



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 4.d

Meeting Date: September 21, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Police Department

Prepared by: Glenn McElderry,
Police Captain

City Manager Approval: 

TOPIC: POLICE DEPARTMENT COPY/PRINT HARDWARE LEASE AND SERVICES

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A COPY/PRINT HARDWARE LEASE AND SERVICES AGREEMENT WITH RAY MORGAN COMPANY, FOR A 39-MONTH TERM AT AN ESTIMATED ANNUAL COST OF \$50,277

RECOMMENDATION:

Staff recommends that the City Council adopt the resolution (Attachment 1) authorizing the City Manager to execute a copy and print hardware lease and services agreement at an estimated annual cost of \$50,277 per year for the next 39 months.

BACKGROUND:

The City of San Rafael's Police Department has utilized the Ray Morgan Company copy and print service since 2018. The Police Department in the normal course of business generates a large volume of printed and scanned documents. It has been the policy to renew the three-year contracts on a timely basis. The Police Department's current contract expires September 2020.

ANALYSIS:

The Police Department currently has:

- Six large capacity multi-function machines, including fax services
- Two large capacity multi-function machines
- Two standard black and white printers
- Ten desktop scanners

The renewal for leasing and services runs \$50,277.60 annually. The \$50,277.60 includes a set annual lease that includes maintenance at a cost based on 12,000 black & white print/copy, 15,000 color print/copy, 6,000 black & white laser print, and 3,000 color laser print. If the number of pages exceeds the allowance, the rate charged is .008 cents per page for black & white print/copy, .053 cents for color print/copy, .025 black cents for white laser print, and .13 cents for color laser print.

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

Staff recommends that the City Council approve a waiver of formal bidding on this contract pursuant to San Rafael Municipal Code section 2.55.100 (C) (other valid reasons for waiving competition), because entering into this agreement has the effect of extending some existing equipment leases, achieving an overall substantial cost savings over entering into new leases for the equipment. Police Department staff have also been satisfied with Ray Morgan's quality of service and would like to retain the vendor for copy and print services.

FISCAL IMPACT:

The total cost for the Police Department's proposed lease and copy and print services over the 39-month term of the contract is approximately \$159,213. There are sufficient funds in the Police Department's General Fund operating budget to support this contract.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Staff's recommended action to adopt the proposed resolution.
2. Adopt a resolution with changes.
3. Direct staff to pursue a different approach.

RECOMMENDED ACTION:

Adopt the resolution waiving bidding and authorizing the City Manager to execute a copy/print hardware lease and services agreement with the Ray Morgan Company, at an annual cost of approximately \$50,277.60 per year for the next 39 months.

ATTACHMENTS:

1. Resolution
2. Proposed 2020 Ray Morgan Value Rental Lease Agreement with State and Local Government Addendum

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE A COPY/PRINT HARDWARE LEASE AND SERVICES AGREEMENT WITH RAY MORGAN COMPANY, FOR A 39-MONTH TERM AT AN ESTIMATED ANNUAL COST OF \$50,277

WHEREAS, the San Rafael Police Department generates a large volume of printed and scanned documents in the normal course of business; and

WHEREAS, the Police Department's current copier contract is due to expire in September 2020; and

WHEREAS, by renewing equipment leases with the Ray Morgan Company under the company's State & Local Government form of agreement the City can achieve substantial savings over leasing the equipment from a new vendor; and

WHEREAS, over the course of the proposed 39-month agreement, the approximate cost of the agreement will be \$159,213;

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby waives the requirement of competitive bidding and authorizes the City Manager to execute a 39-month Value Rental Lease Agreement with State & Local Government addendum with the Ray Morgan Company, in the form accompanying the staff report for this resolution, subject to final approval as to form by the City Attorney.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on the 21st day of September 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk



Value Rental Lease Agreement

APPLICATION NO.

AGREEMENT NO.

Ray Morgan Company

3131 Esplanade • Chico, CA 95973 • Phone: 530.343.6065 • Fax: 530.343.9470

The words "User," "Lessee," "you" and "your" refer to Customer. The words "Owner," "Lessor," "we," "us" and "our" refer to Ray A. Morgan Company.

CUSTOMER INFORMATION

FULL LEGAL NAME			STREET ADDRESS	
City of San Rafael			1400 Fifth Avenue	
CITY	STATE	ZIP	PHONE	FAX
San Rafael	CA	94901	(415) 485-3000	(415) -
BILLING NAME (IF DIFFERENT FROM ABOVE)				
City of San Rafael Police Department				
BILLING STREET ADDRESS				
CITY	STATE	ZIP	E-MAIL	
EQUIPMENT LOCATION (IF DIFFERENT FROM ABOVE)				
1375 Fifth Avenue, San Rafael, CA 94901				

EQUIPMENT DESCRIPTION

MAKE/MODEL/ACCESSORIES	SERIAL NO.	STARTING METER	NOT FINANCED UNDER THIS AGREEMENT
See Schedule A			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

☐ See attached Schedule A☐ See attached Billing Schedule

TERM AND PAYMENT INFORMATION

PMT. Schd.	Payments* of \$	PMT. Schd.	If you are exempt from sales tax, attach your certificate.	*plus applicable taxes
The payment ("Payment") period is monthly unless otherwise indicated.				
Payment includes	PMT. Schd.	B&W images per month	Overages billed at \$	PMT. Schd. per B&W image*
Payment includes	PMT. Schd.	General Color images per month	Overages billed at \$	PMT. Schd. per General Color image*
Payment includes	PMT. Schd.	Pro. Color images per month	Overages billed at \$	PMT. Schd. per Pro. Color image*
Payment includes	PMT. Schd.	scans per month	Overages billed at \$	PMT. Schd. per scan*
Please check one: Meter Readings verified: <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Other: _____ (If nothing is selected, then Quarterly will be your Meter Reading option.)				

Upon acceptance of the Equipment, THIS AGREEMENT IS NONCANCELABLE, IRREVOCABLE AND CANNOT BE TERMINATED.

OWNER ACCEPTANCE

Ray A. Morgan Company

OWNER

SIGNATURE

TITLE

DATED

CUSTOMER ACCEPTANCE

BY SIGNING BELOW OR AUTHENTICATING AN ELECTRONIC RECORD HEREOF, YOU CERTIFY THAT YOU HAVE REVIEWED AND DO AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT ON THIS PAGE AND ON PAGE 2 ATTACHED HERETO.

City of San Rafael

CUSTOMER (as referenced above)

SIGNATURE

TITLE

DATED

FEDERAL TAX I.D. #

PRINT NAME

TERMS AND CONDITIONS (Continued on Page 2)

1. **AGREEMENT:** You agree to rent from us the goods, together with all replacements, parts, repairs, additions, and accessories incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries ("Equipment") and, if applicable, finance certain software, software license(s), software components and/or professional services in connection with software (collectively, the "Financed Items," which are included in the word "Equipment" unless separately stated) from software licensor(s) and/or supplier(s) (collectively, the "Supplier"), all as described in this Agreement and in any attached schedule, addendum or amendment hereto ("Agreement"). You represent and warrant that you will use the Equipment for business purposes only. You agree to all of the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document. This Agreement becomes valid upon execution by us. In order to facilitate an orderly transition, the start date of this Agreement will be the date the Equipment is delivered to you or a date designated by us, as shown on the first invoice. If a later start date is designated, in addition to all Payments and other amounts due hereunder, you agree to pay us a transitional payment equal to 1/30th of the Payment, multiplied by the number of days between the date the Equipment is delivered to you and the designated start date. The first Payment is due 30 days after the start of this Agreement and each Payment thereafter shall be due on the same day of each month. In addition, should this Agreement replace a previous Ray A. Morgan Company generated equipment lease, a CLOSING BILL on the agreement being replaced, up to the installation date of the new equipment, will be sent approximately (10) days after delivery of the new equipment. You agree to pay this CLOSING BILL charges as they represent valid charges for product and services provided under the prior agreement up to the installation date of the new equipment. If any provision of this Agreement is declared unenforceable, the other provisions herein shall remain in full force and effect to the fullest extent permitted by law.

2. **OWNERSHIP; PAYMENTS; TAXES AND FEES:** We own the Equipment, excluding any Financed Items. Ownership of any Financed Items shall remain with Supplier thereof. You will pay all Payments, as adjusted, when due, without notice or demand and without abatement, set-off, counterclaim or deduction of any amount whatsoever. If any part of a Payment is more than 5 days late, you agree to pay a late charge of 10% of the Payment which is late or, if less, the maximum charge allowed by law. The Payment may be adjusted proportionately upward or downward: (i) if the shipping charges or taxes differ from the estimate given to you; and/or (ii) to comply with the tax laws of the state in which the Equipment is located. You shall pay all applicable taxes, assessments and penalties related to this Agreement, whether levied or assessed on this Agreement, on us (except on our income) or you, or on the Equipment, its rental, sale, ownership, possession, use or operation. If we pay any taxes or other expenses that are owed hereunder, you agree to reimburse us when we request. You agree to pay us a yearly processing fee of up to \$50 for personal property taxes we pay related to the Equipment. You agree to pay us a fee of up to \$50 for filing and/or searching costs required under the Uniform Commercial Code ("UCC") or other laws. You agree to pay us an origination fee of \$125 for all closing costs. We may apply all sums received from you to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for insufficient funds, you will pay us a service charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement.

3. **EQUIPMENT; SECURITY INTEREST:** At your expense, you shall keep the Equipment: (i) in good repair, condition and working order, in compliance with applicable laws, ordinances and manufacturers' and regulatory standards; (ii) free and clear of all liens and claims; and (iii) at your address shown on page 1, and you agree not to move it unless we agree in writing. You grant us a security interest in the Equipment to secure all amounts you owe us under this Agreement or any other agreement with us ("Other Agreements"), except amounts under Other Agreements which are secured by land and/or buildings. You authorize and ratify our filing of any financing statement(s) to show our interest. You will not change your name, state of organization, headquarters or residence without providing prior written notice to us. You will notify us within 30 days if your state of organization revokes or terminates your existence.

4. **INSURANCE; COLLATERAL PROTECTION; INDEMNITY; LOSS OR DAMAGE:** You agree to keep the Equipment fully insured against all risk, with us named as lender's loss payee, in an amount not less than the full replacement value of the Equipment until this Agreement is terminated. You also agree to maintain commercial general liability insurance with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. You will provide written notice to us within 10 days of any modification or cancellation of your insurance policy(s). You agree to provide us certificates or other evidence of insurance acceptable to us. If you do not provide us with acceptable evidence of property insurance within 30 days after the start of this Agreement, we may, at our sole discretion, to do so as provided in either (A) or (B) below, as determined in our discretion: (A) We may obtain insurance covering our interest (and only our interest) in the Equipment for the Agreement term and renewals. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled by us at any time. You may be required to pay us an additional amount each month for the insurance premium and an administrative fee. The cost may be more than the cost of obtaining your own insurance; or (B) We may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. **NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** We are not responsible for, and you agree to hold us harmless and reimburse us for and to defend on our behalf against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, renting, manufacture, use, condition, inspection, removal, return or storage of the Equipment. All indemnities will survive the expiration or termination of this Agreement. You are responsible for any loss, theft, destruction or damage to the Equipment ("Loss"), regardless of cause, whether or not insured. You agree to promptly notify us in writing of any Loss. If a Loss occurs and we have not otherwise agreed in writing, you will promptly pay to us the unpaid balance of this Agreement, including any future Payments to the end of the term plus the anticipated residual value of the Equipment, both discounted to present value at 2%. Any proceeds of insurance will be paid to us and credited against the Loss. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to a Loss.

5. **ASSIGNMENT: YOU SHALL NOT SELL, TRANSFER, ASSIGN, ENCUMBER, PLEDGE OR SUBRENT THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent which will not be unreasonably withheld.** You shall not consolidate or merge with or into any other entity, distribute, sell or dispose of all or any substantial portion of your assets other than in the ordinary course of business, without our prior written consent, and the surviving, or successor entity or the transferee of such assets, as the case may be, shall assume all of your obligations under this Agreement by a written instrument acceptable to us. No event shall occur which causes or results in a transfer of majority ownership of you while any obligations are outstanding hereunder. We may sell, assign, or transfer this Agreement without notice to or consent from you. You agree that if we sell, assign or transfer this Agreement, our assignee will have the same rights and benefits that we have now and will not have to perform any of our obligations. **You agree that our assignee will not be subject to any claims, defenses, or offsets that you may have against us.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

6. **DEFAULT AND REMEDIES:** You will be in default if: (i) you do not pay any Payment or other sum due to us or you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates or fail to perform or pay under any material agreement with any other entity; (ii) you make or have made any false statement or misrepresentation to us; (iii) you or any guarantor dies, dissolves, liquidates, terminates existence or is in bankruptcy; (iv) you or any guarantor suffers a material adverse change in its financial, business or operating condition; or (v) any guarantor defaults under any guaranty for this Agreement. If you are ever in default, at our option, we can cancel this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of term plus the anticipated residual value of the Equipment, both discounted to present value at 2%. We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any remedies available to us under the UCC and any other law and we may require that you immediately stop using any Financed Items. If we take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement and you will be responsible for any deficiency. In the event of any dispute or enforcement of our rights under this Agreement or any related agreement, you agree to pay our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. **WE SHALL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE.** Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will refund such excess to you, which will be your sole remedy.

7. **INSPECTIONS AND REPORTS:** We have the right, at any reasonable time, to inspect the Equipment and any documents relating to its installation, use, maintenance and repair. Within 30 days after our request (or such longer period as provided herein), you will deliver all requested information (including tax returns) which we deem reasonably necessary to determine your current financial condition and faithful performance of the terms hereof. This may include: (i) compiled, reviewed or audited annual financial statements (including, without limitation, a balance sheet, a statement of income, a statement of cash flow, a statement of changes in equity and notes to financial statements) within 120 days after your fiscal year end, and (ii) management-prepared interim financial statements within 45 days after the requested reporting period(s). Annual statements shall set forth the corresponding figures for the prior fiscal year in comparative form, all in reasonable detail without any qualification or exception deemed material by us. Unless otherwise accepted by us, each financial statement shall be prepared in accordance with generally accepted accounting principles consistently applied and shall fairly and accurately present your financial condition and results of operations for the period to which it pertains. You authorize us to obtain credit bureau reports for credit and collection purposes and to share them with our affiliates and agents.

8. **END OF TERM:** At the end of the initial term, this Agreement shall renew for successive 12-month renewal term(s) under the same terms hereof unless you send us written notice between 90 and 150 days before the end of the initial term or at least 30 days before the end of any renewal term that you want to return the Equipment, and you timely return the Equipment. You shall continue making Payments and paying all other amounts due until the Equipment is returned. As long as you have given us the required written notice, you will return all of the Equipment to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. **YOU ARE SOLELY RESPONSIBLE FOR REMOVING ANY DATA THAT MAY RESIDE IN THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO HARD DRIVES, DISK DRIVES OR ANY OTHER FORM OF MEMORY.**

9. **USA PATRIOT ACT NOTICE; ANTI-TERRORISM AND ANTI-CORRUPTION COMPLIANCE:** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each customer who opens an account. When you enter into a transaction with us, we ask for your business name, address and other information that will allow us to identify you. We may also ask to see other documents that substantiate your business identity. You and any other person who you control, own a controlling interest in, or who owns a controlling interest in or otherwise controls you in any manner ("Representatives") are and will remain in full compliance with all laws, regulations and government guidance concerning foreign asset control, trade sanctions, embargoes, and the prevention and detection of money laundering, bribery, corruption, and terrorism, and neither you nor any of your Representatives is or will be listed in any Sanctions-related list of designated persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control or successor or the U.S. Department of State. You shall, and shall cause any Representative to, provide such information and take such actions as are reasonably requested by us in order to assist us in maintaining compliance with anti-money laundering laws and regulations.

10. **MISCELLANEOUS:** Unless otherwise stated in an addendum hereto, the parties agree that: (i) this Agreement and any related documents hereto may be authenticated by electronic means; (ii) the "original" of this Agreement shall be the copy that bears your manual, facsimile, scanned or electronic signature and that also bears our manually or electronically signed signature and is held or controlled by us; and (iii) to the extent this Agreement constitutes chattel paper (as defined by the UCC), a security interest may only be created in the original. You agree not to raise as a defense to the enforcement of this Agreement or any related documents that you or we executed or authenticated such documents by electronic or digital means or that you used facsimile or other electronic means to transmit your signature on such documents. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually and to send to us the manually signed, duly executed documents via overnight courier on the same day that you send us the facsimile, scanned or electronic transmission of the documents. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement. Whenever our consent is required, we may withhold or condition such consent in our sole discretion, except as otherwise expressly stated herein. From time to time, Supplier may extend to us payment terms for Equipment financed under this Agreement that are more favorable than what has been quoted to you or the general public, and we may provide Supplier information regarding this Agreement if Supplier has assigned or referred it to us. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time. By providing us with a telephone number for a cellular phone or other wireless device, including a number that you later convert to a cellular number, you are expressly consenting to receiving communications, including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system, from us and our affiliates and agents at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider. You authorize us to make non-material amendments (including completing and conforming the description of the Equipment) on any document in connection with this Agreement. Unless stated otherwise herein, all other modifications to this Agreement must be in writing and signed by each party or in a duly authenticated electronic record. This Agreement may not be modified by course of performance.

11. **WARRANTY DISCLAIMERS:** WE ARE RENTING THE EQUIPMENT TO YOU "AS-IS." YOU HAVE SELECTED SUPPLIER AND THE EQUIPMENT BASED UPON YOUR OWN JUDGMENT. IN THE EVENT WE ASSIGN THIS AGREEMENT, OUR ASSIGNEE DOES NOT TAKE RESPONSIBILITIES FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT. SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF SUPPLIER, AND NOTHING SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATIONS HEREUNDER. **YOU WILL MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, INFRINGEMENT OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS. SO LONG AS YOU ARE NOT IN DEFAULT UNDER THIS AGREEMENT, WE ASSIGN TO YOU ANY WARRANTIES IN THE EQUIPMENT GIVEN TO US.**

12. **LAW; JURY WAIVER: LAW; JURY WAIVER:** This Agreement will be governed by and construed in accordance with the law of the principal place of business of Owner or, if assigned, its assignee. You consent to jurisdiction and venue of any state or federal court in the state of the Owner or, if assigned, its assignee has its principal place of business and waive the defense of inconvenient forum. For any action arising out of or relating to this Agreement or the Equipment, **BOTH PARTIES WAIVE ALL RIGHTS TO A TRIAL BY JURY.**

13. **MAINTENANCE AND SUPPLIES:** You have elected to enter into a separate arrangement with Supplier for maintenance, inspection, adjustment, parts replacement, drums, cleaning material required for proper operation and toner and developer ("Arrangement"). You agree to pay all amounts owing under this Agreement regardless of any claim you have against Supplier relating to the Arrangement. Supplier will be solely responsible for performing all services and providing all supplies under the Arrangement. You agree not to hold Owner (if different from Supplier) or any assignee of this Agreement responsible for Supplier's obligations under the Arrangement. As a convenience to you, we will provide you with one invoice covering amounts owing under this Agreement and the Arrangement. If necessary, Supplier's obligations to you under the Arrangement may be assigned by us. You have been informed that a surge protector is recommended to protect your electronic investment from harmful high voltage power disturbances. Said surge protectors should have network protection when connected in a network environment. Units that provide network protection are available through Ray A. Morgan Company. You are responsible for providing manufacturer recommended adequate power supply. Check one of the following: ☐ Purchased ☐ Has existing ☐ Declined and will be responsible for damage caused by not having a surge protector. You agree to pay a monthly supply freight fee to cover the costs of shipping supplies to you. An image/scan is equal to a single sided 8.5" x 11" copy or print. Each month, you are entitled to provide the minimum number of images/scans shown on page 1 of this Agreement for each applicable image/scan type. Regardless of the number of images/scans made, you will never pay less than the minimum Payment. You agree to provide periodic meter readings on the Equipment. If at any time during the term of this Agreement meter readings are not collected electronically there will be a \$5 fee assessed per device, per month for the term of this Agreement or until the meter readings are set-up electronically. You agree to pay the applicable overage charge for each metered image/scan that exceeds the applicable minimum number of images/scans made on equipment marked as not financed under this Agreement will be included in determining your image/scan and overage charges. At the end of the first year of this Agreement, and once each successive 12-month period thereafter, the maintenance and supplies portion of the Payment and the overage charges may be increased by a maximum of 15% of the existing payment or charge. If you have multiple devices at the installation address, which use the same supplies provided under this Agreement, all devices using the same supplies must be covered under an active agreement with Supplier.

14. **EXCLUSIONS:** Maintenance service under the Arrangement is contingent upon proper use of the device. The Arrangement does not include: a) Repairs resulting from causes other than normal use; your willful act, use of any paper stock that does not meet device specifications, negligence or misuse including, without limitation, damage to any part or mechanisms and/or use of supplies or spare parts not manufactured and/or use of supplies or spare parts not manufactured by the original equipment manufacturer and which cause abnormally high service calls or service problems; accident, transportation, failure of electrical power, air conditioning or humidity control related problems, acts of nature (fire, flood etc.), theft, or any other unusual circumstance. b) Repairs made necessary by service performed by personnel other than Ray A. Morgan Company representative. c) Work which you request to be performed outside regular business hours. d) Reconditioning or modification to the Equipment except those specified by Ray A. Morgan Company's Technical Service Department to assure greater performance of the Equipment. e) Any and all work related to data flow between the covered device and your computers, software or computer network; or work on your computers, software or computer network independent of the Equipment. f) Repairs to the Equipment that is past the manufacturer's end of service life.



**BILLING SCHEDULE
CITY OF SAN RAFAEL
(Equipment located at the Police Dept.)**

The following represents the agreed upon billing for the equipment, service & supplies
on said RMC Value Rental - App # 2683408

DATE	PAYMENT AMOUNT	INCLUDES
October 1 st , 2020 thru June 30 th , 2021 (pmt due Nov 1, 2020)	\$37,708.20 + taxes	108,000 B&W Print / Copies 135,000 Color Prints / Copies 54,000 B&W Laser Prints 27,000 Color Laser Prints
July 1, 2021 thru June 30 th , 2022	\$50,277.60 + taxes	144,000 B&W Print / Copies 180,000 Color Prints / Copies 72,000 B&W Laser Prints 36,000 Color Laser Prints
July 1, 2022 thru June 30 th , 2023	\$50,277.60 + taxes	144,000 B&W Print / Copies 180,000 Color Prints / Copies 72,000 B&W Laser Prints 36,000 Color Laser Prints
July 1, 2023 thru December 1 st , 2023	\$20,949.00 + taxes	60,000 B&W Print / Copies 75,000 Color Prints / Copies 30,000 B&W Laser Prints 15,000 Color Laser Prints

All other terms & conditions on RMC Value Rental Agreement remain unchanged.
All parties agree as referenced below with their signed acknowledgement.

City of San Rafael

By: _____

Print Name: _____

Title: _____

Ray Morgan Company

By: _____

Steve Mallory

Technology Leasing Manager

This Equipment Schedule A is to be attached to and become part of the item description for the Agreement. Dated _____ by and between the undersigned and Ray Morgan Company

EQUIPMENT INFORMATION

Model #	Serial #	Ownership	Address	Location	City	Zip
Canon IR ADV C7565i III		Lessor	1375 Fifth Avenue	Records	San Rafael	94901
Canon IR ADV C7765i III		Lessor	1375 Fifth Avenue	Records	San Rafael	94901
Canon IR ADV C5560i III		Lessor	1375 Fifth Avenue	Investigations	San Rafael	94901
Canon IR ADV C356if		Lessor	1375 Fifth Avenue	Evidence	San Rafael	94901
Canon IR ADV C356if		Lessor	1375 Fifth Avenue	Holding Cell/Reporting	San Rafael	94901
Canon IR ADV C356if		Lessor	1375 Fifth Avenue	Report Writing Room	San Rafael	94901
Canon IR ADV C356if		Lessor	1375 Fifth Avenue	Lynette/Tiny	San Rafael	94901
Canon IR ADV C356if		Lessor	1375 Fifth Avenue	Dispatch	San Rafael	94901
KYOCERA / MTB M2635DW	VCA6Z01463	Customer	1375 Fifth Avenue	Dispatch Fax	San Rafael	94901
HP / HP M401DNE	PHGFG38315	Customer	1375 Fifth Avenue	Charles Taylor	San Rafael	94901
HP / HP 4250	CNRXX22146	Customer	1375 Fifth Avenue	Records Bracken	San Rafael	94901
HP / HP M553	JPBCJB30MY	Customer	1375 Fifth Avenue	TBD	San Rafael	94901
HP / HP P3015	VND3637592	Customer	1375 Fifth Avenue	HOLDING CELLS	San Rafael	94901
HP / HP M402N	PHBQF50931	Customer	1375 Fifth Avenue	Aguilar	San Rafael	94901
HP / HP P3015	VND3F06272	Customer	1375 Fifth Avenue	Patrol SGTS	San Rafael	94901
Brother / BRB HL6180DW	U63082C3N335875	Customer	1375 Fifth Avenue	LEON-DAYSHIFT LT.	San Rafael	94901
HP / HP 1320	CNL1L09601	Customer	1375 Fifth Avenue	Nightshift Lt. Fink	San Rafael	94901
HP / HP P2035N	CNB9T23751	Customer	1375 Fifth Avenue	Captain Starnes	San Rafael	94901
HP / HP P2035N	VNB3F03971	Customer	1375 Fifth Avenue	Business Office	San Rafael	94901
HP / HP 1320N	CNL1L07026	Customer	1375 Fifth Avenue	SPECIAL OPS	San Rafael	94901
HP / HP M477FDN	VNB8JCTB4Q	Customer	1375 Fifth Avenue	Rose	San Rafael	94901
HP / HP 1320	CNHC5CK1X0	Customer	1375 Fifth Avenue	Chief Bishop	San Rafael	94901
Canon / IC MF731CDW	WTV02381	Customer	1375 Fifth Avenue	Dispatch	San Rafael	94901
HP / HP M553	JPBCJC10GL	Customer	1375 Fifth Avenue	Dispatch	San Rafael	94901
HP / HP CP1518NI	CNCC8CM01K	Customer	1375 Fifth Avenue	LEADS OFFICE	San Rafael	94901
HP / HP P2035N	CNB9T23735	Customer	1375 Fifth Avenue	DETECTIVE SGT.	San Rafael	94901
HP / HP P2035N	CNB9S35527	Customer	1375 Fifth Avenue	INVEST-LT FINK	San Rafael	94901
HP / HP P3010	VND3Q00946	Customer	1375 Fifth Avenue	Investigations	San Rafael	94901
HP / HP 1320N	CNHC63X3K8	Customer	1375 Fifth Avenue	TBD	San Rafael	94901
HP / HP 1320	CNHC59W0DV	Customer	1375 Fifth Avenue	CPTN. MCELDERRY	San Rafael	94901
HP / HP 4250	CNRXJ85305	Customer	1375 Fifth Avenue	Investigations	San Rafael	94901
HP / HP M551N	CMCCG2S163	Customer	1375 Fifth Avenue	LYNETTE STARNES	San Rafael	94901
HP / HP 1320N	CNHC5B40D0	Customer	1375 Fifth Avenue	Ingles	San Rafael	94901
HP / HP CP3525	CNCC97N00G	Customer	1375 Fifth Avenue	TINY	San Rafael	94901
HP / HP P2035N	CNB9T23736	Customer	1375 Fifth Avenue	Leon	San Rafael	94901
HP / HP P2035N	CNB9D22524	Customer	1375 Fifth Avenue	TBD	San Rafael	94901
HP / HP P2035N	CNB9S35518	Customer	1375 Fifth Avenue	Mobile Command A	San Rafael	94901
HP / HP P2035N	VNB3H01659	Customer	1375 Fifth Avenue	Mobile Command B	San Rafael	94901
HP / HP P2035N	CNB9D22523	Customer	1375 Fifth Avenue	Vaping	San Rafael	94901
HP / HP M404DN	PHBB321562	Customer	1375 Fifth Avenue	Investigations	San Rafael	94901
HP / HP M404DN	PHBB321480	Customer	1375 Fifth Avenue	SPECIAL OPS	San Rafael	94901
HP / HP M501	PHBTQ12132	Customer	1375 Fifth Avenue	Disptach	San Rafael	94901
HP / HP M476	CNB7H6L075	Customer	1375 Fifth Avenue	Security Mall Office	San Rafael	94901

CUSTOMER ACCEPTANCE

This Equipment Schedule A is hereby Verified as correct by the undersigned Lessee, who acknowledges receipt of a copy:

Dated: _____ Customer: _____ Signature: _____ Title: _____ Print Name: _____

Dated: _____ Customer: _____ Signature: _____ Title: _____ Print Name: _____



Ray Morgan Company

AGREEMENT NO.
2683408

CALIFORNIA JUDICIAL REFERENCE & STATE AND LOCAL GOVERNMENT ADDENDUM

Addendum to Agreement # 2683408 and any future supplements/schedules thereto, between **City of San Rafael**, as Customer and **Ray A. Morgan Company**, as Lessor ("Agreement"). The words "you" and "your" refer to Customer. The words "we," "us" and "our" refer to Lessor.

The parties wish to amend the above-referenced Agreement by adding the following California Judicial Reference language:

1. Any and all disputes, claims and controversies arising out of, connected with or relating to the Agreement or the transactions contemplated thereby (individually, a "Dispute") that are brought before a forum in which pre-dispute waivers of the right to trial by jury are invalid under applicable law shall be subject to the terms contained in this Addendum in lieu of the jury trial waiver otherwise provided in the Agreement. Disputes may include, without limitation, tort claims, counterclaims, claims brought as class actions, claims arising from schedules, supplements, exhibits or other documents to the Agreement executed in the future, disputes as to whether a matter is subject to judicial reference, or claims concerning any aspect of the past, present or future relationships arising out of or connected with the Agreement.
2. Any and all Disputes shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure ("CCCP") §§ 638 et seq. The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least 10 years' experience practicing commercial law. The parties shall not seek to appoint a referee that may be disqualified pursuant to CCCP §641 or 641.2 without the prior written consent of all parties. If the parties are unable to agree upon a referee within 10 calendar days after one party serves a written notice of intent for judicial reference upon the other parties, then the referee will be selected by the court in accordance with CCCP § 640(b).
3. The referee shall render a written statement of decision and shall conduct the proceedings in accordance with the CCCP, the Rules of Court, and the California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee. The referee's statement of decision shall set forth findings of fact and conclusions of law. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of CCCP §§644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.
4. Notwithstanding the preceding agreement to submit Disputes to a judicial referee, the parties preserve, without diminution, certain rights and remedies at law or equity and under the Agreement that such parties may employ or exercise freely, either alone or in conjunction with or during a Dispute. Each party shall have and hereby reserves the right to proceed in any court of proper jurisdiction or by self-help to exercise or prosecute the following remedies, as applicable: (A) all rights to foreclose against any real or personal property or other security by exercising a power of sale granted in the Agreement or under applicable law or by judicial foreclosure and sale, including a proceeding to confirm the sale, (B) all rights of self-help including peaceful occupation of property and collection of rents, setoff, and peaceful possession of property, (C) obtaining provisional or ancillary remedies including injunctive relief, sequestration, garnishment, attachment, appointment of receiver and in filing an involuntary bankruptcy proceeding, and (D) when applicable, a judgment by confession of judgment. Preservation of these remedies does not limit the power of a judicial referee to grant similar remedies that may be requested by a party in a Dispute. No provision in the Agreement regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in this Addendum for judicial reference of any Dispute. The parties do not waive any applicable federal or state substantive law except as provided herein.
5. If a Dispute includes multiple claims, some of which are found not subject to this Addendum, the parties shall stay the proceedings of the claims not subject to this Addendum until all other claims are resolved in accordance with this Addendum. If there are Disputes by or against multiple parties, some of which are not subject to this Addendum, the parties shall sever the Disputes subject to this Addendum and resolve them in accordance with this Addendum.
6. During the pendency of any Dispute that is submitted to judicial reference in accordance with this Addendum, each of the parties to such Dispute shall bear equal shares of the fees charged and costs incurred by the referee in performing the services described in this Addendum. The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorneys' fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the party by its counsel, in such amount as is determined by the referee.
7. In the event of any challenge to the legality or enforceability of this Addendum, the prevailing party shall be entitled to recover the costs and expenses from the non-prevailing party, including reasonable attorneys' fees, incurred by it in connection therewith.
8. THIS ADDENDUM CONSTITUTES A "REFERENCE AGREEMENT" BETWEEN THE PARTIES WITHIN THE MEANING OF AND FOR PURPOSES OF CCCP § 638.

The parties wish to amend the above-referenced Agreement by adding the following State & Local Government language:

REPRESENTATIONS AND WARRANTIES OF CUSTOMER: You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.

NON-APPROPRIATION OR RENEWAL: If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

TITLE TO THE EQUIPMENT: If the selected purchase option for this Agreement is \$1.00 or \$101.00, unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

The parties wish to amend the above-referenced Agreement by restating the following language:

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, at the end of the initial term, this Agreement shall renew on a month-to-month basis under the same terms hereof unless you send us written notice at least 30 days before the end of any term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security interest in the Equipment to secure all amounts you owe us under this Agreement and any supplements hereto. You authorize and ratify our filing of any financing statement(s) and the naming of us on any vehicle title(s) to show our interest."

Any provision in the Agreement stating that you shall indemnify and hold us harmless is hereby amended and restated as follows: "You shall not be required to indemnify or hold us harmless against liabilities arising from this Agreement. However, as between you and us, and to the extent permitted by law and legally available funds, you are responsible for and shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that you shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after you have surrendered possession of the Equipment in accordance with the terms of this Agreement to us or that arise directly from our gross negligence or willful misconduct."

Any provision in the Agreement stating that a default by you under any agreement with our affiliates or other lenders shall be an event of default under the Agreement is hereby amended and restated as follows: "You will be in default if: (i) you do not pay any Payment or other sum due to us under this Agreement when due or you fail to perform in accordance with the covenants, terms and conditions of this Agreement; (ii) you make or have made any false statement or misrepresentation to us; or (iii) you dissolve, liquidate, terminate your existence or are in bankruptcy."

Any provision in the Agreement stating that you shall pay our attorneys' fees is hereby amended and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay, to the extent permitted by law and to the extent of legally available funds, our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

Any provision in the Agreement requiring you to pay amounts due under the Agreement upon the occurrence of a default, failure to appropriate funds or failure to renew the Agreement is hereby amended to limit such requirement to the extent permitted by law and legally available funds.

Any provision in the Agreement stating that the Agreement is governed by a particular state's laws and you consent to such jurisdiction and venue is hereby amended and restated as follows: "This Agreement will be governed by and construed in accordance with the laws of the state where you are located. You consent to jurisdiction and venue of any state or federal court in such state and waive the defense of inconvenient forum."

By signing this Addendum, Customer acknowledges the above changes to the Agreement and authorizes Lessor to make such changes. In the event of any conflict between this Addendum and the Agreement, this Addendum shall prevail. In all other respects, the terms and conditions of the Agreement remain in full force and effect and remain binding on Customer. This Addendum may be executed in multiple counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same agreement.

Ray A. Morgan Company

Lessor

Signature

Title

Date

City of San Rafael

Customer

X

Signature

Title

Date

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.



Ray Morgan Company

AGREEMENT NO.
2683408

STATE AND LOCAL GOVERNMENT ADDENDUM

Addendum to Agreement # 2683408 and any future supplements/schedules thereto, between **City of San Rafael**, as Customer and **Ray A. Morgan Company**, as Lessor ("Agreement"). The words "you" and "your" refer to Customer. The words "we," "us" and "our" refer to Lessor.

The parties wish to amend the above-referenced Agreement by adding the following language:

REPRESENTATIONS AND WARRANTIES OF CUSTOMER: You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

NON-APPROPRIATION OR RENEWAL: If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

TITLE TO THE EQUIPMENT: If the selected purchase option for this Agreement is \$1.00 or \$101.00, unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

The parties wish to amend the above-referenced Agreement by restating the following language:

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, at the end of the initial term, this Agreement shall renew on a month-to-month basis under the same terms hereof unless you send us written notice at least 30 days before the end of any term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security interest in the Equipment to secure all amounts you owe us under this Agreement and any supplements hereto. You authorize and ratify our filing of any financing statement(s) and the naming of us on any vehicle title(s) to show our interest."

Any provision in the Agreement stating that you shall indemnify and hold us harmless is hereby amended and restated as follows: "You shall not be required to indemnify or hold us harmless against liabilities arising from this Agreement. However, as between you and us, and to the extent permitted by law and legally available funds, you are responsible for and shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that you shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after you have surrendered possession of the Equipment in accordance with the terms of this Agreement to us or that arise directly from our gross negligence or willful misconduct."

Any provision in the Agreement stating that a default by you under any agreement with our affiliates or other lenders shall be an event of default under the Agreement is hereby amended and restated as follows: "You will be in default if: (i) you do not pay any Payment or other sum due to us under this Agreement when due or you fail to perform in accordance with the covenants, terms and conditions of this Agreement; (ii) you make or have made any false statement or misrepresentation to us; or (iii) you dissolve, liquidate, terminate your existence or are in bankruptcy."

Any provision in the Agreement stating that you shall pay our attorneys' fees is hereby amended and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay, to the extent permitted by law and to the extent of legally available funds, our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

Any provision in the Agreement requiring you to pay amounts due under the Agreement upon the occurrence of a default, failure to appropriate funds or failure to renew the Agreement is hereby amended to limit such requirement to the extent permitted by law and legally available funds.

Any provision in the Agreement stating that the Agreement is governed by a particular state's laws and you consent to such jurisdiction and venue is hereby amended and restated as follows: "This Agreement will be governed by and construed in accordance with the laws of the state where you are located. You consent to jurisdiction and venue of any state or federal court in such state and waive the defense of inconvenient forum."

By signing this Addendum, Customer acknowledges the above changes to the Agreement and authorizes Lessor to make such changes. In the event of any conflict between this Addendum and the Agreement, this Addendum shall prevail. In all other respects, the terms and conditions of the Agreement remain in full force and effect and remain binding on Customer.

Ray A. Morgan Company

Lessor

Signature

Title Date

City of San Rafael

Customer

X

Signature

Title Date

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.

Addendum to Credit Agreement

(supplementing lease, rental or other credit agreement)



Lessee/Renter/Customer: City of San Rafael	Title of lease, rental or other agreement: Dated:
Lessor or Lender: US Bank Equipment Finance	Lease, rental or contract #:

This Addendum to Credit Agreement (this "**Addendum**") is made by and between the above-referenced lessee, renter or other customer ("**Customer**") and the above-referenced lessor or lender ("**Creditor**").

Introduction: Customer and Creditor are simultaneously herewith entering into the above-referenced lease, rental or other credit agreement (the "**Agreement**"); and Customer and Creditor wish to modify and/or supplement the terms of the Agreement, as more particularly set forth herein below. This Addendum shall be effective as of the same date as the Agreement (the "**Effective Date**").

1. Incorporation and Effect. This Addendum is hereby made a part of, and incorporated into, the Agreement as though fully set forth therein. As modified or supplemented by the terms set forth herein, the provisions of the Agreement shall remain in full force and effect, *provided that*, in the event of a conflict between any provision of this Addendum and any provision of the Agreement, the provision of this Addendum shall control.

2. Definitions. Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement. As used in this Addendum, the following terms shall have the following-described meanings:

"**Goods**" shall have the same meaning as the term "Equipment," "Leased Equipment," "Goods" or "Property" (or a similar term) as defined and used in the Agreement.

3. Early Commencement. Notwithstanding anything to the contrary in the Agreement, Customer hereby authorizes and requests that Creditor immediately commence the Agreement. Customer acknowledges and agrees that the Agreement is being commenced prior to the complete delivery and/or installation of the Equipment solely as an accommodation to the Customer. Customer agrees that even if the Equipment is not delivered, accepted and/or does not function or perform as Customer anticipates or expects, Customer shall (i) address any Equipment related problems or issues with reference to delivery or non-delivery or installation solely with Supplier and not any assignee of Supplier's interests in the Agreement (an "**Assignee**"), (ii) in all cases, make all payments to Creditor or an Assignee as and when due under the Agreement. Customer understands and agrees that Customer's obligations (including, without limitation, Customer's obligation to remit the scheduled periodic payments and all other amounts due under the Agreement) are absolute and unconditional and shall commence upon execution of this Addendum.

4. Miscellaneous. This Addendum, together with the provisions of the Agreement not expressly inconsistent herewith, constitutes the entire agreement between the parties with respect to the matters addressed herein, and shall supersede all prior oral or written negotiations, understandings and commitments. This Addendum may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one of the same agreement. A facsimile or other copy of this Addendum with facsimile or copied signatures shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

Customer: By: <u> X </u> Print: _____ Title: _____	Creditor: By: <u> X </u> Print: _____ Title: _____
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