

**SERIAL 05189 RFP ELECTRONIC DATA BASE PRODUCTS AND SERVICES  
(MARICOPA COUNTY LIBRARY DISTRICT BRANCHES ONLY)  
NewsBank Contract**

**DATE OF LAST REVISION: May 26, 2016**

**CONTRACT END DATE: May 31, 2021**

**CONTRACT PERIOD THROUGH MAY 31, ~~2016~~ 2021**

**TO: All Departments**

**FROM: Office of Procurement Services**

**SUBJECT: Contract for ELECTRONIC DATA BASE PRODUCTS AND SERVICES  
(MARICOPA COUNTY LIBRARY DISTRICT BRANCHES ONLY)**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **May 17, 2006 (Eff. 07/01/07)**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

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Wes Baysinger, Chief Procurement Officer  
**Office of Procurement Services**

**BW/at**  
Attach

Copy to: **Office of Procurement Services**  
John Werbach, Library District



## CONTRACT PURSUANT TO RFP

SERIAL 05189-RFP

This Contract is entered into this 11<sup>th</sup> day of December, 2008 by and between Maricopa County Library District (“District”), a political subdivision of the State of Arizona, and NewsBank, Inc. (“Contractor”) for the purchase of Electronic Data Base Products and Services.

### 1.0 TERM:

- 1.1 The term of this Contract shall remain in full force and effect through the 31<sup>st</sup> day of May, ~~2016~~, **2021** so long as Contractor continues to offer the products with substantially the same format and content.
- 1.2 The District may, at its option and with the agreement of the Contractor, extend the period of this Contract for additional terms up to a maximum of fifteen (15) years. The District shall notify the Contractor in writing of its intent to extend the Contract period at least thirty (30) calendar days prior to the expiration of the original contract period, or any additional term thereafter. ~~The District may, at its option and with the agreement of the Contractor, extend the Contract period at least thirty (30) calendar days prior to the expiration of the original contract period, or any additional term thereafter.~~

### 2.0 PAYMENT:

- 2.1 As consideration for performance of the duties described herein, District/Customer (The term “Customer” as used throughout this Contract shall have the same meaning as defined in the NewBank License Agreement under Exhibit C) shall pay Contractor the sum(s) sated in Exhibit A for each order received under this Contract on an annual basis for each 12-month subscription period within 30 days from the date proper invoice is received by District/Customer. Product pricing, after the initial 12-month term, is subject to possible annual increases as determined by Contractor and is subject to the mutual consent of both parties. Contractor reserves the right to renegotiate all renewal pricing offered under this Contract if Contractor experiences significant cost increases from the publishers.
- 2.2 Payment shall be made after the District’s/Customer’s receipt of a properly completed invoice. Invoices shall follow the billing instructions contained in the account set-up.

### 3.0 DUTIES:

The Contractor and District/Customer shall perform duties stated in Exhibits “B and C.”

### 4.0 TERMS & CONDITIONS:

#### 4.1 INDEMNIFICATION:

- 4.1.1 To the fullest extent permitted by law, each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Contract, provided

that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the right to (a) receive prompt notice of all claims in writing, (b) control the defense of any such claim through counsel of its own selection, and (c) to settle the claim at its own discretion. The indemnified party shall cooperate in such defense and settlement and may participate in such defense, at its own expense, after the indemnifying party assumes the control thereof. This indemnity provision shall survive the termination of this Contract.

4.1.2 The scope of this indemnification does not extend to the negligence of either party. Additionally, Contractor shall have no liability to indemnify and hold the other harmless if the cause of such liability relates, in whole or in part, to a breach of the NewsBank License Agreement by Customer (As defined in the NewsBank License Agreement).

4.2 WARRANTY AND INDEMNIFICATION – COPYRIGHT:

4.2.1 Contractor warrants and represents that it has the full right, power and authority to enter into this Contract and to grant the rights granted herein; that it has not previously exclusively licensed the interactive multimedia rights to the Material to any third party; and that District's/Customer's inclusion and use of the Material as permitted in the Contract and Contractor's Licensing/Use Agreement (as negotiated) will not violate any rights of any kind or nature whatsoever of any third party. Contractor shall indemnify and hold harmless District/Customer, its successors, assigns and licensees, and the respective officers, directors, agents and employees, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fee), arising out of or in any way connected with any breach of any representation or warranty made by Contractor herein.

4.2.2 Section 4.2.1 is subject to Customer's (As defined in the NewsBank License Agreement) compliance with the terms and conditions of the NewsBank License Agreement. Contractor shall have no liability under Section 4.2.1 if the cause of such liability relates, in whole or in part, to a breach of the NewsBank License Agreement by Customer (As defined in the NewsBank License Agreement).

4.3 WARRANTY AND INDEMNIFICATION – USE OF INTERNET:

4.3.1 Contractor shall indemnify and hold District/Customer harmless from and against any third-party claims, liabilities, damages and expenses, including, without limitation, reasonable attorney's fees relating to or arising out of Contractor's breach of any of its material obligations under this Contract. Contractor shall not be liable for any third party claims based upon or arising from District's/Customer's negligent operation of the System or for any indirect, incidental or consequential damages arising from the use of or inability to use the System attributable to District's/Customer's negligence, provided that Contractor is not also negligent.

4.3.2 Section 4.3.1 is subject to Customer's (As defined in the NewsBank License Agreement) compliance with the terms and conditions of the NewsBank License Agreement. Contractor shall have no liability under Section 4.3.1 if the cause of such liability relates, in whole or in part, to a breach of the NewsBank License Agreement by Customer (As defined in the NewsBank License Agreement).

4.4 PROCUREMENT CARD ORDERING CAPABILITY:

District/Customer may determine, with concurrence of Contractor, to pay via purchase order or through use of a MasterCard Procurement Card as best meets the needs of the District.

4.5 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For District/Customer:

**Office of Procurement Services**

Attn: Chief Procurement Officer  
320 West Lincoln Street  
Phoenix, Arizona 85003

For Contractor:

NewsBank, Inc.

Attn: ~~Dede Montenegro~~ **Scott Sawyer**

~~4501 Tamiami Trail North, Suite 316~~ **5801 Pelican Bay Boulevard Ste. #600**

~~Naples, Florida 34103~~ **34108**

Telephone: 800.762.8182

Facsimile: 239.263.3004

Email: [dmontenegro@newsbank.com](mailto:dmontenegro@newsbank.com) [ssawyer@newsbank.com](mailto:ssawyer@newsbank.com)

4.6 REQUIREMENTS CONTRACT:

- 4.6.1 Contractor signifies its understanding and agreement by signing this document that this Contract is a requirements contract. This Contract does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when District/Customer identifies a need and issues a purchase order or a written notice to proceed.
- 4.6.2 District/Customer reserves the right to cancel purchase orders or notice to proceed within a reasonable period of time after issuance. Should a purchase order or notice to proceed be canceled, the District/Customer agrees to reimburse the Contractor for actual and documented costs incurred by the Contractor. The District/Customer will not reimburse the Contractor for any avoidable costs incurred after receipt of cancellation, or for lost profits, or shipment of product or performance of services prior to issuance of a purchase order or notice to proceed. Notwithstanding the foregoing, Contractor shall not be required to issue any refunds or credits for any annual subscription fee(s) paid to Contractor, except for in the event of termination due to a material breach by Contractor that is not cured within a minimum curing period of 30 days.
- 4.6.3 Contractor agrees to accept oral cancellation of purchase orders. Contractor shall reserve the right to confirm any such cancellation with written acknowledgement back to District/Customer.

4.7 PRICE ADJUSTMENTS:

Contractor may update pricing on an annual basis to account for inflation, changes in publisher royalty rates, changes in content, etc. Pricing for subscriptions purchased in 2008 is provided under Exhibit A. Product subscription pricing, for 2009 and beyond, is subject to annual increases as determined by Contractor and is subject to the mutual consent of both parties. Consent will be deemed given by District/Customer and Contractor when Contractor submits a notice, invoice or quote for such product subscription pricing to District/Customer and District/Customer issues a purchase order or payment for same.

4.8 TERMINATION FOR CONVENIENCE:

The District reserves the right to terminate the Contract in whole or in part at any time, when in the best interests of the District without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the District. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. Notwithstanding the foregoing, Contractor shall not be required to issue any refunds or credits for any annual subscription fee(s) paid to Contractor, except for in the event of termination due to a material breach by Contractor that is not cured within a minimum curing period of 30 days.

**4.9 TERMINATION FOR DEFAULT:**

- 4.9.1 In the event that any party believes that the other party materially has breached any obligations under this Contract, such party shall so notify the breaching party in writing. The breaching party shall have thirty (30) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the thirty (30) day period, the non-breaching party shall have the right to terminate the Contract without further notice.
- 4.9.2 Contractor shall not be required to issue any refunds or credits for any annual subscription fee(s) paid to Contractor, except for in the event of termination due to a material breach by Contractor that is not cured within a minimum curing period of 30 days.
- 4.9.3 The parties shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

**4.10 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:**

Notice is given that pursuant to A.R.S. §38-511 the District may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the District is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the District may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the District from any other party to the contract arising as the result of the Contract.

**4.11 OFFSET FOR DAMAGES:**

In addition to all other remedies at law or equity, the District may offset from any money due to the Contractor any amounts Contractor owes to the District for damages resulting from breach or deficiencies in performance under this contract.

**4.12 ADDITIONS/DELETIONS OF SERVICE:**

The District reserves the right to add and/or delete products and/or services provided under this Contract. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the District.

**4.13 SUBCONTRACTING:**

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the District, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Contract Serial Number and identify the job project. Notwithstanding the preceding, Contractor may make an assignment in connection with a transfer of all or substantially all of its business assets.

**4.14 AMENDMENTS:**

All amendments to this Contract must be in writing and signed by both parties.

**4.15 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:**

- 4.15.1 **In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files,**

**and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.**

4.15.2 **If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.**

4.15.3 **If at any time it is reasonably determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at the reasonable sole discretion of the County, and may include either an adjustment to future claim submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.**

4.16 ALTERNATIVE DISPUTE RESOLUTION:

4.16.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure and the venue shall be in the state of the party not requesting arbitration (i.e. in the home state of the party against whom that proceeding is instituted). Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

4.16.1.1 Render a decision;

4.16.1.2 Notify the parties that the exhibits are available for retrieval; and

4.16.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

4.16.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

4.16.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

4.16.4 Notwithstanding anything in this Section 4.17 or in the Agreement, Contractor shall be permitted, in its sole discretion, to seek preliminary injunctive relief in a court of law and/or to cease performance of the Agreement during any such arbitration period.

4.17 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

4.18 RIGHTS IN DATA:

The District shall have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law and subject to the terms and conditions of the NewsBank License Agreement. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder. Upon expiration or termination of this Contract, District will not retain any rights to the database(s) included in this Contract.

4.19 REFUNDS:

Contractor shall not be required to issue any refunds or credits for any annual subscription fees(s) paid to Contractor, except for in the event of termination due to a material breach by Contractor that is not cured within a minimum curing period of 30 days.

4.20 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

4.21 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in the home state of the party against whom that suit and/or proceeding is instituted.

4.22 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, the terms of this Contract shall prevail, except the Contractor's license agreement shall prevail where it pertains to use of Contractor's product.

4.23 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract.

4.23.1 Exhibit A, Pricing.

4.23.2 Exhibit B, Scope of Work

4.23.3 Exhibit C, NewsBank License Agreement.

4.24 **VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:**

4.24.1 **By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A) as applicable. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the**

Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

- 4.24.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 1.15 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified at the County's sole cost. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor

~~4.25 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:~~

- ~~4.25.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.~~

- ~~4.25.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.~~

4.26 PUBLIC RECORDS:

All Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential, the specific information and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

4.27 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

- 4.27.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

- 4.27.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

4.27.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

4.27.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

4.27.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

4.27.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

4.27.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

4.28 **INFLUENCE:**

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.

An attempt to influence includes, but is not limited to:

4.28.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,

4.28.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

4.29 **STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE)**

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you do not want to grant such access to a member of \$AVE, please so state in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

NewsBank's Response: NewsBank is not participating in \$AVE.

4.30 **INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)**

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please

**indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.**

**NewsBank's Response: NewsBank is not participating. As noted in Exhibit A, the pricing submitted is only available to the accounts as listed therein.**

**IN WITNESS WHEREOF**, this Contract is executed on the date set forth above.

**CONTRACTOR**

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
Scott Sawyer, Director of Contracts  
PRINTED NAME AND TITLE

\_\_\_\_\_  
4501 Tamiami Trail North, Suite 316  
Naples, FL 34134  
ADDRESS

\_\_\_\_\_  
DATE

**MARICOPA COUNTY LIBRARY DISTRICT**

\_\_\_\_\_  
DIRECTOR, MATERIALS MANAGEMENT

\_\_\_\_\_  
DATE

**APPROVED AS TO FORM:**

\_\_\_\_\_  
DEPUTY MARICOPA COUNTY ATTORNEY

\_\_\_\_\_  
DATE

**ATTACHMENT A  
PRICING**

PRICING SHEET: NIGP CODE 95635

CONTRACTOR'S NAME:	<u>NEWSBANK, INC</u>
COUNTY VENDOR NUMBER :	<u>W000001911X</u>
ADDRESS:	<u>5801 PELICAN BAY BOULEVARD STE. 600</u> <u>4501 TAMiami TRAIL NORTH, SUITE 316</u> <u>NAPLES, FLORIDA 34103 34108</u>
P.O. ADDRESS:	<u>N/A</u>
TELEPHONE NUMBER:	<u>800.762.8182</u>
FACSIMILE NUMBER:	<u>239.263.3004</u>
WEB SITE:	<u>www.newsbank.com</u>
CONTACT (REPRESENTATIVE):	<u>DEDE MONTENEGRO SCOTT SAWYER</u> <u>SSAWYER@NEWSBANK.COM</u>
REPRESENTATIVE'S E-MAIL ADDRESS:	<u>dmontenegro@newsbank.com</u>

THERE WILL NOT BE ANY M/WBE PARTICIPATION.

CONTRACTOR WILL ACCEPT PROCUREMENT CARD, BUT NO REBATE FOR USE.

CONTRACTOR HAS INTERNET CAPABILITY.

OTHER GOVERNMENT ENTITIES DO NOT HAVE ACCESS TO THIS CONTRACT.

CONTRACTOR'S PROMPT PAYMENT TERMS ARE NET 30 DAYS.

~~1.0 MARICOPA COUNTY ONLY~~

<u>ITEM DESCRIPTION</u>	<u>PRICES BASED ON POPULATION</u>		<u>% OFF LIST</u>
	<u>List Price</u>	<u>Cost</u>	
<del>1.1 America's Newspapers</del>	<del>\$225,000.00 *</del>	<del>\$225,000.00 *</del>	<del>0%</del>
<del>[* Covers access to America's Newspapers K+ including any local titles that were required to be purchased in order to have access to America's Newspapers.]</del>			

~~2.0 STATEWIDE (INCLUDING MARICOPA COUNTY)~~

<u>ITEM DESCRIPTION</u>	<u>PRICES BASED ON POPULATION</u>		<u>% OFF LIST</u>
	<u>List Price</u>	<u>Cost</u>	
<del>2.1 America's Newspapers</del>	<del>\$439,000.00 *</del>	<del>\$439,000.00 *</del>	<del>0%</del>
<del>[* Covers access to America's Newspapers K+ including any local titles that were required to be purchased in order to have access to America's Newspapers.]</del>			
<del>2.2 Arizona State Package</del>	<del>\$395,000.00 **</del>	<del>\$395,000.00 *</del>	<del>0%</del>
<del>[** Includes The Arizona Daily Star, The Arizona Daily Sun, The Arizona Republic, The Sun, Tucson Citizen and 10 national newspapers to be chosen from the America's Newspapers source list.]</del>			

3.0 MARICOPA COUNTY LIBRARY DISTRICT BRANCHES ONLY

ITEM DESCRIPTION	PRICES BASED ON POPULATION		% OFF LIST
	List Price	Cost	
3.1 America's Newspapers	\$17,550.17 *	\$17,550.17	0%
[*Above price valid only with renewal of <i>The Arizona Republic</i> , see prices below.]			
3.1.1 Arizona Republic	\$16,686.00	\$16,686.00	0%
3.1.2 New York Times (NewsStand)	\$4,620.00	\$4,620.00	0%
3.1.3 Obituaries and Death Notices	\$7,118.40	\$7,118.40	0%

EFFECTIVE 06/01/16

Ac #	Account Name	Account City	Account County	America's News (Package P)	America's Obituaries & Death Notices with purchase of America's News	America's Obituaries & Death Notices
13364	Avondale Public Library	Avondale	Maricopa	\$1,767	\$2,469	\$4,320
17504	Buckeye Public Library	Buckeye	Maricopa	\$665	\$929	\$1,625
4226	Mesa Public Library	Mesa	Maricopa	\$10,367	\$14,480	\$25,340
8674	Peoria Public Library	Peoria	Maricopa	\$4,172	\$5,827	\$10,197
qed01663602	Salt River Tribal Library	Scottsdale	Maricopa	\$480	\$670	\$1,173
4172	Scottsdale Public Library	Scottsdale	Maricopa	\$8,773	\$12,253	\$21,444
4272	Tempe Public Library	Tempe	Maricopa	\$6,728	\$9,398	\$16,446
JJK52	Tolleson Public Library	Tolleson	Maricopa	\$438	\$611	\$1,070
JJK17	Youngtown Public Library	Youngtown	Maricopa	\$286	\$352	\$615
16778	Desert Foothills Library	Cave Creek	Maricopa	\$1,340	\$1,714	\$2,999
6259	Chandler Public Library	Chandler	Maricopa	\$6,422	\$10,804	\$18,907
9782	Apache Junction Public Library	Apache Junction	Maricopa	\$3,355	\$2,779	\$4,863
BLK50	Sun City Library	Sun City	Maricopa	\$3,518	\$2,827	\$4,947
4235	Glendale Public Library	Glendale	Maricopa	\$9,284	\$11,428	\$19,999
9934	Maricopa County Library District	Phoenix	Maricopa	\$14,231	\$15,659	\$27,403
2211	Phoenix Public Library	Phoenix	Maricopa	\$24,104	\$27,836	\$48,713
<b>Total</b>				<b>\$95,930</b>	<b>\$120,036</b>	<b>\$210,061</b>

**Product Details:**

America's News: See <http://www.newsbank.com/libraries/public/solutions/us-national/americas-news>

America's Obituaries & Death Notices: See <http://www.newsbank.com/libraries/public/solutions/genealogy/americas-obituaries-death-notices>

**Note:** The above pricing is only available to the accounts as listed above and is for a 12-Month subscription that starts in 2016. The above pricing is subject to an annual increase as determined by NewsBank. Please contact NewsBank for updated pricing annually.

**EXHIBIT B**

**SCOPE OF WORK**

**NewsBank, Inc.**

1.0 INTENT:

- 1.1 This Contract is for electronic products and services.
- 1.2 New contractors may be added to this Contract for these services during the term of the Contract as appropriate in order to meet the continuing needs of the District/Customer.

2.0 SCOPE OF SERVICES:

2.1 SERVICE DELIVERY:

2.1.1 Contractor will deliver and the Customer (Defined as any institution that purchases a subscription under this Contract) will use the Product (As defined in the NewsBank License Agreement) in accordance with the terms and condition of the NewsBank License Agreement. The NewsBank License Agreement is attached hereto and incorporated herein as Exhibit C. The District warrants and represents that it has the agreement of all Customers to enter into this Contract, and each Customer accepts and agrees to the terms and conditions of this Contract, including the NewsBank License Agreement, as if it has itself executed the same.

2.1.2 Please note the following additional licensing terms with regard to use of the products offered under this Contract:

2.1.2.1 Number of Concurrent/Simultaneous Users: Unlimited

2.1.2.2 Number of Downloads: Unlimited

2.1.2.3 Remote Use: Remote use is permitted for all newspaper titles for which the publisher has granted such use. Remote Access will be by referring URL in accordance with the attached NewsBank License Agreement.

2.2 TAX:

2.2.1 The District is exempt from any out-of-state tax on the purchase of books, electronic information and audio/visual materials. Tax Exempt numbers are not issued by the County. A copy of the Arizona Law providing this exemption will be provided at the time of account set-up if requested by Contractor.

2.2.2 An in-state contractor may only charge the city sales tax for the city within which the Contractor is located. The exception to this is where the Arizona city has also exempted these taxes.

2.2.3 No tax on labor services:

## EXHIBIT C LICENSE AGREEMENT



### NewsBank License Agreement (Exhibit C)

#### 1. Parties, Acceptance, Master Terms for all Products

This License Agreement ("Agreement") is between the institution named below, as licensee ("Customer") and NewsBank, inc., a Delaware corporation having its principal place of business at 4501 Tamiami Trail North, Suite 316, Naples, Florida 34103 ("NewsBank") as licensor. This Agreement shall become effective the earlier of (a) when NewsBank receives a copy of this Agreement signed by Customer, or (b) when Customer accepts delivery of any NewsBank Product (the "Effective Date"). For purposes of this Agreement, delivery includes either shipment of physical goods or access by electronic means.

The terms of this Agreement shall apply to all NewsBank database products subscribed to by Customer from time to time (the "Product" or "Products"). For each Product subscribed to by Customer, there will be a corresponding NewsBank order confirmation, invoice, quotation, purchase agreement or other similar document (a "Subscription Form") setting forth certain additional terms specific to that Product (identification of Product, price, payment terms, whether remote use is authorized, number of concurrent users or number of downloads allowed, subscription period, etc.), but the terms of this Agreement shall continue to apply. In the event of conflict between the terms of any Subscription Form and the terms of this Agreement, this Agreement shall govern. The terms of any document issued by Customer inconsistent with the terms of this Agreement are rejected, unless expressly agreed to by NewsBank in writing.

#### 2. Products

The Products subject to this Agreement consists of (1) the NewsBank database(s) subscribed to by Customer from time to time including any trial access and (2) software provided by NewsBank to Customer to search for and retrieve data from the database(s). NewsBank may provide the Products via the Internet or remote online access through a proprietary network and/or such other media as may be available and responsibly acceptable to Customer and NewsBank.

#### 3. License

- a. NewsBank grants to Customer and to Customers' Authorized Users, defined herein as limited to library staff, faculty, and patrons/students of the Customer's institution or organization as well as other users of the Customer's on-site computer facilities (walk-in users), on the terms set forth in this Agreement and any Subscription Form(s), a non-exclusive, non-assignable, concurrent-use license to use each Product at the licensed site(s) identified in the Subscription Form applicable to such Product (the "Licensed Site") solely for non-commercial academic, educational and research purposes. Customer understands and acknowledges that all use is subject, after reasonable notice, to restrictions and disclaimers that NewsBank or its suppliers publish, from time to time.
- b. Customer and Customers' Authorized Users are licensed to use the Products solely for access, search, retrieval, viewing, printing, and downloading for non-commercial academic, educational and research purposes. Printing and downloading are limited to insubstantial portions of the data, for temporary storage. All other use is prohibited. The removal or altering of any copyright or other notices within the Product or using any

portion of Product for purposes of manual, automated or other machine-assisted indexing or classification of other publications is prohibited. The transmission of Content, as defined under Section 5a, (including, but not limited to, by way of e-mail, facsimile or other electronic means) is prohibited unless such transmission is between Authorized Users. Except as expressly provided for in this Agreement, you may not modify, publish, transmit (including, but not limited to, by way of e-mail, facsimile or other electronic means), display, participate in the transfer or sale of, create derivative works based on, or in any other way exploit any of the Content, in whole or in part without the prior written consent of NewsBank and (if applicable) its respective content providers.

- c. Customer will take reasonable steps to ensure that only Customer's Authorized Users use the Products, and that Customer's Authorized Users do so in accordance with this Agreement.
- d. Portions of this Agreement relevant to Authorized Users may appear in the form of "Terms and Conditions of Use" on or in the Products.

#### 4. Express Restrictions

- a. On-Site Use: Customer may make each Product available for authorized use at the Licensed Site over a computer network to the number of concurrent users or number of downloads listed in the Subscription Form for the relevant Product.
- b. Remote Use: Customer, if granted a remote-use license defined in the Subscription Form for the relevant Product, may make such Products available to Customer's Authorized Users who are not at the Licensed Site; provided that such availability is limited to non-commercial academic, educational and research use by the number of concurrent users or number of downloads set forth in the Subscription Form(s) for the relevant Product(s), and is further subject to the following conditions:
  - i. Authorized Users must access the Products only through the server or network located at the Licensed Site and Customer's server or network must have adequate security to allow access to the remote access account setup by NewsBank only by Authorized Users.
  - OR**
  - ii. Users must access the Products only through user authentication programs supplied to Customer by NewsBank.

In no event may Remote Access be used to avoid the need for another school, library, or other potential similar customer from subscribing to a Product. If NewsBank reasonably determines that Remote Access activities hereunder may be impairing NewsBank's ability to make sales of the Product or other NewsBank products to other customers, NewsBank may require such Remote Access activity to be modified or terminated, either entirely or with respect to the Customer's Authorized User(s) whose activity is impairing NewsBank's business.

- c. Without limiting any other restriction on use set forth in this Agreement, the following limitations apply to make sure that all use is for non-commercial academic, educational and research purposes and will not impair NewsBank's ability to market its products to additional customers:

- i. In the event Customer is a non-school library, any permitted remote access is limited to use by individuals through personal computers at home for their own convenience and specifically excludes patrons who access the Products through a school, school library, corporation, business or other organization. Customer is specifically prohibited from granting any remote access to any school, school library, corporation, business or other organization.
- ii. Customer shall not provide any material from any Product to fulfill an interlibrary loan request from another library or organization.

**5. Intellectual Property**

- a. Customer acknowledges that the Products consist of materials copyrighted by third parties and containing trademarks owned by third parties, and that NewsBank owns the copyright of the compilations of these materials. The Product contains copyrighted materials, trademarks and other proprietary information owned by NewsBank and its content providers, including without limitation, compilations, text, software, photographs, video, graphics, trademarks, service marks, logos, designs, and music and sound (the "Content"), and such Content is protected under U.S. copyright laws, U.S. trademark laws, and other intellectual property laws as well as international copyright and trademark laws and treaties. Customer acknowledges that its use of the Products, including use by Customer's Authorized Users, must not infringe the rights of NewsBank or of any third parties.
- b. Consistent with the fair-use provisions of the Copyright Act of the United States, Customer and Customer's Authorized Users are licensed to reproduce or store only insubstantial portions of the Products, resulting from specific searches for Customer's and/or Authorized Users' own non-commercial academic, educational and research purposes. Customer and Customer's Authorized Users will not store or use, or allow to be stored or used, any portion of the Products in a searchable database without written permission of NewsBank and (if applicable) its respective content providers. Nothing contained herein shall be construed as granting the Customer and its Authorized Users or any third party any interest in or to the Product or Content. All rights in and to the Product and Content are expressly reserved by NewsBank and/or NewsBank's respective content providers.

**6. Warranty, Liability, Indemnity**

- a. NewsBank and its respective content providers do not warrant that use of the Products will be uninterrupted or error-free.
- b. NewsBank and its content providers do not warrant the accuracy or completeness of the Products, or results obtained by using them. NewsBank disclaims liability for any offensive, defamatory, or infringing materials in the Products.
- c. Customer will take reasonable steps to ensure that Customer's Authorized Users will use the Products according to the terms of this Agreement, and that they will not bypass, or attempt to defeat, NewsBank's or Customer's security measures preventing unauthorized use of the Products.

- d. To the extent allowed by law, the Customer shall indemnify NewsBank against any claims or losses, including reasonable attorneys' fees, arising in whole or in part from any violation by the Customer of subparagraph 6.c.
- e. NEWSBANK AND ITS CONTENT PROVIDERS DISCLAIM ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- f. To the extent allowed by law, neither NewsBank nor its content providers will be liable for consequential or punitive damages, even if notified of their possibility.

**7. Term and Termination**

This Agreement will be in effect as of the Effective Date and continue to be in effect for each Product trial and/or subscription period mutually agreed to by the parties for that Product. Customer may not sell or otherwise transfer ownership of any physical media in which any Product may be delivered. NewsBank may terminate this Agreement for breach on thirty business days' notice.

**8. Disputes**

- a. This document, including any Subscription Form(s), is the entire Agreement between the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written. With the exception of changes made to the Subscription Form(s), this Agreement may be modified only in writing, signed by both parties. A party's failure to exercise a right under this Agreement will not waive its other rights. Any provision found to be unenforceable will be construed for maximum effect, and will not impair the other provisions. Each third party content provider of Content has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.
- b. Disputes will be subject to Arizona law (without giving effect to its choice-of-law provisions). The parties mutually agree that all disputes between them will be decided exclusively in the home state of the party against whom that suit and/or proceeding is instituted. Customer will accept service of process of any complaint by certified United States postal mail or its domestic or foreign equivalent.

NewsBank, inc.	NewsBank Customer
<i>Authorized by:</i>	Insitution: _____
NewsBank Employee: _____	<i>Authorized by:</i>
Employee Title: _____	Name: _____
Employee Signature: _____	Title: _____
Date: _____	Signature: _____
	Date: _____

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**NewsBank License Agreement  
for Subscription & Perpetual  
License Sales**

**1. Parties, Acceptance, Master Terms for all Products**

- a. This License Agreement ("Agreement") is between the institution named below, as licensee ("Customer") and NewsBank, inc., a Delaware corporation having its principal place of business at 5801 Pelican Bay Boulevard, Suite 600, Naples, Florida 34108 ("NewsBank"), as licensor. This Agreement shall become effective the earlier of (a) when NewsBank receives a copy of this Agreement signed by Customer, or (b) when Customer accepts delivery of any NewsBank or Readex digital product (the "Effective Date"). For purposes of this Agreement, delivery includes either shipment of physical goods or access by electronic means.
- b. The terms of this Agreement shall apply to all NewsBank and Readex digital products subscribed to by Customer from time to time (the "Product" or "Products"). For each Product subscribed to by Customer, there will be a corresponding NewsBank order confirmation, invoice, quotation, purchase agreement or other similar document (a "Order Form") setting forth certain additional terms specific to that Product (such as identification of Product, price, license type [subscription license or perpetual license], payment terms, whether remote use is authorized, number of concurrent users allowed, number of downloads allowed, subscription period, etc.), but the terms of this Agreement shall continue to apply. In the event of conflict between the terms of any Order Form and the terms of this Agreement, this Agreement shall govern. The terms of any document issued by Customer that add to, subtract from, or otherwise affect any term(s) of this Agreement are rejected, unless expressly agreed to by NewsBank in writing.

**2. Products**

- a. The Products subject to this Agreement consists of (1) the NewsBank and Readex digital products subscribed to by Customer from time to time including any trial access and (2) software provided by NewsBank to Customer to search for and retrieve data from the database(s). NewsBank may provide the Products via the Internet or remote online access through a proprietary network and/or such other media as may be available and reasonably acceptable to Customer and NewsBank.

**3. License**

- a. NewsBank grants to Customer and to Customers' Authorized Users (defined below) on the terms set forth in this Agreement and any Order Form(s), a non-exclusive, non-assignable, concurrent-use license to use each Product at the licensed site(s) identified in the Order Form applicable to such Product (the "Licensed Site") solely for non-commercial academic, educational and research purposes. "Authorized User" means only: (a) For public libraries: library staff, individual residents of Customer's reasonably defined geographic area served, and walk-in patrons while they are on-site; (b) For schools and other academic institutions: currently enrolled students, faculty, library staff, and visiting scholars, as well as walk-in patrons while they are on-site; and (c) For other types of organizations: employees and independent contractors, while performing their work for such organization. Customer understands and acknowledges that all use is subject, after reasonable notice, to restrictions and disclaimers that NewsBank or its suppliers publish from time to time.

- b. Customer and Customers' Authorized Users are licensed to use the Products solely for access, search, retrieval, viewing, printing, and downloading for non-commercial academic, educational and research purposes. Printing and downloading are limited to insubstantial portions of the data, for temporary storage. All other use is prohibited. The removal or altering of any copyright or other notices within the Product or using any portion of Product for purposes of manual, automated or other machine-assisted indexing or classification of other publications is prohibited. The transmission of Content, as defined under Section 5a, (including, but not limited to, by way of e-mail, facsimile or other electronic means) is prohibited unless such transmission is between Authorized Users. Except as expressly provided for in this Agreement, Customer and Customers' Authorized Users may not modify, publish, transmit (including, but not limited to, by way of e-mail, facsimile or other electronic means), display, participate in the transfer or sale of, create derivative works based on, or in any other way exploit any of the Content, in whole or in part without the prior written consent of NewsBank and (if applicable) its respective content providers.
- c. Customer will take reasonable steps to ensure that only Customer's Authorized Users use the Products, and that Customer's Authorized Users do so in accordance with this Agreement.
- d. Portions of this Agreement relevant to Authorized Users may appear in the form of "Terms and Conditions of Use" on or in the Products.

#### 4. Express Restrictions

- a. On-Site Use: Customer may make each Product available for authorized use at the Licensed Site over a computer network to the number of concurrent users or number of downloads listed in the Order Form for the relevant Product.
- b. Remote Use: Customer, if granted a remote-use license, defined in the Order Form for the relevant Product, may make such Products available to Customer's Authorized Users who are not at the Licensed Site; provided that such availability is limited to non-commercial academic, educational and research use by the number of concurrent users or number of downloads set forth in the Order Form(s) for the relevant Product(s), and is further subject to the following conditions:
  - i. Authorized Users must access the Products only through the server or network located at the Licensed Site and Customer's server or network must have adequate security to allow access to the remote access account setup by NewsBank only by Authorized Users.
  - OR**
  - ii. Authorized Users must access the Products only through user authentication programs supplied to Customer by NewsBank.

In no event may Remote Access be used to avoid the need for any school, library, or other potential customer from subscribing to a Product. If NewsBank reasonably determines that Remote Access activities hereunder may be impairing NewsBank's ability to make sales of the Product or other NewsBank products to other customers or other potential customers of NewsBank, NewsBank may require such Remote Access

activity to be modified or terminated, either entirely or with respect to the Customer's Authorized User(s) whose activity is impairing NewsBank's business.

- c. Without limiting any other restriction on use set forth in this Agreement, the following limitations apply to make sure that all use is for non-commercial academic, educational and research purposes and will not impair NewsBank's ability to market/license its products to other customers or other potential customers:
  - i. Any permitted remote access is limited to use by Authorized Users through their personal computers/devices for their own convenience and specifically excludes Authorized Users who access the Products through another school, library, college/university, corporation, business or other potential customer of NewsBank. Customer is specifically prohibited from granting any remote access to any entity including, but not limited to, any school, library, college/university, corporation, business or organization.
  - ii. Customer shall not provide any material from any Product to fulfill an interlibrary loan request from another library or organization.

## **5. Intellectual Property**

- a. Customer acknowledges that the Products consist of materials copyrighted by third parties and containing trademarks owned by third parties, and that NewsBank owns the copyright of the compilations of these materials. The Product contains copyrighted material, trademarks and other proprietary information owned by NewsBank and its content providers, including without limitation, compilations, text, software, photographs, video, graphics, trademarks, service marks, logos, designs, and music and sound (the "Content"), and such Content is protected under U.S. copyright laws, U.S. trademark laws, and other intellectual property laws as well as international copyright and trademark laws and treaties. Customer acknowledges that its use of the Products, including use by Customer's Authorized Users, must not infringe the rights of NewsBank or of any third parties.
- b. Consistent with the fair-use provisions of the Copyright Act of the United States, Customer and Customer's Authorized Users are licensed to reproduce or store only insubstantial portions of the Products, resulting from specific searches for Customer's and/or Authorized Users' own non-commercial academic, educational and research purposes. Customer and Customer's Authorized Users will not store or use, or allow to be stored or used, any portion of the Products in a searchable database without written permission of NewsBank and (if applicable) its respective content providers or data/text mine or permit data/text mining of the Product. Nothing contained herein shall be construed as granting the Customer and its Authorized Users or any third party any interest in or to the Product or Content. All rights in and to the Product and Content are expressly reserved by NewsBank and/or NewsBank's respective content providers.

## **6. Warranty, Liability, Indemnity**

- a. NewsBank and its respective content providers do not warrant that use of the Products will be uninterrupted or error-free.

- b. NewsBank and its content providers do not warrant the accuracy or completeness of the Products, or results obtained by using them. NewsBank disclaims liability for any offensive, defamatory, or infringing materials in the Products.
- c. Customer will take reasonable steps to ensure that Customer's Authorized Users will use the Products according to the terms of this Agreement, and that they will not bypass, or attempt to defeat, NewsBank's or Customer's security measures preventing unauthorized use of the Products.
- d. To the extent allowed by law, the Customer shall indemnify NewsBank against any claims or losses, including reasonable attorneys' fees, arising in whole or in part from any violation by the Customer of subparagraph 6.c.
- e. NEWSBANK AND ITS CONTENT PROVIDERS DISCLAIM ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- f. To the extent allowed by law, neither NewsBank nor its content providers will be liable for consequential or punitive damages, even if notified of their possibility.

**7. Term, Termination and Perpetual License (As Applicable)**

- a. This Agreement will be in effect as of the Effective Date and continue to be in effect for each Product trial and/or subscription period mutually agreed to by the parties for that Product unless earlier terminated for cause. NewsBank may terminate this Agreement for an uncured breach on thirty (30) days' notice. Sections 5a and 8 shall survive termination.
- b. Perpetual License: If Customer pays a one-time fee for a perpetual license defined in the Order Form for the relevant Product, except for termination for cause, NewsBank grants to Customer a nonexclusive, royalty-free, perpetual license to the Product, provided that the parties shall have agreed on fees for such use pursuant to a Order Form and such fees have been paid. Such use shall be in accordance with the provisions of this Agreement. In connection with a perpetual license, the Customer shall have the following archival copy options provided Customer has not breached the terms of this Agreement:
  - i. If for any reason, NewsBank or any successor to NewsBank ceases to provide permanent online access to the Product, NewsBank or such successor to NewsBank shall provide Customer or its NewsBank-approved designee, at Customer's cost, with an archival copy of the Product data (images & ASCII database) as of the date of discontinuance of online service, in a mutually agreeable electronic format (Customer to provide its own search engine), use of which shall be subject to this Agreement. Customer may not sell or otherwise transfer ownership of any physical media in which any Product may be delivered.
  - ii. NewsBank will allow the Customer to purchase a magnetic tape load (or other mutually agreed on technology) of the Product data (images & ASCII database) provided under this Agreement at anytime during the subscription period or within 60 days of cancellation or non-renewal, but not upon termination for breach, which the Customer can either archive or load onto a local server to be accessed by the Customer's own search and retrieval software. Customer and

Customer's Authorized Users may use the archive as provided for in this Agreement. In no event shall Customer (1) make the archival copy available to any third party, or (2) data/text mine or permit data/text mining of the Product without prior written approval from NewsBank.

**8. Disputes**

- a. This document, including any Order Form(s), is the entire Agreement between the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written. With the exception of changes made to the Order Form(s), this Agreement may be modified only in writing, signed by both parties. A party's failure to exercise a right under this Agreement will not waive its other rights. Any provision found to be unenforceable will be construed for maximum effect, and will not impair the other provisions. Each third party content provider of Content has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.
- b. Disputes will be subject to Arizona law (without giving effect to its choice-of-law provisions). The parties mutually agree that all disputes between them will be decided exclusively in the state and/or federal courts of Arizona if the Customer is the defendant or Atlanta, Georgia if NewsBank is the defendant. Customer will accept service of process of any complaint by certified United States postal mail or its domestic or foreign equivalent.

NewsBank Customer (Under RFP#05189)	NewsBank, inc.
Institution: _____	
<i>Authorized by:</i>	<i>Authorized by:</i>
Name: _____	NewsBank Employee: _____
Title: _____	Employee Title: _____
Signature: _____	Employee Signature: _____
Date: _____	Date: _____

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NEWSBANK INC., 5801 PELICAN BAY BOULEVARD, SUITE #600 4501 TAMiami TRAIL NORTH SUITE  
316, NAPLES, FL 34103-3023 85108

PRICING SHEET: NIGP 9155102, 91551

Terms: NET 30

Vendor Number: W000001911 X

Telephone Number: 800/762-8182

Fax Number: 239/263-3004

Contact Person: Scott Sawyer

E-mail Address: [ssawyer@newsbank.com](mailto:ssawyer@newsbank.com)

Company Web Site: [www.newxbank.com](http://www.newxbank.com)

Contract Period: To cover the period ending **May 31, 2016 2021.**