



DATE: June 6, 2012

TO: Honorable Mayor and City Councilmembers

FROM: Human Resources Department

SUBJECT: **APPROVAL OF AN AGREEMENT WITH GOVERNMENT JOBS, INC. d/b/a/ NEOGOV TO PROVIDE ON-LINE EMPLOYMENT APPLICATION, EXAM MANAGEMENT AND REPORTING CAPABILITIES**

SYNOPSIS

Staff recommends that the City Council approve the on-line services agreement with Government Jobs, Inc. and doing business as NEOGOV in the amount of \$17,683 for on-line recruitment, application processing and exam management, and includes various reporting options. The agreement with NEOGOV will replace the current agreement with Hershey Technologies.

BACKGROUND

The City of Oceanside has contracted for on-line job application processing with Hershey Technologies since 2008. The Human Resources staff has been able to utilize the current software for several years but there are limitations and the NEOGOV product resolves some of those issues.

NEOGOVS is a provider of strategic workforce management solutions for public sector agencies and has over 11 years of experience working with public sector agencies. It is the primary program utilized in Southern California and San Diego County specifically. Current users of the program include the Counties of Orange, Riverside and San Diego, the Cities of Carlsbad, Chula Vista, Coronado, El Cajon, La Mesa, San Diego and Vista. The City of Escondido is currently in the process of bringing NEOGOV on line as well.

The NEOGOV system is a web-based software program. It maintains data and enables tracking of recruitment processes with customized on-line job applications, recruitment and exam planning, provides scoring plans and test processing to score applicants' exam scores, and the applicant tracking system allows email notifications to candidates, EEO data collection and reporting, on-line applications for employment candidates, and various other reporting capabilities. It also provides the ability for volunteer applications to be submitted on-line which will potentially increase volunteerism for the City of Oceanside as a side benefit. In addition the system is more user friendly than the current application and provides a very professional "face" to the public who are searching for job opportunities as well as volunteer positions.

ANALYSIS

NEOGOVS began in September 1999 and has become the universal solution for public sector recruitment and application. The software provides a platform from which Human Resources can manage the exam, recruitment, application and career application history of candidates, employees and volunteers. The system is known to be user-friendly to applicants as well as staff managing the recruitments and reporting on EEO data.

The annual agreement amount for the current on-line application product from Hershey Technologies is \$13,998 plus \$3,910 annually for maintenance and support. The NEOGOV agreement reduces the cost annually to \$11,683. Maintenance and support costs are included in the annual fee, resulting in an annual savings to the City of \$6,225 over the current provider. Customer support is available Monday through Friday from 6 a.m. to 6 p.m. Pacific Time. The initial cost of data conversion, provisioning and training of staff are a one-time cost of \$6,000. Human Resources and Information Technologies have included these one-time funds in their FY 2012/13 proposed budget.

Migrating the current data and application processes to NEOGOV not only offers a superior product for volunteers and candidates seeking employment with the City of Oceanside but it provides a more effective method of managing exam processes and recruitments for staff and provides effective reporting tools.

The security protocols of the NEOGOV product have rigid standards for protecting the security and privacy of information of job candidates and complies with all federal and state guidelines and regulations regarding the collection, maintenance, use and security of information. The City of Oceanside Chief Information Officer has reviewed the NEOGOV agreement as well as the Information Security Policy and the Technical Overview of NEOGOV and has confirmed he is comfortable with migrating Oceanside's on-line system to NEOGOV. The agreement language has also been reviewed and approved by the City Attorney.

FISCAL IMPACT

The annual license fee for NEOGOV is \$11,683 whereas the cost for Hershey Technologies is \$13,998 with an additional annual maintenance cost of \$3,910. The migration cost of transferring data into NEOGOV along with training of all users is \$6,000. This is a one-time cost.

The annual costs will be paid by IT from their fund 155162841.5330. This replaces the current expenditures for the Hershey product. The additional \$6,000 for "Provisioning and Training" is a one-time expense and will be split equally between the above fund and 260010101.5305.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be provided.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced document has been reviewed by the City Attorney and approved to as to form.

RECOMMENDATION

Staff recommends that the City Council approve the on-line services agreement with Government Jobs, Inc. and doing business as NEOGOV in the amount of

\$17,683 for on-line recruitment, application processing and exam management, and includes various reporting options. The agreement with NEOGOV will replace the current agreement with Hershey Technologies.

PREPARED BY:

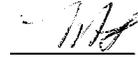
SUBMITTED BY:


Patricia Nunez
Human Resources Director


Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



Teri Ferro, Financial Services Director



Exhibit A

Service Agreement

THIS ON-LINE SERVICES AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 2011, by and between **GovernmentJobs.com, Inc.**, a California corporation (d/b/a "NEOGOV"), and the **City of Oceanside**, a public entity acting by and through its duly appointed representative ("Customer").

1. Provision of On-line Services.

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

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

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

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

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

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

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

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

4. Ownership, Protection and Security.

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

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

(c) Customer acknowledges and agrees that nothing in this Agreement or any other agreement grants

Customer any licenses or other rights with respect to NEOGOV's software system (source code or object code) other than the right to receive Services as expressly provided herein. NEOGOV shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with NEOGOV's software system and Services and all components thereof and associated documentation, except as expressly provided herein.

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

5. **NEOGOVS Representations and Warranties.**

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

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

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

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

7. **Nondisclosure.** Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret

("Confidential Information") and trade secrets. In recognition of the other party's need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law including the Public Records Act of the State of California, redistribute, market, publish, disclose or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party's Confidential Information during the term of this Agreement and for a period of three (3) years after the termination of this Agreement or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party's trade secrets at any time during which such information shall constitute a trade secret under applicable law.

8. Liability Limitations.

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

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

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

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

9. Term and Termination.

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

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

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

(d) Within sixty (60) days of notification of termination of this Agreement, NEOGOV shall provide Customer with a dedicated data files suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL). The dedicated data files will be comprised of Customer's data contained in NEOGOV's system. The structure of the relational database will be specific to the Customer's data and will not be representative of the proprietary NEOGOV database.

10. **Payments.**

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

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

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

12. **Piggyback Clause.** It is understood and agreed by Customer and NEOGOV that any governmental entity may purchase the services specified herein in accordance with the prices, terms, and conditions of this agreement. It is also understood and agreed that each local entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the new governmental entity and NEOGOV. It is also hereby mutually understood and agreed that Customer is not a legally bound party to any contractual agreement made between NEOGOV and any entity other than Customer.

13. **Miscellaneous.** Either party may not assign its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be governed by and construed in accordance with the laws of the State of California, without giving effect to

conflict of law rules. Customer acknowledges and agrees that this Agreement is not intended to be and shall not be construed to be a franchise or business opportunity.

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

Customer/City of Oceanside

Signature: _____

Print Name: Peter A. Weiss

Title: City Manager

GovernmentJobs.com, Inc., a California corporation

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A – ORDER FORM

Customer:		Bill To:	
<u>Name:</u>		<u>Attention To:</u>	
<u>Agency:</u>		<u>Address:</u>	
		<u>Phone:</u>	
		<u>Email:</u>	
Quote Date:	5/14/2012	Revision:	1
Valid From:	5/14/2012		
Valid To:	Today plus 30 days	Order Number:	
Requested Service Date:	TBD	Initial Term:	12 Months

Order Summary

<u>Line</u>	<u>Description¹</u>	<u>Annual Recurring Cost</u>	<u>Non-Recurring Cost</u>
1.0	Insight Enterprise Edition		
1.1	Subscription License	\$11,683.00	
1.2	Provisioning		\$3,500.00
1.3	Training		\$2,500.00
Sub Total:		\$11,683.00	\$6,000.00
Order Total:		\$17,683.00	

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

Order Detail**1.0 Insight Enterprise Edition****1.1 License Subscription**

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

Recruitment

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

Selection

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

Applicant Tracking

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

Reporting and Analysis

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

HR Automation

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

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

* Requires a Scantron or similar Optical Mark Reader (OMR) scanner, special forms, form set-up, and scanner software, which are not included unless listed on Exhibit A – ORDER FORM

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

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

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

Product Upgrades to Licensed Software

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

1.2 Provisioning

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

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

1.3 Training

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

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

Order Form

NEOGOV™

Order Form Terms and Conditions:

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

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

Provide all required software and Licenses

- One hundred percent (100%) of the annual license price is payable within thirty (30) days of execution of this Order Form and Service Agreement. (\$11,683.00)

Software Provisioning for first half of Insight Enterprise

- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days of the execution of this Order Form and Service Agreement. (\$1,750.00)

Completion of Training

- One hundred percent (100%) of the training price is payable within thirty (30) days of completion of training. (\$2,500.00)

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

- Fifty percent (50%) of the non-recurring costs are to be paid to NEOGOV within thirty (30) days following the thirty day post-training period. (\$1,750.00)

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

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

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

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

<u>Customer</u>	<u>NEOGOV, Inc.</u>
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____