Contract C-114341) and Maintenance (City Contract C-114342) agreements for the CGI Advantage software. These amendments are necessary to implement the Performance Budgeting (PB) application, which will replace the CAO's existing aging BRASS budgeting system and integrate with the City's Financial Management System (C.F. 13-1255). The amendment to the Software License Agreement will add PB and Procurement to the list of software licenses owned by the City at no additional cost. The amendment to the Software Maintenance Agreement will add two years of software maintenance for the PB application, through June 2016, at a cost of $112,515 per year.

REQUESTED AMENDMENTS

In 2011 the City implemented the Financial Management System (FMS) to replace multiple aging City systems, including the 24 year-old FMIS mainframe financial system. FMS utilizes the CGI Advantage Enterprise Resources Planning (ERP) software solution. CGI's ERP product, which includes Financial Management, Procurement, Human Resource Management, and PB components, was selected through a comprehensive Request for Proposals (RFP) process (C.F. 07-2186-S1). The City executed the original Software License and Maintenance Agreements in 2008 as part of the implementation of FMS.

To date, the City has only implemented the Financial Management component of the CGI ERP product, but acquired the licenses for both the Procurement and PB components as part of the original RFP. The requested amendment to the Software License Agreement will simply add the licenses for PB and Procurement to the list of licenses owned by the City at no additional cost. Adding the licenses to the Agreement does not obligate the City to implement any functionality. The amendment to the Software License Agreement also

makes minor modifications to the list of third party software licenses owned by the City to update product and company names. As the software licenses are perpetual licenses and do not expire, the existing Software License Agreement does not have an expiration date. The requested amendment would be the Third Amendment to the Software License Agreement. The First Amendment, executed in 2008, changed the administering City department from the Controller to ITA. The Second Amendment, executed in 2010, made various changes associated with the revised timeline for FMS implementation, which was delayed from 2010 to 2011.

The requested amendment to the Software Maintenance Agreement will add the annual software maintenance for the PB application, at a cost of $112,515 per year commencing July 1, 2014. The existing Software Maintenance Agreement is effective through June 30, 2016 and no change to the contract term is requested. Therefore, the total requested amendment is $225,030, for two years of software maintenance for the 2014-15 and 2015-16 fiscal years. Sufficient funding is included in the Mayor's Proposed 2014-15 budget within the Information Technology Agency's Contractual Services Account to fund anticipated expenditures of the requested amendment. The requested amendment would be the Fourth Amendment to the Software Maintenance Agreement. The First Amendment, executed in 2008, changed the administering City department from the Controller to ITA. The Second Amendment, executed in 2010, extended the contract term through 2016 to add additional years of software maintenance. The Third Amendment, executed in 2013, added enhanced maintenance services for FMS.

PERFORMANCE BUDGETING PROJECT

The CAO has been using BRASS as a budgeting system since 1999. BRASS was originally procured in 1997 from Budgeting Technology, Incorporated (City Contract C-95185), which was acquired by American Management Systems, Incorporated in 1999, which was subsequently acquired by CGI. The CAO currently contracts with CGI to pay annual software maintenance for the BRASS system (City Contract C-121080). While CGI continues to support BRASS, it has ceased offering this product for purchase to new customers. CGI no longer provides any enhancements or software patches for BRASS and will not certify BRASS to operate with new database management software or newer versions of the Windows operating system, including Windows 7, which is currently utilized by the CAO.

In October 2011, the City Controller issued a blueprint for Performance-Based Budgeting that asked City leaders to engage in strategic planning and goal setting, while establishing performance metrics that can measure the performance and effectiveness of City programs. The age and capabilities of the current BRASS system make it difficult to make substantive changes to the way the budget is currently produced, including implementation of a performance-based budgeting methodology, which would link budgetary allocations to performance deliverables. The blueprint also proposed tying these performance metrics to FMS through the available PB application. Through separate directives, the Mayor and Council (C.F. 11-1702-S1) subsequently instructed the CAO to begin phasing in a performance-based budgeting methodology into the City's budgeting process.

The City contracted with CGI to perform the "Envision" phase of the PB project, which occurred October 2013 through March 2014, through an amendment to an existing

Professional Services Agreement for implementation services (City Contract C-114340, C.F. 13-1255). During the Envision phase CGI completed a thorough review of the City's budgeting system requirements and created a plan for how to transition from BRASS to PB. This included providing detailed overviews of the PB application, creating business process designs of the City's existing budgeting process, conducting a series of prototyping sessions demonstrating how the City's budget process could be conducted in the PB application, drafting detailed project technical specifications documents, and developing an implementation plan. Following are some of the benefits associated with implementation of the PB application identified during the Envision phase:

- Ability to integrate performance budgeting, including the allocation of budgeted funding to Citywide strategic goals and the inclusion of metric data. While there were metrics published in the 2014-15 Proposed Budget, this metric data was not in BRASS and metrics were manually created in Excel and subsequently cut and pasted into the final budget documents.
- Automatic upload of budget data from FMS to PB and from PB to FMS. Integration with FMS will eliminate significant time-consuming manual processes completed by both the CAO and Controller's Office staff to load prior year actual expenditure data in BRASS and load the adopted budget data in FMS.
- Increased accuracy in calculating position salary costs. Positions can be allocated across various funding sources in PB, which is not possible in BRASS, reducing the need to recreate this data annually manually in Excel spreadsheets.
- Enhanced reporting capabilities, including the ability to integrate charts and graphs in reports.
- Reduced duplicative data entry. Currently, approximately 50 percent of the materials published in the Mayor's Proposed Budget are not directly generated by BRASS due to the limited system capabilities, but instead consist of variety of Microsoft Word, Excel, or Access documents for which duplicative data entry is manually completed by CAO staff.
- Ability to import and export budget data. Unlike BRASS, budget data can easily be uploaded into PB, reducing data entry time, and exported out of PB, allowing for easier data manipulation and financial analysis.

The total PB project cost is $3.7 million, including $601,120 already expended during the Envision Phase, $2.78 million for Implementation support services, $225,030 for two years of CGI PB software maintenance, and $107,974 for hardware and third party software. The projected $2.7 million in 2014-15 expenditures is included in the Mayor's Proposed Budget. The following chart delineates the PB project budget by fiscal year:

Budgeted Item	2013-14	2014-15	Total
Envision Phase Expenditures	$ 601,120	$ -	$ 601,120
Implementation Services	415,739	2,141,996	2,557,735
Implementation Services - Contingency	-	225,000	225,000
PB Software Maintenance (two years)	-	225,030	225,030
Hardware and Third Party Software	-	107,974	107,974
Total	$ 1,016,859	$ 2,700,000	$ 3,716,859

The majority of expenditures related to this project will be through a Professional Services Agreement for implementation services, which was previously approved. This report recommends approval only of amendments to the Software License and Maintenance agreements, which will have a total cost of $225,030.

RECOMMENDATIONS

That the Council:

1. Approve and authorize the General Manager of the Information Technology Agency (ITA), or his designee, to executive the Third Amendment to the Amended and Restated Proprietary Software License Agreement C-114341 with CGI Technologies and Solutions, Incorporated (CGI), in order to add additional software licenses at no cost to the City, subject to the approval of the City Attorney; and

2. Approve and authorize the General Manager of ITA, or his designee, to executive the Fourth Amendment to the Proprietary Software Maintenance Agreement C-114342 with CGI, in order add two years of software maintenance for the Performance Budgeting application at a cost of $112,515 per year, subject to the approval of the City Attorney.

FISCAL IMPACT STATEMENT

Approval of the proposed contract amendments will result in expenditures of up to $225,030. The 2014-15 Proposed Budget includes sufficient funding for the projected expenditures associated with the proposed amendments. Approval of the recommendations of this report is in compliance with the City's Financial Policies as contract expenditures are subject to annual appropriation within the Adopted Budget.

MAS:MAF:11140074c

Attachments:
Draft Third Amendment to the Proprietary Software License Agreement C-114341
Draft Fourth Amendment to the Proprietary Software Maintenance Agreement C-114342

THIRD AMENDMENT TO THE AMENDED AND RESTATED PROPRIETARY SOFTWARE LICENCE AGREEMENT C-114341 BETWEEN THE CITY OF LOS ANGELES AND CGI TECHNOLOGIES AND SOLUTIONS INC.

This Third Amendment to Contract C-114341 is entered into between the City of Los Angeles, California, a municipal corporation (hereinafter referred to as the "City" or "Client") and CGI Technologies and Solutions Inc., a Delaware corporation (hereinafter referred to as "Contractor" or "CGI") with reference to the following facts:

WHEREAS, pursuant to the agreement dated on or about September 28, 1991 ("Original License Agreement"), the City licensed the software, now known as the AMS Advantage® software from CGI (formerly, American Management Systems, Incorporated); and

WHEREAS, on or about September 1, 2008, the City and Contractor entered into a Proprietary Software License Agreement ("License Agreement") (City Contract No. C-114341) whereby Contractor agreed to provide CGI Advantage® software; and

WHEREAS, the City (CFs 07-2186-S1 and S2) authorized the Controller to execute the contract on behalf of the City; and

WHEREAS, CFs 07-2186-S1 and S2 transferred the City Project Management Office and the project management function from the Controller to the Information of Technology Agency; and

WHEREAS, pursuant to the First Amendment to this License Agreement on or about September 9, 2008, this contract recognizes the project structure approved in the above Council files; and

WHEREAS, pursuant to the Second Amendment to this License Amendment on or about April 30, 2010, in order to add a 3rd year of Back Maintenance and an additional year of 3rd Party Products Software Maintenance due to the new revised Go-Live date of 07/01/11; and,

WHEREAS, the Parties desire to enter into this Third Amendment pursuant to Paragraph 9.C (entire agreement and written amendments) of the License Agreement in order to upgrade the City's BRASS license to Performance Budgeting.

NOW THEREFORE, in consideration of the premises and of the covenants, representations and agreement set forth herein, the Parties hereby covenant, represent and agree to amend the License Agreement as follows:

1. General

All references in the License Agreement to "AMS Advantage®" are hereby changed to "CGI Advantage®."

2. Limitation of Liability.

Section 6.B is hereby replaced in its entirety with the following:

B.   Notwithstanding anything to the contrary, the liability limitations set forth in Section 6.A above shall not apply to: (i) losses arising out of the gross negligence or willful misconduct of CGI or any of its agents or subcontractors; (ii) death or injury to any person, including CGI's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, or omissions, or willful misconduct incident to the performance of this Agreement by CGI or its subcontractors of any tier; or (iii) any claims or demands of third parties, related to CGI's indemnification obligations as set forth in Section 5.A(1).

3. Termination.

Section 7.A is replaced in its entirety with the following:

"If a party believes that the other party has materially failed to perform a fundamental obligation under this License Agreement (a "Breach"), then that party may provide thirty (30) days written notice directed to the breaching party describing the alleged Breach in reasonable detail and containing a reference to this Section 7.A. If the breaching party does not, within thirty (30) calendar days after receiving such written notice, either (i) cure the Breach or (ii) if the Breach is not one that can reasonably be cured within thirty (30) calendar days, develop a plan to cure the Breach and diligently proceed according to the plan until the Breach has been cured, then the non-breaching party may terminate this License Agreement for cause by written notice to the breaching party. Termination of this License Agreement will be in addition to, and not in lieu of, other remedies available to the terminating party under this License Agreement.

4. Notices.

Section 9.A, Notices, the below table replaces the Notices Section is its entirety:

In the case of the City:	with a copy of legal notices to:
City of Los Angeles 200 N. Main St., 14th Floor Los Angeles, CA 90012 Attn: Steve Reneker, General Manager, Information Technology Agency Fax: 213.978.3310 Phone: 213.978.3311 E-Mail: steve.reneker@lacity.org	City of Los Angeles 200 N. Main St., 14th Floor Los Angeles, CA 90012 Attn: Laura Ito, Director of Finance and Administration, Information Technology Agency Fax: 213.978.3310 Phone: 213.978.3311 E-Mail: laura.ito@lacity.org
In the case of CGI:	with a copy of legal notices to:
CGI Technologies and Solutions Inc. 11325 Random Hills Road Fairfax, Virginia 22030 Attn: Daniel A. Keene, Senior Vice President Fax: 703.267.8641	CGI Technologies and Solutions Inc. 11325 Random Hills Road, 8th Floor Fairfax, Virginia 22030 Attn: Office of General Counsel Fax: 703.267.5111

5. Section 1 (LICENSED SOFTWARE) of Exhibit A of this License Agreement is hereby deleted in its entirety and replaced by the following:

"**1. Licensed Software**.

CGI is licensing to the City of Los Angeles (City) the following computer software components, comprising the CGI Advantage software:

- CGI Advantage Financial Management System, including the following modules:
    - Base Financial System
    - Accounts Receivable
    - Cost Accounting
    - General Ledger
    - Accounts Payable
    - Inventory Management
    - Procurement Professional
    - Procurement Vendor Self-Service
- CGI Advantage Administration
- CGI infoAdvantage
- CGI Advantage Performance Budgeting Formulation

CGI will provide the City with the source code for the CGI Advantage software listed above, and the City may use source code only to maintain and enhance the CGI Advantage software and for no other purpose. The City may modify the CGI Advantage software and Documentation and merge them into other material to form a derivative work for the City's own use. Any portion of the CGI Advantage software or Documentation

included in such a derivative work will continue to be subject to all terms in this exhibit and any related exhibits and appendices that comprise the City-CGI contract for FMS Project and/or the PB Project.

CGI shall provide the City one (1) copy of the CGI Advantage software."

6. Section 6 (THIRD-PARTY PRODUCTS LICENSED BY CGI) of Exhibit A of this License Agreement is hereby deleted in its entirety and replaced by the following:

"**6. Third-Party Products Licensed By CGI.**

Included in the License Fee set forth in Section 3 of Exhibit A are the license fees for certain third-party products (the "Third-Party Products") required to be used in connection with the CGI Advantage software. CGI is providing the following Third-Party Products to the City:

- Versata Logic Server v. 5.5 (1 site license)
- Versata Designer Studio (Java/ XML) (4 named user/workstation licenses)
- IBM WebSphere Application Server Network Deployment (2100 IBM Processor Value Units Sub-capacity) (formerly *IBM WebSphere Application Server (AIX) (2100 PVU)*)
- IBM WebSphere Application Server Processor (600 IBM Processor Value Units Sub-capacity) (formerly *IBM WebSphere Application Server (Windows) (600 PVU)*)
  - o *[See attached for additional IBM Terms]*
- Pervasive Data Integrator Pro Engine™ - Production (1 license – dual core) (formerly *Pervasive Data Integrator Pro Engine Prod (2 x2 cpu production server license)*)
- Pervasive Data Integrator Pro Engine™ - Non Production (2 licenses - single threaded) (formerly *Pervasive Data Integrator Pro Engine Non Prod (1 x2 cpu non-prod server license)*)
- Pervasive Data Integrator Pro Engine™ (1 license single threaded) (formerly *Pervasive Data Integrator Pro Engine (1 x 2 cpu DR server license)*)
- Pervasive Data Integrator Pro Developer™ (6 named user licenses)
  - o *[The End User Agreement ("EULA") for Pervasive is attached to the original License Agreement]*
- Adobe Present Central Pro – production (1 server license)
- Adobe Present Central Pro – non-production (1 server license)
- Adobe Present Output Designer (1 named user license)
- Adobe RoboHelp® Office (1 named user license) (formerly *Adobe Robo Help Office X5 (1 user license)*)
  - o *[The End User Agreements ("EULA") for Adobe products are attached to the original License Agreement]*

- Monsell EDM DeltaXML (1 site license) (formerly *Delta XML Limited DeltaXML (1 user license)*)
- Convey 1099 (6 users based on 10,000 documents created) (*[annual service]* (formerly *Convey Compliance Systems 1099 (Network C)*))
- Business Objects Ent Professional Application Specific for QRA & WebIntelligence NUL (50 User Restricted)
- Business Objects Ent Professional Application Specific for QRA & WebIntelligence (6 CPU Restricted)

The above Third Party Software has been updated as of the date of this Amendment to reflect current naming conventions.

Each "user license" referenced above refers to the restrictions for the corresponding third-party software provided by CGI to the City, but not less than one concurrent user.

All rights of the City in and to the Third-Party Products will be governed by the suppliers' license terms accompanying the Third-Party Products, some of which are attached hereto as Appendix 3. Those Third-Party Products whose licenses are not attached are either governed by the shrink-wrap license or by the terms and conditions of this License Agreement, as the case may be. CGI does not itself give or make any warranty of any kind with respect to the Third-Party Products. Changes in the CGI Advantage software, which CGI may make from time to time as part of a CGI Advantage Upgrade Release (i.e., a new Minor Release or Major Release), may make it necessary for the City to acquire, at its own expense, updated versions of the Third-Party Products or additional third-party products.

Changes in Third-Party Products that are *required* by CGI in order to ensure the Third-Party Products are compatible or operate correctly with the *currently implemented version (including any Service Release or FixPack)* of CGI Advantage will be at the expense of CGI through Final Acceptance.

The City may use the Third-Party Products to support a Disaster Recovery (DR) site for no additional licensing fee as long as the DR site is not used to increase system capacity."

7. Except as amended herein, all other terms and conditions of the License Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have caused this Third Amendment to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES
A Municipal Corporation

CGI Technologies and Solutions Inc.

By: _____
     STEVE RENEKER
     General Manager
     Information Technology Agency

By: _____
     DANIEL A. KEENE
     Senior Vice President

Date: _____

Date: _____

APPROVED AS TO FORM:
Michael N. Feuer, City Attorney

Attest: Holly L. Wolcott, Interim City Clerk

By: _____
     LAUREL L. LIGHTNER
     Assistant City Attorney

By: _____
               Deputy

Date: _____

Additional to Exhibit A
Terms for IBM Sub-Capacity License

1.   **Definitions**

Audit Report Period – The period that begins on the first day in a calendar quarter and ends on the last day in the calendar quarter. Alternatively, if your fiscal year is different from the calendar year, you may choose to begin the period on the first day in your fiscal quarter and end on the last day in your fiscal quarter. This period may also be monthly or weekly depending on your requirements.

Audit Reports – A set of reports available in the IBM License Metric Tool ("ILMT"), or by another method acceptable to IBM as specified at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html, These reports provide the Processor Value Unit ("PVU") license requirements based on the Virtualization Capacity available to the Eligible Sub-Capacity Product.

Eligible Sub-Capacity Product – A Product for which Sub-Capacity Licensing is available. See listing at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

Eligible Virtualization Environment – A server or a group of servers cooperating as a single computing entity that contain an Eligible Processor Technology, an Eligible Operating System Technology, and an Eligible Virtualization Technology;

- **Eligible Operating System Technology** – An operating system for which Sub-Capacity Licensing is available. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

- **Eligible Processor Technology** – A processor technology for which Sub-Capacity Licensing is available. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

- **Eligible Virtualization Technology** – A virtualization technology for which Sub-Capacity Licensing is available. An Eligible Virtualization Technology is capable of restricting processor capacity to a subset of the total physical capacity, sometimes referred to as partition, LPAR, or virtual machine. See listing at:
  http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html

Full Capacity – The total number of physical processor cores activated and available for use by the Eligible Sub-Capacity Product(s) on a server.

Processor Chip – Electronic circuitry containing one or more Processor Cores that plugs into a Processor Socket.

Processor Core(s) – A physical functional unit within a computing device that interprets and executes program instructions and consists of at least one instruction control unit and one or more arithmetic and logic units. A multi-core technology allows two or more Processor Cores to be active on a single Processor Chip. A System z Integrated Facility for Linux (IFL) engine is considered a single Processor Core.

Processor Socket – Electronic circuitry that accepts a Processor Chip.

Processor Value Unit(s) – A metric used by IBM to assign a value to a Processor Core. The Processor Value Unit licensing model is described at:
http://www.ibm.com/software/lotus/passportadvantage/pvu_licensing_for_customers.html .

Service Provider – an entity that provides IT Services for end user customers, either directly or through a reseller.

Sub-Capacity Licensing – Licensing of Eligible Sub-Capacity Products based on Virtualization Capacity.

Virtualization Capacity – the highest peak processor capacity available to an Eligible Sub-Capacity Product when deployed on an Eligible Virtualization Environment. Rules for calculating the Virtualization Capacity for each Eligible Virtualization Environment can be found at http://www.ibm.com/software/lotus/passportadvantage/subcaplicensing.html .

2.. **Authorizations**

    a.   A Proof of Entitlement (PoE) must be acquired by you for the total number of PVUs associated with the Virtualization Capacity available to an Eligible Sub-Capacity Product.

    b.   Prior to an increase in an Eligible Sub-Capacity Product's Virtualization Capacity, you must first acquire additional authorizations, including Subscription and Support, if applicable.

    c.   IBM does not give credits or refunds for charges already due or paid if an Eligible Product's use falls below the authorized level of use.

3. **IBM's Responsibilities**

IBM will make available and authorize you to use:

    d.   the ILMT at no charge, when ordered by you. IBM provides the ILMT to you for your compliance with these Sub-Capacity Licensing terms; and

    e.   the Information Center included with the ILMT to aid in your compliance with these Sub-Capacity Licensing terms.

You may make copies of the ILMT and Information Center for your compliance with these Sub-Capacity Licensing terms.

4. **Customer's Responsibilities under Sub-Capacity Licensing Terms.**

While using Sub-Capacity licensing, you must agree to:

    a.   install and configure the most current version of the IBM License Metric Tool ("ILMT") in accordance with the ILMT Information Center, within 90 days of your first Eligible Sub-Capacity Product deployment on an Eligible Virtualization Environment, to enable the collection of Virtualization Capacity data by Eligible Sub-Capacity Products and generate Audit reports in accordance with the Sub-Capacity Licensing terms. Exceptions to this requirement are:

        1)   when the ILTM does not yet provide support for your Eligible Virtualization Environment;

        2)   if your enter Enterprise has fewer than 1000 employees and contractors, and you are not a Service Provider, nor have you contracted with a Service Provider to manage their Eligible Virtualization Environment;

        3)   if the total physical capacity of your Enterprise servers with an Eligible Virtualization Environment, measured on a Full capacity basis, but licensed using sub-capacity terms is less than 1,000 PVUs.

        4)   when your servers with Eligible Sub-Capacity Products are licensed to the Full capacity of the servers.

For these exceptions, use of the IMLT, while recommended, is not required for Sub-Capacity Licensing. In lieu of the ILMT, you are required to manually manage and track your Eligibility Virtualization Environment, and manually prepare Audit reports documenting the Virtualization Capacity by Eligible Sub-Capacity Product for their Eligible Virtualization Environment during each calendar or fiscal quarter. These Audit reports must contain the information listed in the example Audit Report available at http://www.ibm.com/software/lotus/passportadvantage/sublicensing.html. These Audit Reports must be prepared as frequently as is required to maintain a history of increase to CVirtualization Capacity, but no less often than once per quarter and must be maintained for at least two years to demonstrate your ongoing compliance with Sub-Capacity Licensing terms;

    b.   promptly install new versions, releases, modification, or code corrections ("fixes") of the IMLT that IBM makes available. You will need to subscribe to Tivoli Support notification via http://www.ibm.com/support/mynotifications in order to be notified when these become available;

    c.   generate, using ILTM or manually, Audit Reports at least each calendar or fiscal quarter and retain for a period of not less than two years the Audit Reports and make these reports available to IBM upon notice as specified in Section 2. Failure to generate Audit Reports or make Audit reports available to IBM will result in charging you for Eligible Sub-Capacity Products under Full Capacity terms;

    d.   assign a person in your organization with authority to manage and promptly resolve any questions on Audit reports or inconsistencies between Audit Report contents, license entitlements, or ILMT configuration;

    e.   notify CGI if Audit Reports reflect Eligible Sub-Capacity Product use in excess of their authorized level. You agree to promptly submit an order to IBM including Subscription and Support coverage based on the date you exceeded your authorized level.

5.   **Compliance Verification.**

Upon reasonable notice, IBM may verify your compliance with this Amendment and for all Eligible Virtualization Environments in which you uses or installs Eligible Sub-Capacity Products subject to the terms of this Amendment for any purpose. Such verification will be conducted in a manner that minimizes disruption to your business and may be conducted your premises, as IBM determines, during normal business hours. IBM may use an independent auditor to assist with such verification, provided IBM has a written confidentiality agreement in place with such auditor.

The Customer will create, retain, and provide to IBM and its auditors written records, system tool outputs, evidence of the license entitlements provided to you, and other system information sufficient to provide auditable verification to IBM that your installation and use of Eligible Sub-Capacity Products is in compliance with the terms of this Amendment, including, without limitation, all of IBM's applicable licensing and pricing qualification terms.

IBM will notify you in writing if any such verification indicates that you have used Eligible Sub-Capacity Products in excess of your authorized level of use or you are otherwise not in compliance with this Amendment. You agree to promptly pay directly to IBM i) the charges as IBM specifies in an invoice for any additional licenses equal to the quantity used in excess of authorized level of use and applicable Subscription and Support offerings, as applicable, for such licenses for the lesser of the time that such licenses have been used or two years, and ii) any additional charges and other liabilities determined as a result of such verification

The rights and obligations set forth in this section remain in effect during the period the Eligible Sub-Capacity Product is licensed to you, and for two years thereafter.

6.   **Additional Terms**

Product deployments that are not able to meet these Sub-Capacity Licensing requirements must be licensed using Full Capacity terms.

IBM may change the terms of this Amendment by giving you written notice. These changes will be effective at the next 12 month anniversary of your TD containing "Eligible Sub-Capacity Products". Otherwise, for a change to be valid, both of us must sign it. Additional or different terms in any written communication from you are void.

FOURTH AMENDMENT TO PROPRIETARY SOFTWARE MAINTENANCE AGREEMENT C-114342
BETWEEN THE CITY OF LOS ANGELES
AND
CGI TECHNOLOGIES AND SOLUTIONS INC.

This Fourth Amendment to Contract C-114342 is entered into between the City of Los Angeles, California, a municipal corporation (hereinafter referred to as the "City" or "Client") and CGI Technologies and Solutions Inc., a Delaware corporation (hereinafter referred to as "Contractor" or "CGI") with reference to the following facts:

WHEREAS, on or about September 1, 2008, the City and Contractor entered into a Proprietary Software Maintenance Agreement (City Contract No. C-114342) whereby Contractor agreed to provide AMS Advantage®, now CGI Advantage® software standard support and maintenance services ("Maintenance Agreement"); and

WHEREAS, the City (CFs 07-2186-S1 and S2) authorized the Controller to execute the contract on behalf of the City; and

WHEREAS, CFs 07-2186-S1 and S2 transferred the City Project Management Office and the project management function form the Controller to the Information Technology Agency; and

WHEREAS, pursuant to the First Amendment to the Proprietary Software Maintenance Agreement dated September 9, 2008, this contract recognizes the project structure approved in the above Council files; and

WHEREAS, the parties entered into a Second Amendment to the Proprietary Software Maintenance Agreement dated April 7, 2010, in order to update the Due Dates for maintenance fees for the initial Maintenance Period to reflect the new revised Go-Live date of 07/01/11.

WHEREAS, the parties entered into a Third Amendment to the Proprietary Software Maintenance Agreement, dated June 10, 2013, in order to provide Enhanced Maintenance Services.

WHEREAS, the Parties desire to enter into this Fourth Amendment pursuant to Paragraph 8.C (Change Notices and Amendments) of the Proprietary Software Maintenance Agreement in order to add Maintenance Services for CGI Advantage Performance Budgeting.

NOW THEREFORE, in consideration of the premises and of the covenants, representations and agreement set forth herein, the parties hereby covenant, represent and agree to amend the Maintenance Agreement as follows:

1. General

All references in the License Agreement to "AMS Advantage®" are hereby changed to "CGI Advantage®."

2. Termination.

Section 6.A, replaced in its entirety with the following:

If a party believes that the other party has materially failed to perform a fundamental obligation under this Maintenance Agreement (a "Breach"), then that party may provide thirty (30) days written notice directed to the breaching party describing the alleged Breach in reasonable detail and containing a reference to this Section 3. If the breaching party does not, within thirty (30) calendar days after receiving such written notice, either (i) cure the Breach or (ii) if the Breach is not one that can reasonably be cured within thirty (30) calendar days, develop a plan to cure the Breach and diligently proceed according to the plan until the Breach has been cured, then the non-breaching party may terminate this Maintenance Agreement for cause by written notice to the breaching party. Termination of this Agreement will be in addition to, and not in lieu of, other remedies available to the terminating party under this Maintenance Agreement.

3. Notices

Section 8.A, Notices, the below table replaces the Notices Section in its entirety:

In the case of the City:	with a copy of legal notices to:
City of Los Angeles 200 N. Main St., 14th Floor Los Angeles, CA 90012 Attn: Steve Reneker, General Manager, Information Technology Agency Fax: 213.978.3310 Phone: 213.978.3311 E-Mail: steve.reneker@lacity.org	City of Los Angeles 200 N. Main St., 14th Floor Los Angeles, CA 90012 Attn: Laura Ito, Director of Finance and Administration, Information Technology Agency Fax: 213.978.3310 Phone: 213.978.3311 E-Mail: laura.ito@lacity.org
In the case of CGI:	with a copy of legal notices to:
CGI Technologies and Solutions Inc. 11325 Random Hills Road Fairfax, Virginia 22033 Attn: Daniel Keene Sr. Vice President Fax: (703) 267-5111	CGI Technologies and Solutions Inc. 11325 Random Hills Road Fairfax, Virginia 22033 Attn: Office of General Counsel Fax: (703) 267-5111

4. Maintenance Term and Fees.

Section 1, Maintenance Term and Section 3, Maintenance Fees of Exhibit A is amended to include Maintenance service for Performance Budgeting. This Table replaces the aforementioned sections in their entirety for Maintenance Services and Enhanced Maintenance Services:

Payment Deliverable	Due Date	Maintenance Amount	Invoice Amount
CGI Advantage Financial Management Annual Standard Maintenance (July 2011 - June 2012)	07/01/11	$500,000.00 Paid	$500,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2012 - June 2013)	07/01/12	$500,000.00 Paid	$500,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2013 - June 2014)	07/01/13	$500,000.00 Paid	
CGI Advantage Enhanced Maintenance Services (July 2013 - June 2014)	07/01/13	$325,000.00 Paid	$825,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2014 - June 2015)	07/01/14	$500,000.00	
CGI Advantage Performance Budgeting Annual Standard Maintenance (July 2014 - June 2015)	07/01/14	$112,515.00	
CGI Advantage Enhanced Maintenance Services (July 2014 - June 2015)	07/01/14	$325,000.00	$937,515.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2015 - June 2016)	07/01/15	$500,000.00	
CGI Advantage Performance Budgeting Annual Standard Maintenance (July 2015 - June 2016)	07/01/15	$112,515.00	
CGI Advantage Enhanced Maintenance Services (July 2015 - June 2016)	07/01/15	$325,000.00	$937,515.00
Total Payments for Software Maintenance			**$3,700,030.00**

Enhanced Maintenance Services are provided for CGI Advantage Financial Management as part of Amendment No. 3, Statement of Work No. 1. Enhanced Maintenance Services are not provided for CGI Advantage Performance Budgeting.

The City may buy maintenance services for the Software for subsequent Maintenance Periods in which CGI is offering maintenance services, at prices to be mutually agreed by the parties.

5. Except as amended herein, all other terms and conditions of the Maintenance Agreement and Amendments shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have caused this Fourth Amendment to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES
A Municipal Corporation

CGI Technologies and Solutions Inc.

By: _____

STEVE RENEKER
General Manager
Information Technology Agency

By: _____

DANIEL A. KEENE
Senior Vice President

Date: _____

Date: _____

APPROVED AS TO FORM:
Michael N. Feuer, City Attorney

Attest: Holly L. Wolcott, Interim City Clerk

By: _____

LAUREL L. LIGHTNER
Assistant City Attorney

By: _____
Deputy

Date: _____