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Conduits™ Service Agreement
Agreement No. 30003264

This "Agreement" is made effective on **July 1, 2013** ("Effective Date") by and between the City of Portland, a municipal corporation of the State of Oregon, and its successors or assigns (hereinafter referred to as "the CITY") and Net Assets Corporation (hereinafter referred to as "NETASSETS"), an Oregon corporation, by and through their duly authorized representatives. This Agreement may refer to the CITY and NETASSETS individually as a "Party" or jointly as the "Parties."

The Term of this Agreement shall be July 1, 2013, through June 30, 2018. The total not-to-exceed price under this Agreement shall be **$1,250,000.00**.

WHEREAS, the CITY and NETASSETS have a previous Agreement, No. 51731 with an effective date of February 11, 2002, under which the online web application known as Conduits™ has been made available by NETASSETS for the CITY's Use and to allow End-users access to search the CITY's Lien Docket Data; and

WHEREAS, the CITY and NETASSETS desire to continue this relationship under this new contract;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1.   Definitions:

1.1   "Conduits™" shall mean the software application, created by NETASSETS, used for publication of the CITY'S lien docket data via the World Wide Web, including web pages, graphics, proprietary data formats, and server components.

1.2   "End-user(s)" shall mean any individual or entity that is given access to Conduits™ as authorized by THE CITY, excluding the CITY.

1.3   "Intellectual Property Rights" shall mean any and all now known or hereafter known tangible and intangible, and in any media, means and forms of exploitation throughout the universe exploiting current or future technology yet to be developed, (a) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secret rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

1.4   "Search Transaction(s)" shall mean any search request initiated by an End-user for data related to CITY lien interest against an individual property.

1.5   "Use" shall mean the CITY's and End-users' right to access and operate Conduits™ online as set forth in this Agreement.

2.   Payment, Records, and Audit

2.1   Search Fees. The CITY agrees to pay NETASSETS a fee for each Search Transaction performed by an End-user. The Search Fee will be $10.00 per Search Transaction by an End-user. The search fee may be changed by amendment to this Agreement.

2.2   Payment. NETASSETS will invoice the CITY monthly at its address noted below:

> City of Portland
> City Auditor's Office
> 1221 SW 4th Ave., Rm 130
> Portland, OR 97204

or at such other address as the CITY may designate through the information entered into Conduits. Payment shall be issued by the CITY net thirty (30) calendar days from receipt and acceptance of a proper invoice from NETASSETS. NETASSETS invoices must contain NETASSETS's name and address; invoice number; date of invoice; Agreement number and date; description of Products and/or Services; quantity, unit price, (where appropriate), and total amount; CITY-required reporting, if any, and the title and phone number of the responsible official to whom payment is to be sent. .

2.3   Electronic Funds Transfers. The CITY makes payments to most vendors via electronic funds transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, NETASSETS shall execute the CITY's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment Authorization Agreement will authorize the CITY to deposit payment for services rendered or goods provided directly into specified NETASSETS accounts with specified financial institutions. All payments shall be made in United States currency.

2.4   Records Retention. NETASSETS shall maintain current financial records in accordance with professional accounting standards. NETASSETS agrees to maintain and retain supporting financial and Agreement-related documents during the term of this Agreement and for a period of three (3) years after the date of submission of the final billing or until the resolution of all audit questions or claims, whichever is longer. All financial records, supporting documents, statistical records and all other records pertinent to this Agreement shall be retained by NETASSETS for a minimum of three (3) years. NETASSETS shall

maintain records of lien searches and results for nine (9) months from the date of a search.

2.5   CITY Audits. The CITY, either directly or through a designated representative, may conduct financial and performance audits of the billings and services during the records retention period listed above. CITY audits shall be conducted in accordance with generally accepted auditing standards. NETASSETS shall provide the CITY's internal auditor or external auditor, and their designees with a copy of all reports, including any management letters issued as a result of the specified audits.

2.6   Access to Records. The CITY internal auditor or CITY external auditor, and their designees, shall be given the right, and the necessary access, to review the work papers of NETASSETS audits if the CITY deems it necessary. Copies of applicable records shall be made available upon request.

3.   Use of Conduits™

3.1   Prohibited Actions. The CITY shall not adopt, translate, copy or modify Conduits™, or disassemble, decompile, reverse engineer, reverse compile, cross compile or otherwise attempt to derive source code from Conduits™. The CITY shall not create internal, non-chargeable user accounts for use of Conduits™ for use by any person or entity outside of the CITY.

3.2   Transmission of Data. The CITY shall be solely responsible for the timely and accurate update and transmission of information or other data entered for access via the Conduits™ application system, and shall promptly report any problems encountered by CITY or End-users in operation of or access to the Conduits™ application. On a weekly basis, the CITY shall transmit all data to NETASSETS in two categories of fixed-field-length text files or another format as may be mutually agreed upon in writing. The first category of files contains legal information on property, and the second file contains selected information from each lien record. Each weekly file shall replace the file sent the previous week. The timing and format of transmissions may be changed by mutual agreement.

3.3   Ownership Rights. Ownership of all Intellectual Property Rights in Conduits™ will at all times remain the property of NETASSETS. The CITY agrees not to remove or obliterate any copyright, trademark or proprietary rights notices of NETASSETS or NETASSETS's suppliers from Conduits™. The City owns and has exclusive rights to all data entered into or displayed on Conduits™. The City owns and has exclusive rights to all data, graphics, and content provided to NETASSETS by the City for use on the Conduits™ website. The City agrees that NETASSETS can keep copies of the data, graphics, and content provided by the City in perpetuity, but ownership remains with the City in perpetuity.

4.   Term of Agreement/Termination

4.1   Term. Unless otherwise terminated as set forth herein, this agreement is effective from the Effective Date, until the date of expiration set forth on page one of this Agreement.

4.2   Termination by CITY. The CITY may terminate this Agreement:

   4.2.1   At any time, with or without cause, effective upon sixty (60) days' prior written notice to NETASSETS, or

   4.2.2   Thirty (30) calendar days after delivery of written notice to NETASSETS by the CITY that NETASSETS has breached any provision of this Agreement, if NETASSETS has not cured such breach within the thirty (30) calendar day period or such other period as agreed by the Parties in writing.

   4.2.3   Immediately or at any time if NETASSETS: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) calendar day period; or (d) has wound up or liquidated, voluntarily or otherwise.

   4.2.4   Immediately or at any time in the event that NETASSETS assigns its obligations to under this Agreement to any third party in a manner other than as set forth in Section 8.1, No Assignment.

4.3   Termination by NETASSETS. NETASSETS may terminate this Agreement:

   4.3.1   At any time, with or without cause, effective upon sixty (60) days' prior written notice to the CITY; or

   4.3.2   Immediately upon written notice to the CITY in the event of any breach of Sections 3.1 or 3.3; or

   4.3.3   Thirty (30) calendar days after delivery of written notice to the CITY that the CITY has breached any provision of this Agreement other than Sections 3.1 or 3.3, and has not cured such breach within the thirty (30) calendar day period or such other period as agreed by the Parties in writing.

4.4   Other Terminations.

   4.4.1   The CITY and NETASSETS, by mutual written agreement, may terminate this Agreement at any time.

   4.4.2   Either Party may terminate this Agreement due to a Force Majeure event as set forth in Section 8.4, Force Majeure.

4.5   Actions upon Termination.

4.5.1 CITY'S Actions. Upon termination of this Agreement, the CITY shall immediately discontinue use of Conduits™.

4.5.2. NETASSETS' Actions. Upon termination NETASSETS shall cease to make available on Conduits™, via the World Wide Web or otherwise, any data related to the CITY's use of Conduits. NETASSETS shall have no obligation to return or retransmit any data to the CITY, , except for records of lien searches performed by End Users during the contract period that supports NETASSET invoices and any lien searches contested by End-users for nine (9) months from the date of a search as set forth in Section 2.4. After termination of this Agreement, NETASSETS may retain and archive data, graphics, and content provided by the City solely for NETASSETS' internal business purposes.

5. Limitation of Liability and Indemnification

5.1   Exclusion of Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSSES OF OR DAMAGE TO REVENUES, PROFITS OR GOODWILL OR OTHER SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, RESULTING FROM ITS PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THE TERMS OF THIS AGREEMENT, OR RESULTING FROM THE FURNISHING, PERFORMANCE, OR USE OR LOSS OF ANY SOFTWARE OR OTHER MATERIALS DELIVERED TO THE CITY HEREUNDER, INCLUDING WITHOUT LIMITATION ANY INTERRUPTION OF BUSINESS, WHETHER RESULTING FROM BREACH OF AGREEMENT OR BREACH OF WARRANTY OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.2   Maximum Monetary Liability for Breach of Agreement. Notwithstanding anything herein to the contrary, the maximum aggregate amount of money damages for which NETASSETS may be liable to the CITY under this Agreement, resulting from any cause whatsoever, shall be limited to the amounts actually paid by the CITY to NETASSETS under this Agreement during the ninety (90) calendar days immediately preceding the date NETASSETS is notified in writing of a claim by the CITY for breach of agreement.

5.3   Third Party Providers. the CITY acknowledges that in connection with Conduits™, information will be transmitted over local exchange, interexchange and internet backbone carrier lines and through routers, switches and other devices owned, maintained and serviced by third party local exchange and long distance carriers, utilities, internet service providers and others, all of which are beyond the control of NETASSETS. Accordingly, NETASSETS assumes no liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with use of Conduits™.

5.4   Indemnification with Respect to End-users. NETASSETS has no contractual relationship or other legal duty to End-user(s) and it assumes no liability with respect to the use of Conduits™ by End-user(s).

5.5   Indemnification. NETASSETS shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature (including all attorneys' fees and costs), resulting from or arising out of the activities, errors or omissions of NETASSETS or its officers, employees, subcontractors, or agents, including intentional acts, under this Agreement.

5.6   Infringement Indemnification. NETASSETS shall, at its own expense, hold harmless, indemnify, and defend the CITY, its directors, officers, employees, agents and Affiliates from and against any and all claims, demands, damages, liabilities, losses, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged violation or infringement by Conduits™of any proprietary right of any person whosoever, including any copyright, patent, trade name, trademark, or misappropriation of the trade secrets of any third party. The CITY agrees to notify NETASSETS of the claim and gives NETASSETS sole control of the defense of the claim and negotiations for its settlement or compromise. No settlement that prevents the CITY's continuing use of Conduits™ shall be made without the CITY's prior written consent. If any third party claim causes the CITY's use of Conduits™ to be endangered, restricted or disrupted, NETASSETS shall (i) cause Conduits™ to be replaced, at no additional charge to the CITY, with a compatible functionally equivalent and non-infringing product; (ii) cause Conduits™ to be modified to avoid the infringement; (iii) obtain a license for the CITY to continue using Conduits™ and pay any additional fee required for such license; or (iv) if, after NETASSETS uses all due diligence or standard of care none of the foregoing alternatives is possible, NETASSETS will terminate this Agreement and reimburse the CITY for any direct damages documented by the CITY for the infringement.

6.   **Support and Maintenance**

6.1   General Support.

      6.1.1 NETASSETS shall provide to the CITY the maintenance and support services as set forth in Exhibit A to this Amendment: Service Level.

      6.1.2 NETASSETS shall provide the CITY with an administrative user name and password. Conduits™ shall have the capacity for the CITY to create queries and generate monthly reports of detailed information on search activity by each End User.

6.2   End-user Support. NETASSETS agrees to provide all initial support to End-users of Conduits when an End-user contacts NETASSETS directly by telephone or e-mail. Any End-user issues relating to CITY policy or displayed lien data that cannot be dealt with by NETASSETS will be sent to the CITY by e-mail within twenty-four (24) hours.

7. Insurance

7.1   Insurance and Bonding. This Agreement shall not be executed until all insurance requirements listed below have been met and certificates have been approved by the CITY Attorney and filed with the Auditor. All required insurance must be issued by companies or financial institutions that are financially rated A or better and duly licensed, admitted and authorized to do business in the State of Oregon.

7.2   Insurance Certificate. As evidence of the required insurance coverage, NETASSETS shall furnish acceptable insurance certificates to the CITY prior to or with the return of the signed Agreement. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance. If the insurance is canceled or terminated prior to completion of this Agreement, NETASSETS shall provide a new policy with the same terms. NETASSETS agrees to maintain continuous, uninterrupted coverage for the duration of this Agreement. Failure to maintain insurance as required by this Agreement may be cause for immediate termination of this Agreement by the CITY. NETASSETS's insurance will cover damages excluded from any limitation of liability to the extent of its policy limits indicated herein.

7.3   Additional Insureds. The coverage shall apply as to claims between insureds on the policy. The insurance shall be without prejudice to other coverage. For liability coverage, the insurance certificate shall name as additional insureds "the City of Portland, Oregon, and its officers, agents and employees." Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

7.4   Insurance Costs. NETASSETS shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

7.5   Required Coverage is as follows:

7.5.1   Public Liability and Property Damage. NETASSETS shall provide and maintain public liability and property damage insurance in the minimum amount of $1,000,000.00 (one million U.S. dollars) per occurrence that protects NETASSETS and the CITY and its officers, agents and employees from any and all claims, demands, actions and suits for damage to property or personal injury arising from NETASSETS's work under this Agreement.

7.5.2   Workers' Compensation. NETASSETS shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656. NETASSETS shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City Auditor for the entire period during which work is performed under this Agreement.

7.5.3 Technology Errors and Omissions; Information Security & Privacy Liability. NETASSETS shall maintain liability insurance covering acts, errors or omissions arising out of the performance or failure to perform professional services related to the Services under this Agreement. The coverage shall be placed with an insurer with an AM Best Rating of A or better and shall include the following coverage:

Technology Products & Services E&O - Information Security & Privacy Liability for Service Provided to Others.

Such insurance shall cover any and all errors, omissions and/or negligent acts in the delivery of services under this Agreement. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) and infringement of intellectual property, such as copyrights, trademarks, service marks and trade dress.

Such insurance shall include limits of coverage of the local currency equivalent of not less than $1,000,000.00 (one million U.S. dollars) and shall remain in effect for not less than three (3) years following the date of termination or expiration of this Agreement. Evidence of coverage must be sent to the CITY for three years following termination or expiration of this Agreement.

8. Miscellaneous Provisions

8.1 No Assignment. Neither Party shall assign, transfer, subcontract, or delegate all or any part of this Agreement, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld.

8.2 Severability. If any term or provision of this Agreement shall be found to be void, invalid, illegal or otherwise not fully enforceable, then, notwithstanding, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected, and the remainder of this Agreement shall continue to be binding and of full force and effect. This Agreement shall be binding upon and inure to the benefit of the CITY and its successors and assigns.

8.3 Waiver. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach of this Agreement. The failure of either Party to insist upon any of its rights under this Agreement upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.

8.4 Modification. No purchase order, other ordering document or any other document which purports to modify or supplement this Agreement or any attachment hereto shall add to or vary the terms and conditions of this Agreement, unless executed by both NETASSETS and the CITY

and expressly identified therein as an amendment to this Agreement. No provision of this Agreement may be amended unless such amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for amendment of this Agreement as described in this section are not satisfied in full, then such amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect.

8.4   Force Majeure. Neither Party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting directly or indirectly from acts of God, or any causes beyond the reasonable control of such Party. If delay in the provision of access to Conduits™ due to a Force Majeure Event is longer than thirty (30) calendar days, the CITY shall have the right to terminate this Agreement.

8.5   Governing Law, Venue, and Jurisdiction. The Parties agree that this Agreement shall be governed and construed by the laws of the State of Oregon. The Parties hereby submit to the jurisdiction and venue of the Circuit Court of the State of Oregon for Multnomah County or, if appropriate, the federal courts of the District of Oregon.

8.6   Attorney Fees. In the event action is instituted to enforce any term of this Agreement, the prevailing Party shall recover from the losing Party reasonable attorney fees incurred in such action as set by the trial court and, in the event of appeal, as set by the appellate courts.

8.7   Notices. Any notice or other communication required or permitted to be given under this Agreement will be in writing, will be delivered personally or by mail or express delivery, postage prepaid, and will be deemed given upon actual delivery or, if mailed by registered or certified mail, on the third business day following deposit in the mails, addressed to the appropriate Party at the address first set forth above. Either Party may, by written notice to the other Party, designate a different address for purposes of this Agreement.

8.8   Notice of Change in Ownership and Financial Condition. NETASSETS must maintain a financial condition commensurate with the requirements of this Agreement. If, during the term of this Agreement, NETASSETS experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Agreement, or changes the ownership or control, NETASSETS shall immediately notify the CITY in writing. Failure to notify the CITY of such a change in financial condition or change in ownership or control is sufficient grounds for terminating this Agreement.

8.9   Disclosure of Litigation or Financial Condition. NETASSETS warrants and represents that there are no suits, actions or other proceedings – pending, or threatened – in any judicial or quasi-judicial forum that will or may adversely affect NETASSETS's ability to fulfill its obligations under this Agreement. NETASSETS further warrants that it will immediately notify the CITY if, during the term of this Agreement or any extension of this Agreement, NETASSETS becomes aware of any lawsuits, actions or proceedings – pending or threatened – in any judicial or quasi-judicial forum that involve NETASSETS or any Subcontractor and that will or may adversely affect NETASSETS's ability to fulfill its obligations under this Agreement or extension of this Agreement.

8.10   News Releases and Public Announcements. NETASSETS shall not use the CITY seal or other representations of the CITY in its external advertising, marketing, website, or other promotional efforts, nor shall NETASSETS issue any news release or public announcements pertaining to this Agreement or the Project without the express written approval of the CITY. Such approval may be withheld in the CITY's sole discretion.

8.11   This Agreement, together with all Exhibits, Attachments and those documents which by their reference have been incorporated herein, constitutes the entire Agreement between the City and NETASSETS and supersedes all proposals, oral and written agreements, between the Parties on this subject.

8.12   The Parties agree that they may execute this Agreement and any Amendments to this Agreement, by electronic means, including the use of electronic signatures.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

CITY OF PORTLAND   **NETASSETS CORPORATION**

Chief Procurement Officer   Date   Authorized Signature   Date

Christine Moody
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Printed Name   Printed Name and Title

Approved as to Form   Address: _____

                                                             _____
                                                             Phone: _____
                                                             Fax: _____

Office of City Attorney   Date

Exhibit A: Service Level Agreement
No. 30003264

1. Conduits™ will be available 99.9% of the time during the CITY's normal business hours of 7:00 a.m. to 6:00 p.m. Pacific Time, Monday thru Friday. Any individual outage in excess of 20 minutes or 4 outages exceeding 5 minutes each will constitute a violation.

2. 80% of Conduits™ transactions will exhibit 10 seconds or less response time, defined as the interval from the time the server receives a transaction request to the time a response is generated and sent back. Missing the metric for business transactions measured over any business week will constitute a violation.

3. Net Assets will respond to service incidents that affect multiple End-users within 24 hours of a reported problem, resolve the problem within 48 hours of notification of a problem by an End-user or the CITY, and provide update status every 12 hours to the notifying party. Net Assets will notify the City by phone or email when a service incident is encountered that affects multiple End-users. Missing any of these metrics on an incident will constitute a violation.

4. Net Assets will respond to service incidents that affect individual End-users within 24 hours of a reported problem, resolve the problem within 72 hours of notification, by an End-user or the City, and provide update status every 12 hours to the notifying party. Missing any of these metrics on an incident will constitute a violation.

5. Net Assets will respond to non-critical inquiries within 48 hours and deliver an answer within 72 hours. Missing any of these metrics on an incident will constitute a violation.