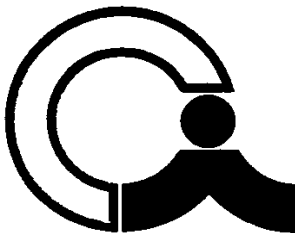


# CITY OF INDUSTRY

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CITY COUNCIL  
SPECIAL MEETING AGENDA  
JULY 9, 2015  
9:00 AM

(Immediately following the conclusion  
of the Regular City Council Meeting)



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Mayor Mark Radecki  
Mayor Pro Tem Cory Moss  
Council Member Roy Haber, III  
Council Member Jeff Parriott  
Council Member Newell Ruggles

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Location: City Council Chamber, 15651 East Stafford Street, City of Industry, California 91744

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## **Addressing the City Council:**

- ▶ **Agenda Items:** *Members of the public may address the City Council on any matter listed on the Agenda. In order to conduct a timely meeting, there will be a three-minute time limit per person for any matter listed on the Agenda. Anyone wishing to speak to the City Council is asked to complete a Speaker's Card which can be found at the back of the room and at the podium. The completed card should be submitted to the City Clerk prior to the Agenda item being called and prior to the individual being heard by the City Council.*
- ▶ **Public Comments (Agenda Items Only):** *During public comments, if you wish to address the City Council during this Special Meeting, under Government Code Section 54954.3(a), you may only address the City Council concerning any item that has been described in the notice for the Special Meeting.*

## **Americans with Disabilities Act:**

- ▶ *In compliance with the ADA, if you need special assistance to participate in any City meeting (including assisted listening devices), please contact the City Clerk's Office (626) 333-2211. Notification of at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting.*

## **Agendas and other writings:**

- ▶ *In compliance with SB 343, staff reports and other public records permissible for disclosure related to open session agenda items are available at City Hall, 15625 East Stafford Street, Suite 100, City of Industry, California, at the office of the City Clerk during regular business hours, Monday through Friday 9:00 a.m. to 5:00 p.m. Any person with a question concerning any agenda item may call the City Clerk's Office at (626) 333-2211.*

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1. Call to Order
  2. Flag Salute
  3. Roll Call

4. **ACTION ITEM**

- 4.1 Consideration of an agreement between the City of Industry and Advanced Discovery Inc., for documentation management services.

*RECOMMENDED ACTION: Approve the agreement.*

5. Adjournment. Next regular meeting: Thursday, July 23, 2015 at 9:00 a.m.

*CITY COUNCIL*

ITEM NO. 4.1



## Statement of Work for:

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City of Industry

Date

July 6, 2015

Project Name

City of Industry

Contract ID

RS\_05272015\_Crowell-LA\_City of Industry

Submitted by

Rob Sorensen

VP Sales

rsorensen@advanceddiscovery.com

213.434.5019

## Contacts

### **Billing Contact**

Paul Philips  
Acting City Manager  
City of Industry  
15625 East Stafford Street #100  
City of Industry, CA 91744

### **Project Contact**

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626.333.2211

Bianca Sparks  
Casso & Sparks, LLP  
P.O. Box 4131  
West Covina, CA 91791  
bsparks@cassosparks.com  
213. 841-9751

## Scope of Work

Advanced Discovery will import documents from prior matters to the document review database. This document set consists of approximately 3.5GB of data. In addition to the documents from the prior matter Advanced Discovery will perform targeted keyword searches within the forensic data collection set of 6 workstations and 1 file server. The documents and their families from the keyword searching will be extracted from the forensic data collection and processed into our ECA tool, XpressLook. Within XpressLook the documents text and metadata will be available and additional keyword searches, domain filtering, or metadata filtering will be performed to further cull the data set. Once all culling is complete the remaining documents with potential responsive materials will be fully processed and native files will be made available within the document review database.

Advanced Discovery will provide the client the ability to tiff and create production sets within the review database in addition to access to the Relativity Desktop Client, RDC.

Advanced Discovery will provide two free training sessions for the case team. The first training session will be an administrative training session for a select few individuals to instruct them on how to create advanced searches, process documents for native file extraction, document review batches, imaging sets, document production sets and exporting production and or saved searches from the Relativity Desktop Client; this training session will not exceed one hour. The second training session will be for the case team to instruct them on how to review documents, code documents, check document batches out/in, and basic searching; this training session will not exceed one hour.

## Pricing

Service	Unit	Unit Price
<b>Forensic Analysis</b>	Hour	\$225
<b>Document Import</b> Import pre-processed data to database	Hour	Waived
<b>XpressLook ECA Processing Metadata/Text</b> Includes de-duplication, de-NISTing, extension exclusion and/or file type filtering, optional date range filtering and export of metadata and text only for Relativity XpressLook ECA.	GB	\$55
<b>XpressLook Native Review Promotion</b> Includes export of native files for review in Relativity XpressLook.	GB	\$160
<b>Optical Character Recognition (OCR)</b> Completed on documents without extractable text and image productions/redactions.	Document	\$0.06
<b>Native File Production</b> Post Native File Processing export of native files only for production purposes.	Document	\$0.05
<b>Selective Image Creation (TIFF)</b>	GB	\$350
<b>Electronic Image Endorsement</b>	Page	\$0.01
<b>Recurring Fees</b>		
<b>Project Management<sup>1</sup></b>	Hour	\$175
<b>Monthly Storage Fee – Relativity</b>	GB/Month	\$18
<b>Monthly User Fee – Relativity</b>	User/Month	\$85

## Cost Estimate

Service	Unit	Unit Price	Estimated Units	Total
<b>Forensic Analysis</b>	Hour	\$225	10 - 20	\$2250 - \$4500
<b>Document Import</b>	Hour	\$175	1 – 2	\$175 - \$350
<b>XpressLook ECA Processing</b>	GB	\$55	TBD	TBD
<b>XpressLook Native Review Promotion</b>	GB	\$160	TBD	TBD
<b>OCR</b>	Document	\$0.06	TBD	TBD
<b>Native File Production</b>	Document	\$0.05	TBD	TBD
<b>Selective Image Creation (TIFF)</b>	GB	\$350	TBD	TBD
<b>Electronic Image Endorsement</b>	Page	\$0.01	TBD	TBD
<b>Collection and Processing Fees: \$2250 - 4500 + TBD Items</b>				

<sup>1</sup> - Billable fees include but are not limited to assistance or implementation of building queries, batching, productions, analysis, reporting, creating new coding fields, setting up layouts/view, workflow consultation and design, and training. Advanced Discovery will provide 2 training sessions for free; the first training session will be an administrative training session which will include advanced searching, production creation, and production exports, the second training session will be for the case teams which will include how to review documents, issue code documents and basic searching.

<b>Recurring Fees</b>				
<b>Project Management</b>	Hour	\$175	TBD	TBD
<b>Monthly Storage Fee – Relativity</b>	GB/Month	\$18	TBD	TBD
<b>Monthly User Fee – Relativity</b>	User/Month	\$85	TBD	TBD
				<b>Monthly Recurring Fees: TBD</b>

## Cost/Billing Guidelines

1. All GB volumes are based on the Expanded/Uncompressed size.
2. Media Rates: \$25/CD, \$50/DVD, \$100/ Thumb Drive,  
Hard Drive Encrypted/Padlocked – 500GB/\$200, Hard Drive Encrypted/Padlocked – 1TB/\$250,  
Hard Drive Encrypted/Padlocked – 2TB/\$300
3. Advanced Discovery will always create a master and a working copy of all forensically collected devices. Media charges for both copies will apply.
4. Travel and lodging billed at cost.

## Password Protected Files

1. Advanced Discovery will identify and report on all password protected files.
2. If password is not available, Advanced Discovery will attempt to open password protected files at \$25/file/attempt. No attempts to open password protected files will be made without the City’s consent.
  - a. Limited to 40 files per project.
  - b. Files not opened after four hours (computer time) will be marked “uncrackable”.
3. Large volumes and/or complex password protected files may be outsourced to an Advanced Discovery partner. Advanced Discovery will not contract any services without the approval of the client.

## Data Storage and Deletion

1. Monthly Storage Fees are calculated by combining the full expanded size of the processed native files that are loaded, image files, text/metadata files and the database file.
2. Data, defined as all source data, ingested case data, exported data, SQL databases and any copies or backups of the previous data sets, is subject to deletion with Client approval after 180 days of inactivity (no billable ESI or hosting activity) on the case.
3. A billable event will restart the 180-day period.
4. Data can be kept online after 180 days of inactivity if Advanced Discovery receives notification from the Client and billable GB charges per month are in place.

## Case Completion and Archive Options

1. Case Deletion: No cost
2. Relativity Archive: Hourly fee at \$175/hour (estimate between 5-15 hours)
3. Near-line Archive: \$7.00/GB/Month
  - a. Near-line archives are maintained on the Advanced Discovery system but are not available to users.
4. Export of Data: Hourly fee at \$175/hour (estimate between 15-35 hours)
  - a. Common load file formats supported.



# Service Agreement for:

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## City of Industry

### Terms and Conditions

This Service Agreement ("Agreement") is entered into on **July 6, 2015**, (the "Effective Date"), between **City of Industry**, with offices located at **15625 East Stafford Street #100, City of Industry, CA 91744** and Advanced Discovery Inc. whose principal place of business is 13915 N. Mopac Expwy., Suite 210, Austin, Texas 78728. Client and Advanced Discovery are collectively referred to as the "Parties".

WHEREAS, Advanced Discovery agrees to provide services to Client and Client desires to engage Advanced Discovery to provide the services to Client as described in the attached Statement of Work.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

- I. Engagement of Advanced Discovery and Duties.
  - a. Client hereby engages Advanced Discovery to provide eDiscovery services (the "Services") to Client, subject to the terms and conditions of this Agreement.
  - b. Advanced Discovery shall perform the work at the direction of the City.
  - c. This Agreement is nonexclusive, and Client may contract with other entities to perform services related to or within the terms of any SOW.
- II. Compensation and Payment Terms.
  - a. As full and complete compensation for performance of the Services and in consideration of the covenants and premises set forth in this Agreement, Client shall pay Advanced Discovery as set forth in this document.
  - b. Client agrees to pay the sum of \$0 as a retainer before work begins on the matter described in the attached SOW. Advanced Discovery reserves the right to discontinue services if retainer is not paid within thirty days after work begins. The retainer will not accrue interest while held by Advanced Discovery, and will be applied to the final invoice for the matter.
  - c. All invoices shall be due upon receipt by Client. Any invoice that is not paid within thirty days of its due date will accrue interest at twelve percent (12%) per annum or the maximum rate permitted by applicable law. In the event that fees due to Advanced Discovery are not paid after 90 days of the date of the invoice Advanced Discovery will cease providing services to Client and Client access to any hosted data will be suspended until outstanding invoices to the Client are paid in full.
  - d. Advanced Discovery reserves the right to send invoices to, and directly contact, the Client's client or other responsible party if invoices are not paid by the Client after 90 days of the date of the invoice. Such action by Advanced Discovery does not relieve Client of its responsibility for payment of invoices.
  - e. Client will provide written notice of a case closing to Advanced Discovery, and Advanced Discovery will provide final invoices upon receipt of such notification.

- f. Client will pay all invoices for services rendered up to the time of notification of a case closing.
- III. Expenses.
- a. In addition to the Fees provided for in Section II. Hereof, Client shall reimburse Advanced Discovery for all reasonable and necessary expenses incurred by Advanced Discovery in performing the Services upon Advanced Discovery's submission of proper vouchers and documentation as required by Client.
- IV. Term and Termination.
- a. This term of this Agreement shall commence upon its effective date and shall have an initial term of one year. At the conclusion of its initial term and of any renewal term, this Agreement shall automatically renew for an additional one-year term.
  - b. Notwithstanding the foregoing, Client or Advanced Discovery may terminate this agreement at any time with or without cause by giving the other party thirty (30) days advance written notice. In such event, Client shall only have an obligation to pay Advanced Discovery for Services properly rendered through the date of termination.
  - c. Notwithstanding the foregoing, either party may terminate this Agreement upon thirty (30) days prior written notice if the other party breaches or is in default of any obligation hereunder and such default has not been cured within such thirty (30) day period.
  - d. Upon termination of this Agreement by either party, Advanced Discovery shall be entitled to receive any compensation which is accrued and payable under the terms of this Agreement and any expenses incurred and properly reported under the terms of this Agreement, which are unpaid as of the date of termination. On termination of this Agreement, or whenever requested by the Parties, each party shall immediately deliver to the other party all property in its possession or under its care and control, belonging to the other party, including but not limited to, proprietary information, customer lists, trade secrets, intellectual property, computers, equipment, tools, documents, plans, recordings, software, and all related records or accounting ledgers.

V. Privilege Protection

- a. Advanced Discovery understands and agrees that the purpose of the engagement is to assist Client in performing case-related activities and legal analyses which will permit Client to provide legal advice to Client's clients. This engagement is intended to, essential to, and will assist in the formation and Client's provision of legal conclusions, opinions, and theories for possible use in litigation. All of Advanced Discovery's work in connection with the engagement shall be attorney-client privileged and/or considered attorney work product. All documents and tangible things obtained or created as a result of the engagement shall be privileged trial preparation materials, and Advanced Discovery shall appropriately legend any materials it creates in connection with the engagement.
- b. Notwithstanding the foregoing, Client understands that Advanced Discovery is NOT a law firm, is not acting as Client's attorney and cannot provide any kind of legal advice, explanation, opinion, or recommendation about possible legal issues. Any use of Advanced Discovery's services DOES NOT create or constitute an attorney-client relationship between Advanced Discovery and Client. The attorney-client and/or work product protection intended under this agreement will attach through the agency relationship between Advanced Discovery and Client.
- c. In addition to the confidentiality undertaking expressed in Section VI, Client will provide Advanced Discovery with any and all court issued orders governing the confidentiality of information, and Advanced Discovery agrees to abide by the terms of any such court orders.
- d. If Advanced Discovery receives any request for any information that is confidential under this agreement or under any protective order, or if it receives any subpoena or other legal process purporting to require disclosure of such information, Advanced Discovery will immediately notify Client, and will reasonably cooperate with Client to protect the confidentiality of any such information to the full extent permitted by law.

VI. Trade Secrets and Confidential Information.

- a. Each party acknowledges that during the course of this Agreement, it may be provided with information about, and will be brought into close contact with many confidential affairs of the other party, including proprietary information about operational methods, technical processes, business affairs and methods, plans for future development, and other information not readily available to the public. All such information is highly confidential and proprietary. All information collected by Advanced Discovery in connection with this agreement is hereby designated "Confidential."
- b. The Receiving Party agrees that it will not make use of any of such confidential matters for its own purposes or the benefit of anyone other than the disclosing party, other than in accordance with the terms of this Agreement.
- c. The Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. The Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement.
- d. The requirement of confidentiality shall not apply to information that is (a) in the public domain through no wrongful act of the receiving party; (b) rightfully received by the receiving party from a third party who is not bound by a restriction of nondisclosure; (c) is

required to be disclosed by applicable rules and regulations of government agencies or judicial bodies; or (d) was already properly in the possession of the receiving party as of the date of the receipt of the information.

VII. License.

- a. To the extent any preexisting intellectual property, being intellectual property developed or known by Advanced Discovery prior to the Effective Date of this Agreement, is contained in any work product that Advanced Discovery delivers to Client or to Client's Customers, Advanced Discovery represents and warrants that it has ownership in, or the right to use, such preexisting intellectual property.

VIII. Independent Contractor.

- a. With respect to the Services provided hereunder, Advanced Discovery will at all times be an independent contractor. Advanced Discovery agrees to perform the Services hereunder solely as an independent contractor. The Parties recognize that this Agreement does not create any actual or apparent agency, partnership, franchise, or relationship of employer and employee between the Parties.

IX. Representations and Warranties.

- a. Each party represents and warrants to the other that it has the full power and authority and is free to enter into this Agreement and to perform its obligations hereunder; this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms; and the making of this Agreement does not violate any law, court order, or agreement existing between it and any other person or entity.

X. Indemnification.

- a. Advanced Discovery shall indemnify, defend and hold harmless the City, its elected and appointed officers, officials, employees, agents, contractors, consultants and volunteers, from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation or court costs, or any other cost arising out of or in any way related to Advanced Discovery's performance of the services set forth in this Agreement, or Advanced Discovery's failure to comply with the terms of this Agreement. This section does not apply to services performed by Advanced Discovery pursuant to the City's direction, as referenced in Section I(b) herein. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Advanced Discovery from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any claims whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Advanced Discovery acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- b. Client agrees to defend, indemnify, and hold Advanced Discovery harmless from (i) disputes arising from any material or data supplied by Client that infringes or allegedly infringes on the proprietary rights of a third party, and (ii) any and all demands, liabilities, losses, costs and claims asserted against Advanced Discovery that may arise or result from any service agreed to be performed by Client for any third party.

XI. Enforcement.

- a. The Parties acknowledge that due to the unique nature of the protections and provisions set forth in this Agreement, each will suffer irreparable harm if the other breaches any of said

protections or provisions and that monetary damages will be inadequate to compensate the party for such breach. Therefore, if either party breaches any of such provisions, the other shall be entitled to injunctive relief, in addition to any other remedies that may be available at law or in equity.

XII. Liability.

- a. The total aggregate liability of Advanced Discovery to Client for any claim arising out or in connection with its services shall be strictly limited to three (3) times the charges paid by Client for the services that are the subject of any claim made.
- b. Advanced Discovery shall not be liable for: (i) a deadline missed due to data provided that is not capable of being processed as contemplated in the SOW; (ii) any loss, liability or damage resulting from the existence of inaccuracies, errors or omissions from deliverables, if such inaccuracies, errors or omissions were due to the nature of the source data received by Advanced Discovery; (iii) data loss following regular backups of the source data or database(s); (iv) the unavailability of or interruption in the availability of any database or database features beyond the reasonable control of Advanced Discovery; (v) errors, interruptions, unauthorized access or any breach of internet security caused by Client's actions, or any of Client's agents; (vi) native files delivered to Advanced that harbor computer viruses or other malicious code; and (vii) any loss, liability or damage resulting from Productions created by the Client. Client shall be responsible for verifying source data integrity prior to delivery to Advanced Discovery.

XIII. Insurance.

- a. Advanced Discovery, at its own expense, shall at all pertinent times during the term of this Agreement and thereafter, possess sufficient insurance coverage to fund its indemnity, liability and other obligations arising from or related to this Agreement, including commercial general liability, commercial automobile liability, workers compensation, professional liability (errors and omissions, information technology and internet liability, system security and privacy liability, and privacy breach cost) and umbrella coverage.

XIV. Quality Assurance.

- a. Client, at its own expense and with reasonable written notice to Advanced Discovery, may (i) conduct audits of Advanced Discovery's records regarding Client's account; and (ii) monitor or perform inspections or tests of the Services provided hereunder to determine Advanced Discovery's compliance with the Agreement and the SOW, at Advanced Discovery's facility or other location where Services are provided.

XV. General Terms.

- a. Waiver.
  - i. The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach or default of the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default.
- b. Severability.
  - i. If any provision or portion of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions or portions

shall remain in full force and effect. Furthermore, if the scope of any provision of this Agreement is determined to be too broad in any respect whatsoever to permit enforcement to its maximum extent, then such provision shall be enforced to the maximum extent permitted by law.

- c. Governing Law.
  - i. This Agreement will be governed by and interpreted in accordance with the laws of the State of California, without giving effect to its principles of conflicts of law. Venue for any cause of action shall be Los Angeles County, California, or in the United States District Court for the Central District of California.
- d. Arbitration.
  - i. The Parties agree to use reasonable, good faith efforts to attempt to resolve, as promptly as possible, any and all disputes arising from this Agreement. If such disputes cannot be resolved, then the Parties agree to waive trial by jury and agree that the exclusive method for resolution of any dispute shall be by binding arbitration, in accordance with the then-governing rules of the American Arbitration Association and conducted by an arbitrator agreed upon by the Parties.
- e. Assignment.
  - i. The Parties may not assign, transfer, subcontract or delegate any right or obligation under this Agreement without the prior written consent of the other.
- f. Notices.
  - i. All notices shall be in writing and deemed effective when received by either (i) registered mail, (ii) certified mail, return receipt requested, or (iii) overnight mail, at the address of the party to be notified provided in the above in the introductory provision of this Agreement. Either party may change the address to which notices are to be sent by providing written notice to the other party as provided for in this section.
- g. Force Majeure.
  - i. Neither party shall be liable for delay or failure in the performance of its obligations under this Agreement if such delay or failure is caused by conditions beyond its reasonable control, including but not limited to, fire, flood, inclement weather, accident, earthquakes, telecommunications line failures, electrical outages, network failures, acts of God, terrorism, civil commotion, or labor disputes. Each party shall use reasonable efforts to notify the other party of the occurrence of such an event within three business days of its occurrence.
- h. Section Headings.
  - i. Section headings are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.
- i. Entire Agreement and Amendments.
  - i. It is expressly agreed that this Agreement and the attached SOW represent the entire understanding between the Parties with respect to the subject matter hereof. This Agreement may be modified only by a written amendment signed by authorized representatives of both Parties.

In witness whereof, the Parties hereto have executed this Agreement on the date set forth below.

## Signatures

City of Industry

Advanced Discovery Inc.

Name

\_\_\_\_\_

\_\_\_\_\_

Date

\_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

\_\_\_\_\_