

AMENDMENT NO. 3

TO AGREEMENT FOR CONTRACT SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR CONTRACT SERVICES (“Amendment No. 3”) by and between the CITY OF CARSON, a California municipal corporation (“City”), and HDL SOFTWARE, LLC, a California limited liability company (“Consultant”), is entered into effective as of the 17th day of May, 2022.

RECITALS

A. City and Consultant entered into that certain Agreement for Contract Services dated June, 2017 (“Agreement”) whereby Consultant agreed to provide City software for the City to manage and track business license applications, calculate business tax and regulatory fees, print tax certificates and permits, and manage false alarm responses and fines, for a three (3) year term expiring June 30, 2020, with options to extend the Agreement for two (2) additional one-year terms.

B. The software provided to the City under the Agreement consists of two separate modules, one for “Business License Software” and another for “False Alarm Billing Software.”

C. City and Consultant entered into that certain Amendment No. 1 to Agreement for Contract Services, dated June 23, 2020 (“Amendment No. 1”), to (1) reflect City’s exercise of the first of its two one-year options to extend the term of the Agreement for one year, from July 1, 2020 through June 30, 2021 (“First Option Period”); (2) incorporate a change order entered into May 8, 2019 (“Change Order”) pursuant to Section 1.8 of the Agreement, for installation of a “New Application” Web Module and related work that enhanced the functionality and value of the Business License Software whereby City was to pay a one-time cost for the “New Application” Web Module of \$5,000, along with an annual use fee for the “New Application” Web Module in an amount of \$1,500 plus any annual CPI increases starting from Fiscal Year 2020-21; and (3) decrease the Contract Sum attributable to the First Option Period by waiving any CPI increases associated with the Business License Software and the Change Order, thereby decreasing compensation during the First Option Period from whatever amount that would have reflected an increase in CPI attributable to both the Business License Software and the Change Order, to \$17,955.87, which result did not impact the Contract Sum.

D. City and Consultant entered into that certain Amendment No. 2 to Agreement for Contract Services, dated June 30, 2021 (“Amendment No. 2”), to (1) extend the term by one (1) additional year until June 30, 2022 retroactive to the Effective Date of Amendment No. 2, and to thereby authorize the provision of the Services under the Agreement by Consultant commencing as of said date, and (2) ratify and affirm the continuous and uninterrupted term of the Agreement from the effective date of the Agreement until and through June 30, 2022.

E. City and Consultant now desire to extend the Term by an additional three years, thereby extending the Term from June 30, 2022 through June 30, 2025, and increase the Contract Sum by an additional \$69,255.17 for a new total Contract Sum of \$154,521.61, to allow for payment to Consultant for services rendered during such additional three-year period.

F. Section 2611(i)(16) of the City’s Municipal Code allows City to renew software licenses already purchased by the City, as is being proposed under this Amendment No. 3, without having to engage in competitive bidding.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (new text in *bold italics* and deleted text in ~~strikethrough~~).

A. Section 2.1 (Contract Sum) of the Agreement is hereby amended to read in its entirety as follows:

“2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed ***One Hundred Fifty Four*** ~~Ninety Five~~ Thousand ***Five Hundred Twenty One Seven Hundred and Forty Five*** Dollars ***and Sixty One Cents (\$154,521.61*** ~~\$95,745)~~ (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.8. The Contract Sum includes compensation for the entirety of the Term, including the two optional one-year extensions, but does not include any contingency fees, as described in Exhibit “C”.”

B. Section 3.4 (Term) of the Agreement is hereby amended to read in its entirety as follows:

“Section 3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall continue in full force and effect until completion of the services but no later than June 30, ~~2025~~ ~~2022~~ which is ***eight*** ~~five~~ (85) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).”

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 3, all provisions of the Agreement, Amendment No. 1, and Amendment No. 2 shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 3, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 3, Amendment No. 2, and Amendment No. 1.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement, Amendment No. 1, and Amendment No. 2. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein and Amendment No. 1 and Amendment No. 2. Each party represents and warrants to the other that the Agreement, as amended by Amendment No. 1, Amendment No. 2, and this Amendment No. 3, is currently an effective, valid, and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment No. 3, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment No. 3, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

5. **Authority.** The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Amendment No. 3, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other agreement to which said party is bound.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3 on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
(rjl)

CONSULTANT:

HDL SOFTWARE, LLC,
a California limited liability company

By: _____
Name: Andrew Nickerson
Title: President

By: _____
Name: Richard Park
Title: Chief Financial Officer
Address: 120 S. State College Blvd., Suite 200
Brea, CA 92821

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2022 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/>	INDIVIDUAL	_____
<input type="checkbox"/>	CORPORATE OFFICER	_____
	_____	_____
	TITLE(S)	TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/>	PARTNER(S) <input type="checkbox"/> LIMITED	_____
	<input type="checkbox"/> GENERAL	_____
<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/>	OTHER _____	_____
	_____	_____
SIGNER IS REPRESENTING:		DATE OF DOCUMENT
(NAME OF PERSON(S) OR ENTITY(IES))		_____
_____		_____
_____		SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates:

Fiscal Year	Business License Software	False Alarm Billing Software	"New Application" Web Module User Fee	Total
2017/18	\$11,448.02	\$3,855.65		\$15,303.67
2018/19	\$11,767.42	\$3,963.22		\$15,730.64
2019/20	\$12,215.75	\$4,114.22		\$16,329.97
2020/21	\$12,215.75 (waived CPI)	\$4,240.12	\$1,500* (waived CPI)	\$17,955.87
2021/22	\$12,215.75 plus CPI increase \$13,895.88	TBD accounting for CPI increase \$4,520.41	\$1,500 plus CPI increase \$1,530	TBD accounting for CPI increase \$19,946.29
2022/23	\$16,660	\$4,882.01		\$21,542.01
2023/24	\$17,826	\$5,223.75		\$23,049.75
2024-25	\$19,074	\$5,589.41		\$24,663.41

TOTAL NOT TO EXCEED:

\$154,521.61~~\$95,745~~

* There is an additional one-time cost of \$5,000 for the New Application Web Module which is part of the Change Order. This cost has been paid by City.

****Annual Fee Increases:**

By May 31 of each year of the Term, Consultant will submit a new Schedule of Compensation with the annual fee for the Business License Software, the False Alarm Billing Software, and the New Application Web Module which is part of the Change Order in accordance with the increases described below, which must be approved in writing by the Contract Officer.

Business License Software: use fees for each successive fiscal year beginning July 1st will be adjusted annually by the percentage increase of the Consumer Price Index for all urban consumers (CPI-U) in Los Angeles County for the 12 months ending May immediately preceding the successive fiscal year. Each CPI adjustment will not be less than two percent (2%) or greater than ten percent (10%). The software use fee shall also be adjusted to include any amounts paid for any City licenses or permits which were required for this service.

False Alarm Billing Software: use fees for each successive fiscal year beginning July 1st will be adjusted annually by the percentage increase of the Consumer Price Index for all urban consumers (CPI-U) in Los Angeles County for the 12 months ending May immediately preceding the successive fiscal year. Each CPI adjustment will not be less than two percent (2%) or greater than ten percent (10%). The software use fee shall also be adjusted to include any amounts paid for any City licenses or permits which were required for this service.

New Application Web Module (from Change Order): use fees for each successive fiscal year beginning July 1st will be adjusted annually by the percentage increase of the Consumer Price Index for all urban consumers (CPI-U) in Los Angeles County for the 12 months ending May immediately preceding the successive fiscal year. Each CPI adjustment will not be less than two percent (2%) or greater than ten percent (10%). The software use fee shall also be adjusted to include any amounts paid for any City licenses or permits which were required for this service.

Compensation for Optional Revenue Audit Services:

Optional Audit Services shall be compensated on a contingency basis only, as follows, and will be paid pursuant to quarterly invoices, in accordance with paragraph IV, below:

1. *Discovery* - HdL's fee for performing discovery services shall be a contingency fee of 35% of the revenues received as a result of the service. This fee applies to monies received for the current tax/license period and any other prior period collected, including monies received for taxes, penalties, interest, and fees.
 - (a) City Discovery Discount - HdL's fee for following up on accounts that are identified and confirmed as non-compliant by the City shall be a contingency fee of 25% of the revenues received as a result of the service. This fee also applies to delinquent business license tax accounts referred by the City as failing to make payment or properly renew an existing license.
2. *Audit* - HdL's fee for performing Audit services shall be a contingency fee of 40% of the revenues received as a result of the service. This fee applies to monies received for the current tax/license period and any other prior period collected, including monies received for taxes, penalties, interest, and fees.
3. *Collection* - HdL's fee for performing collections services shall be a contingency fee of 25% of the revenues received as a result of the service. This fee applies to monies received for the current tax/license period and any other prior period collected, including monies received for taxes, penalties, interest, and fees.

4. *Option to waive tax recovery* - City may, at its discretion, elect to waive or reduce the tax recovery for a business. Should the City elect to waive all or a portion of the deficiency identified by HdL, HdL shall be entitled to compensation in the amount of one half (1/2) of the compensation HdL would have otherwise earned on the waived/reduced amount. Deficiencies which are uncollectable due to insolvency or dissolution of the customer, or for deficiencies which are otherwise incapable of collection (e.g. statute of limitations or other legal defense) shall not be considered a voluntary election to waive by the City, and thus Consultant would not be entitled to compensation for these amounts.
5. *Compensation* - Consultant will withhold its contingency fee from the sums to be remitted to the City. All sums will be remitted to the City no later than at the conclusion of each fiscal quarter.

Travel Expenses:

Travel and lodging expenses will **be** billed at cost and apply to all meetings; including process, pre-installation, installation, training, and support. HdL will conserve public funds, and will ensure that any travel costs are reasonable. Travel expenses **shall not exceed \$3,000** for the entirety of the Term, through June 30, ~~2025~~2022.

- II. **A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services. NOT APPLICABLE.**
- III. **Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**
- IV. **The City will compensate Consultant for the Services performed upon submission of a valid invoice quarterly. Each invoice is to include:**
 - A. Description of type of services provided, including dates/quarters.
 - B. Base contract fee and withheld audit services fee, if applicable, in separate line items.
 - C. Audit service fees, if applicable, will be supported by a detailed report showing individual reviewed tax accounts including, but not limited to, payments, fund transfers, quarter total, and invoiced.
- V. **The total compensation for the Services shall not exceed ~~\$95,745~~ \$154,521.61 as provided in Section 2.1 of this Agreement.**
- VI. **The Consultant's billing rates for all personnel are as follows:**

Partner	\$275 per hour
Principal	\$225 per hour
Programmer	\$195 per hour
Senior Analyst	\$150 per hour
Analyst	\$75 per

