SUBJECT: Award of Contract for the Lease of Multi-Function Copiers (F13-03)

BACKGROUND
Approval is requested for the award of a contract for the lease of multi-function copiers to Caltronics Business Solutions of Sunnyvale for a five-year period, and to authorize the City Manager to renew the contract for an additional one-year period if pricing and service remain acceptable to the City. Under the new contract, the City’s Ricoh copiers will be replaced by the Konica-Minolta line.

DISCUSSION
On August 19, 2008, City Council approved the award of a contract to Ricoh for a Citywide Copier Lease Program (RTC 08-247). The contract was approved for a four-year period with the option to extend for two additional one-year periods. Even though there are extension options available under the current contract, staff determined that it would be most economical to request proposals for the replacement of the existing equipment.

On August 20, 2012 Request for Proposals No. F13-03 was released and posted on the Onvia Demandstar public procurement network. Eleven (11) firms requested proposal documents. Five sealed proposals were publicly received and opened on September 26, 2012:

1. Caltronics Business Systems, Sunnyvale, CA
2. Xerox Corporation, Pleasanton, CA
3. Toshiba Business Solutions, San Ramon, CA
4. MBS Business Systems, Santa Clara, CA
5. Ricoh, San Jose, CA

Proposals were evaluated for technical capabilities, support, maintenance plan, training, installation process, billing and management reports, equipment features, references and pricing. The evaluation also included a site visit to the top ranked proposer by representatives from the Departments of Information Technology, Community Development, Finance, Public Safety, and the Office of the City Manager. The evaluation team determined that the proposal submitted by Caltronics offers the best value to the City.

FISCAL IMPACT
Exact costs to the City for a five-year contract are difficult to predict due to fluctuations in copier usage. Last fiscal year’s cost was approximately $150,300. Based on the pricing for the new contract the same usage will be
approximately $108,000. The current lease is structured so that the City is not able to add or change machines; the Caltronics proposal gives the City the ability to adjust both copier machines and monthly copy allowances to minimize overage costs, and to ensure the City’s copy needs are met through this one lease. The Konica-Minolta line does not have a specialized duplicator machine that is used heavily by the Print Shop. A separate contract will be negotiated and issued, under the City Manager’s contract award authority, with Ricoh USA for that machine at an estimated cost of $4,000 per year. Funds are available in the Department of Information Technology’s operating budget to cover this expense.

**PUBLIC CONTACT**
Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

**RECOMMENDATION**
It is recommended that Council:
1. Award a contract, in substantially the same form as the attached draft blanket purchase order, not to exceed budgeted amounts, to Caltronics Business Systems and;
2. Delegate authority to the City Manager to renew the contract for an additional one-year period, provided pricing and service remain acceptable to the City.

Reviewed by:

Grace K. Leung, Director of Finance
Prepared by: Pete Gonda, Purchasing Officer

Reviewed by:

David Jensen
Director of Information Technology

Approved by:

Gary M. Luebbers
City Manager

**Attachments**
- Draft Blanket Purchase Order and Associated Terms and Conditions
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<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>UNIT COST</th>
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<td>1</td>
<td>Blanket purchase order for the lease of Digital Photocopy Machines as required by City of Sunnyvale Information Technology Department for a five year period, in accordance with Request for Proposals F13-03 specifications, terms and conditions and contractors response, which are incorporated herein by this reference. Contract may be renewed for one additional one year period provided pricing and services are acceptable to the City. Monthly cost shall be $8,992.81 excluding overage charges. Approved by City Council 12/18/2012, RTC.</td>
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**AUTHORIZED DEPARTMENT(S)**

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**BUYER:**

Howard, Dreama

**PHONE** (408) 730-7396  **FAX** (408) 730-7710
C-P-C TERMS AND CONDITIONS

The words YOU and YOU mean the user of the equipment. The words WE, US, and OUR refer to the owner of the equipment listed in the "Individual Meter Option" and "Consolidated Billing Option" sections of this Agreement.

1. C-P-C PLAN ("AGREEMENT"): WE agree to rent to YOU and YOU agree to rent from US the equipment listed in the "Individual Meter Option" and "Consolidated Billing Option" sections of this Agreement, plus any additional equipment ("Supplemental Additional Charge") on an excess in copies of the Guaranteed Minimum Monthly Copiers in accordance with the terms and conditions herein. The Additional Copy Charges will be invoiced at the end of each month relating to the equipment listed in this Agreement and thereafter US will insert in this Agreement the serial numbers of the equipment when we so determine them. YOU agree to pay any taxes or other charges payable by YOU, including but not limited to any state or local sales, use, or occupation taxes, any state or local fees authorized by law, and any other charges that may be imposed by the Internal Revenue Service or any state or local government that the USES of the Equipment shall be subject to.

2. TERMS: This Agreement is effective on the date that it is accepted and signed by US, and the term of the Agreement shall commence on that date or any later date designated by US, and shall continue for the period of time designated by US, unless US, at any time prior to the expiration of the term of this Agreement, delivers written notice to YOU terminating this Agreement. The last day of the term shall be the last day of the month in which the term is scheduled to expire, and in no event shall the term be scheduled to expire on any Saturday, Sunday, or legal holiday.

3. LATE CHARGES/DOCUMENTATION FEES: Whenever any C-P-C Payment or Additional Copy Charge is not paid by US within three (3) days of the due date, US agrees to charge YOU a late charge of five percent (5%) of each late payment, with a minimum of ten dollars ($10.00), but only to the extent permitted by law. US agrees to pay YOU a late fee of seven dollars ($7.00) plus five percent (5%) of the original payment due on late payment(s) received after the third (3rd) day from the date of the due date.

4. UPKEEP, MAINTENANCE, REPAIR, SUPPLIES AND WARRANTIES: YOU have selected the Equipment and the related maintenance program and supplies as described in a separate maintenance agreement with the Equipment dealer ("Dealer"). WE are not the manufacturer of the Equipment and WE are not responsible for the condition of the Equipment or for any defects in the equipment, supplies, or services. YOU agree that YOU will: (a) maintain the Equipment and any related documents and equipment in accordance with the instructions and advice of the Equipment dealer, (b) use the Equipment only for the purpose specified, and (c) report any defects in the Equipment to the Equipment dealer immediately upon discovery.

5. REMEDIES: YOU are liable for all costs and expenses incurred by US in connection with the enforcement of this Agreement, including attorney's fees and costs of suit. If any provision of this Agreement is held unenforceable in any jurisdiction, it shall be treated as an original and enforceable part of this Agreement.

6. SECURITY DEPOSITS: WE will hold any security deposit as security for YOUR performance under this Agreement, or as a deposit for sums to be paid by YOU. WE may, in our discretion, reduce the security deposit in any amount set forth in this Agreement. WE may also use the security deposit to pay any sums due under this Agreement if, after deducting the costs and expenses of such sums, there remains a balance due.

7. ASSIGNMENT: YOU agree not to transfer, sell, sublease, assign, pledge or encumber the Equipment or any rights under this Agreement without OUR prior written consent. WE may, at any time, assign or sell this Agreement, provided that such assignment or sale does not have a material impact on YOUR rights.

8. RECEIPT AND DELIVERY: Upon written notice delivered to US at least thirty (30) days, but not more than sixty (60) days, prior to the effective date of any amendment to this Agreement, YOU shall advise US of YOUR intention to return the Equipment to US at the end of the initial term of this Agreement. PROVIDED YOU have given such timely notice, YOU shall return the Equipment to the Equipment dealer, and US shall be entitled toそうの使用を禁止する。 Unsaid's written notice may be given to any person or entity, including but not limited to any state or local government that the USES of the Equipment shall be subject to.

9. LOSS OR DAMAGE: YOU are responsible for the risk of loss or destruction, or damage to the Equipment. NO loss or damage shall relieve YOU from any obligation under this Agreement.

10. TERMINATION: YOU are not responsible for any losses or injuries caused by the installation or use of the Equipment, and YOU agree to indemnify US for any losses or injuries caused by the Equipment. In no event shall US be liable for any property damage, loss or destruction of or damage to any part of the equipment.

11. TAXES: YOU agree to pay all license and registration fees, sales and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment as part of the C-P-C Payment or as billed by US. YOU agree to pay all Property Taxes, including but not limited to any Personal Property Taxes, and any other taxes payable with respect to the Equipment. YOU agree to pay all taxes, including, without limitation, any Valueadded Tax or Sales Tax, that YOU are required to pay as a result of this Agreement. YOU agree to pay all taxes, including, without limitation, any Value-added Tax or Sales Tax, that YOU are required to pay as a result of this Agreement.

12. REMEDIES: YOU are in default of this Agreement if any of the following occurs: a) YOU fail to pay any C-P-C Payment or other sum when due, b) YOU breach any warranty or other agreement under this Agreement, or any other agreement with US, c) YOU, any partner or guarantor, become insolvent or unable to pay YOU, or WE, or the Equipment, c) YOU shall pay for all personal or other sums to be paid under this Agreement.

13. FACSIMILE DOCUMENTATION: YOU agree that a facsimile copy of the Agreement with facsimile signatures may be treated as an original and will be admissible as evidence of the Agreement.
ADDENDUM 1
TO
C-P-C Terms and Conditions

2. TERM
Second paragraph is deleted
Third paragraph is deleted

3. Late Charges/Document Fees
Paragraph is deleted in its entirety and replaced with the following:
Full payment shall be made within thirty (30) days from the date of receipt of invoice. Partial payments may be made with City’s concurrence at no less than monthly intervals. City shall endeavor to pay each invoice within thirty (30) days, but shall not be responsible to Contractor for additional charges, interest or penalties due to failure to pay within that period.

8. Redelivery and Renewal:
Paragraph is deleted, see item 14 below.

10. Indemnity
Paragraph is deleted and replaced with the following:
Caltronics shall take all responsibility for the work, shall bear all losses and damages directly or indirectly resulting to Caltronics, the City, City employees, or parties designated in any contract provision, on account of the performance or character of the work, unforeseen difficulties, accidents, occurrences, or other causes predicated on active or passive negligence of the City, or of parties designated in any contract provisions. Caltronics shall assume the defense of and shall indemnify, and hold harmless the City, its officers, officials, directors, employees, and agents from and against any or all loss, liability, expense, claim, costs, suits, and damages of every kind, nature, and description directly or indirectly arising from the performance of the work.

12. Insurance:
Paragraph is deleted and replaced with the following:
During the term of this agreement, at the City’s cost, the City will: (1) keep the Equipment insured against all risks of physical loss or damage for its full replacement value; (b) maintain public liability insurance, covering personal injury and property damage for not less than $300,000 per occurrence, naming Caltronics as additional insured.

14. Remedies:
Delete a,b,d and replace with the following:

The City may terminate this Agreement, in whole or in part, whether or not Caltronics has failed to fulfill its obligations, if the City has a reasonable basis for termination (such as major changes in the work or loss of City funding). Caltronics will be given: (1) not less than ninety (90) calendar days’ written notice of the intent to terminate, and (2) an opportunity for consultation with the City before termination.

In the event of such termination, Caltronics shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of termination. Caltronics may enter upon the premises peaceably with or without legal process where the equipment is located and repossess the equipment.

15. Security Deposit:
Paragraph is deleted
18. **UCC-Article 2A Provisions:**
Paragraph is deleted.

19. **UCC-Article 2A Provisions:**
Replace all references to Pennsylvania to County of Santa Clara, California
Last sentence is deleted.

20. **Entire Agreement; Severability; Waivers:**
Paragraph deleted and replaced with the following:
This Agreement, addendum 1, City of Sunnyvale Request for Proposal F13-03 consisting of a Notice Inviting Proposals, Instructions to Proposers, Specifications, Terms and Conditions, Caltronics proposal, negotiated documents contain the entire agreement and understanding.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

By __________________________________
City Clerk

CITY OF SUNNYVALE ("CITY")

By __________________________________
City Manager

APPROVED AS TO FORM:

By __________________________________
City Attorney

CALTRONICS BUSINESS SYSTEMS

By __________________________________

Title and Date