MASTER SERVICE AGREEMENT COMPLIANCE

Master Service Agreement Compliance areas for fiscal years 2010 and 2011 to date:

1. ARTICLE I: PURPOSE OF AGREEMENT

- To provide the City with certain information technology services as further described in the Agreement.

2. ARTICLE II: ROLES AND RESPONSIBILITIES

- **Primary Contact** The City's Director of Information Technology ("Director of IT") is required to act as the primary liaison and point of contact between the City and SDDPC's Executive Director. Because of the City's plan to issue an RFP for the City's IT and because the current Director of IT is on the SDDPC Board, SDDPC has been working directly and primarily with Alan Watkins in the Department of IT.

- **Review and Approval of Information Technology Services** The Director of IT, in coordination with the City's Information Technology Business Leadership Group ("IT BLG") under the City IT Governance Policy (as amended), is responsible for reviewing and approving Citywide IT services and baseline service levels to be included in the annual Service Level Agreement. We are not directly involved and do not have complete information on this requirement.

- **Review and Approval of Information Technology Services** The Director of IT, in coordination with the IT BLG, is again, we are not directly involved and aware of this required responsibility for reviewing and approving department-specific IT services and service levels that expand or extend beyond the Citywide services and to ensure consistency of service offerings and service levels across multiple departments. We are not directly involved and do not have complete information on this requirement.

- **Information Technology Architecture and Infrastructure** The Director of IT is responsible for developing and documenting enterprise IT architecture strategies, and for the review and approval of all IT architecture plans and standards, including those developed by SDDPC on the City's behalf. We are not directly involved and do not have complete information on this requirement.

- **Information Technology Standards, Policies and Strategic Planning** The Director of IT is responsible for developing and approving IT standards, policies, and strategic direction, with technical input from SDDPC and within the requirements of the City's IT governance policies and practices. We are not directly involved and do not have complete information on this requirement.

- **Service Request Procedures** During the term (as defined in Article VI) of this Agreement, if the City wishes to have SDDPC purchase, add, change, or delete products, inventories, application access and Services, the City shall notify SDDPC by using the SDDPC online service request form ("Service Request Form"). This process is being followed.

- **Relationship Management** The Director of IT for the City, the SDDPC Board of Directors and SDDPC's Executive Director, Chief Financial Officer, Director of Customer & Application Services (or an equivalent member of SDDPC's management team) and Corporate Counsel ("SDDPC Management"), are required to meet on a monthly basis (as part of the SDDPC monthly Board meetings) to review and discuss the effectiveness and value of the Services provided to the meetings) to review and discuss the effectiveness and value of the Services provided to the City by SDDPC and to provide guidance to improve such effectiveness and value. The SDDPC Board meets on a monthly basis. At every meeting, there is an Agenda item dedicated to a status report and discussion on this item from the Director of IT.

3. ARTICLE III: SERVICES

- **Section 3.4 Payment for Services:** This section covers Rate Setting Process, Authorizing Work, Invoicing, and Financial Records
    - The annual rate setting process for fiscal year 2012 (FY12) occurred in the August through November 2010 time frame in accordance with the provision of the MSA.
    - Invoicing and associated payments occurred in the timeframes as established in the MSA. Resolution of City Budget shortfalls did not always occur within the established timeframes. However, all billings for fiscal year 2010 were posted to the City's general ledger and payment received by July 21, 2010. As of December 31, 2010, there are $19,140.68 in charges that have not posted for more than 30 days due to budget validation issues. SDDPC staff continues to work with the City departments to obtain resolution.
    - The financial records of the company have been maintained in compliance with the provisions of the MSA.

- **Section 3.5 Request for Proposals and Transition** The City and SDDPC acknowledge that the City has issued and may, during the Term of this Agreement, issue requests for proposals ("RFPs") for specific Services historically provided to the City by SDDPC and described in Section 3.1 of this Agreement. The City and SDDPC acknowledge that there are operational and financial risks to both of them associated with this process, including the continuity of critical technical services to the City and retention of key SDDPC staff. To migrate this risk, the Parties acknowledge that the need, while maintaining the integrity of the RFP process, to communicate and coordinate their efforts during this process.

- The City and SDDPC acknowledge that the preparation of an RFP will require the sharing of operational and financial date by SDDPC. In all cases, SDDPC shall have the right, but not the obligation, to respond to an RFP and be allowed to participate in the RFP process on fair basis. To the extent permissible under applicable law, operational and financial data of SDPC will not be shared with other proposers during the RFP process. The City and SDDPC acknowledge that the City members (who are City employees) of the SDDPC Board of Directors will recuse themselves in participating as SDDPC Board members on all issues related to a City RFP while RFP is pending, as further provided in this Section 3.5 of the Agreement. Further, the City employee members of SDDPC Board shall not participate, in any way, on behalf of SDDPC, in the RFP preparation process.

- Once the RFP is issued by the City, the City shall, to the extent permissible under applicable law, maintain in confidence any information previously provided by SDDPC to the City that is proprietary in nature as it related to the Services that are the subject of an RFP. During the period of time from issuance of an RFP until the selection of a winning proposer, SDDPC shall have no obligation to have any information with the City related to the City's consideration of the RFP responses and selection of the winning proposer, except for the information the City would be able to obtain during the normal course of business operations as generally described in the existing SLA (as amended), related to the services provided by SDDPC or information that could otherwise be requested of any proposer during the RFP process.

- If a service provider other than SDDPC is awarded a contract for all or a portion of the Services described in an RFP, the City shall pay SDDPC for all Services rendered prior to the award and shall continue to pay the negotiated fiscal year rates for the Services during the transition period. The transition period will run from the date of the award of the contract to a service provider other than SDDPC until the effective date for the start of that contract.

- Any mutually agreed upon , reasonable transition costs, including unrealized capital depreciation and key employee retention payments, if any, shall be billed by SDDPC and paid by the City in accordance with the billing practices described in this Agreement or as the Parties otherwise mutually agree. Any reasonable shut down costs to which the Parties mutually agree shall be billed by SDDPC and paid by the City at the end of the transition period, or in accordance with a payment schedule to which the Parties otherwise agree.

4. ARTICLE IV: SDDPC BUDGET & FISCAL RESPONSIBILITY

- **Section 4.1 Authorization of City's IT Expenditures with SDDPC**
  - SDDPC provided the financial information requested by the Financial Management Director and the Director of IT.
- **Section 4.2 Approval of SDDPC's Budget**

- The SDDPC Board of Directors approved the corporation's FY12 Budget. The approved budget was submitted to the City CFO as part of the Mayor's budget process and was presented to City Council on June 21, 2010.

- **Section 4.3 Financial Reporting**
  - A monthly financial report has been provided to the City CFO in the requested format. In addition, the monthly financial report that is provided to the SDDPC Board of Directors has been distributed to the City Council and the City's CFO.

- **Section 4.4 Annual Financial Audit**
  - The annual audit of SDDPC's financial records for FY10 was accepted by the Board of Directors on September 23, 2010. The audit report was distributed in accordance with the MSA on September 30, 2010.

- **Section 4.5 Taxes and Section 4.6 Only Payments**
  - SDDPC has complied with these provisions.

- **Section 4.7 Mid-Year Rate Adjustment and Section 4.8 Year-End Rate Adjustment**
  - This process described in these sections is currently underway in compliance with these provisions.

- **Section 4.9 Audit Rights**
  - SDDPC has provided updates to the City's Comptroller's office and to the City's Internal Audit department personnel as requested.

5. ARTICLE V: PARTIES, REPRESENTATIONS, WARRANTIES, AND RELATED COVENANTS

SDDPC is in full compliance with all representations, warranties, and related covenants under Article V. which includes:

- Organization, Corporate Power and Tax Filings
- Performance of the Services
- City Access Availability of Records
- Accuracy of Information
- Litigation and Service of Process
- Public Records Requests

- Compliance with Controlling Law

6. ARTICLE VII: INDEMNIFICATION; LIMITATIONS OF LIABILITY; INSURANCE

- SDDPC currently maintains the following insurance coverage:
  - Commercial general liability insurance for personal for personal injury, bodily injury, and property damage, with limits of two million dollars ($2,000,000) per occurrence, subject to an annual aggregate of two million dollars ($2,000,000) for general liability, completed operations, and personal injury.
  - For all of SDDPC's employees who are subject to this Agreement, Workers Compensation Insurance as required by State of California and Employer's Liability Coverage in an amount of not less than one million dollars ($1,000,000) per occurrence.
  - Automobile insurance for all of SDDPC's automobiles, including owned, hired, and non-owned automobiles, for bodily injury, and property damage providing coverage to a combined single limit of one million dollars ($1,000,000) per occurrence.
  - Errors and omissions insurance in an amount not less than two million dollars ($2,000,000) per claim with an annual aggregate of two million dollars ($2,000,000).
  - All insurance required have been issued only by insurers rated "A-, VII" or better in the most recent edition of the AM Best Key Rating Guide, which are licensed to do business in the State of California.