

**FIRST AMENDMENT TO THE AGREEMENT FOR IMPLEMENTATION OF A
CUSTOMER RELATIONSHIP MANAGEMENT (CRM) SOFTWARE SOLUTION
BETWEEN THE CITY OF SAN JOSÉ AND
APPLICATIONS SOFTWARE TECHNOLOGY LLC**

This First Amendment to the Agreement for Implementation of a Customer Relationship Management (CRM) Software Solution between the City of San José, a municipal corporation (hereinafter “City”), and Applications Software Technology LLC, a Delaware limited liability company registered to conduct business in the State of California (hereinafter “AST” or “Contractor”), is entered into on the date of execution by City (“Effective Date”). Each of City and Contractor are sometimes referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, on November 15, 2016, City and Contractor, as Applications Software Technology Corporation, an Illinois corporation registered to conduct business in the State of California, entered into an agreement entitled “Agreement for Implementation of a Customer Relationship Management (CRM) Software Solution” (“Agreement”); and

WHEREAS, on January 5, 2017, Contractor filed a “Certificate of Surrender of Right to Transact Intrastate Business” as Applications Software Technology Corporation and filed an “Application to Register a Foreign Limited Liability Company (LLC)” with the California Secretary of State; and

WHEREAS, on January 11, 2018, City and Contractor executed Change Order #1 to add professional services for ongoing maintenance, supplemental support and bug fixes, critical system issue resolution, and new features and enhancements; and

WHEREAS, on June 7, 2018, City and Contractor executed Change Order #2 to add additional professional services for ongoing maintenance, supplemental support and bug fixes, and new features and enhancements; and

WHEREAS, City and Contractor now wish to amend the Agreement to increase the maximum compensation for additional professional services for supplemental support and bug fixes, and new features and enhancements;

NOW THEREFORE, the Parties agree to amend the Agreement as follows:

1. Section 8 “COMPENSATION” is hereby amended to read as set forth below:

The total contract price in U.S. dollars shall not exceed **Five Hundred Thirty-Nine Thousand Four Hundred Eighty-Three Dollars (\$539,483)** during the Initial Term (“Maximum Compensation”). The terms, rates, and schedule of payment are set forth in the attached Third Revised EXHIBIT B, entitled “Compensation and Payment Schedule.” Contractor shall submit to City invoices for System implementation at the completion of

each milestone but no more frequent than monthly and that include a breakdown of Services as provided in the attached Third Revised EXHIBIT B, entitled "Compensation and Payment Schedule." City will make payments to Contractor within thirty (30) days after the date of approval of each invoice. City will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution. The City shall make best efforts to ensure timely payments. In the event invoices become overdue, the City shall promptly notify Contractor of the nature of the delay, and both Parties shall make reasonable effort to reconcile and resolve the source of the delay concerning the payment in question. The liability of the City at any time shall be limited to the amount remaining under this Agreement.

2. EXHIBIT A "Scope of Services" is hereby amended to add Addendum #3 to EXHIBIT A "Scope of Services," which is attached hereto and incorporated herein.
3. Second Revised EXHIBIT B "Compensation and Payment Schedule" is hereby amended to read as set forth in the Third Revised EXHIBIT B, which is attached hereto and incorporated herein.

WITNESS THE EXECUTION HEREOF on the day and year set forth beneath the respective names below.

City of San José
a municipal corporation

Applications Software Technology LLC
a Delaware limited liability company

By _____

By _____

Jennifer Cheng
Deputy Director, Finance

Shaji Zechariah
President

Date: _____

Date: _____

APPROVED AS TO FORM:

Rosa Tsongtaatarii
Senior Deputy City Attorney

ADDENDUM #3 TO EXHIBIT A - SCOPE OF SERVICES

1 Contractor agrees to provide the City the following supplemental professional services:

1.1 Supplemental Support and Bug Fixes:

- 1.1.1 Respond to and resolve on-demand break-fixes.
- 1.1.2 Debug, analyze, and resolve technical issues with the system.
- 1.1.3 Perform problem analysis and system debugging to address root cause. Document all fixes and solutions.
- 1.1.4 Resolve issues with system configuration and/or custom code changes.
- 1.1.5 Perform comprehensive testing, including unit, performance, integration, load, and regression testing, and support/assist City with UAT testing to ensure fixes work properly across the entire system.
- 1.1.6 Implement City-approved changes in production environment using proper change control procedures.
- 1.1.7 Analyze, debug, and resolve current bugs, which include, but are not limited to, the following:
 - 1.1.7.1 Resolve incident and comment integration.

1.2 New Features and Enhancements

- 1.2.1 Develop, test, stage, and support/assist with City UAT testing of new features and enhancements as prioritized, approved, and directed by the City. Initial new features/enhancements may include, but are not limited to, the following:
 - 1.2.1.1 Revise customer notification emails to provide more opportunities for customers to provide feedback or get help from the customer contact center.
 - 1.2.1.2 Resolve ongoing integration errors related to Graffiti (AppOrder), Illegal Dumping, and Abandoned Vehicles (Salesforce back end).
 - 1.2.1.3 Improve how staff comments are shared with customers to provide better context on why a request was closed.
 - 1.2.1.4 Better communicate the implications of reporting anonymously vs. logging in as a registered user on the mobile application and web portal.
 - 1.2.1.5 Better communicate privacy protections on mobile application and web portal.
 - 1.2.1.6 Differentiate between requests that were resolved and requests that were closed because the City could not take action (e.g. did not find, not in jurisdiction).
- 1.2.2 New features and enhancements shall be identified and specified in writing to the Contractor by the City's Project Manager.

1.3 The associated costs for these as-needed supplemental professional services are set forth below in accordance with the Third Revised EXHIBIT B, Section 5:

Supplemental Services	Estimated Hours*	Hourly Rates*	
Supplemental Support and Bug Fixes (Section 1.1)	96	\$55 or \$155	
New Features and Enhancements (Section 1.2)	909	\$55 or \$155	
TOTAL NOT-TO-EXCEED AMOUNT			\$65,000

*Hours and rates are dependent upon the work complexity and the Contractor skillset required to perform the work. All work must be pre-approved by the City's Project Manager and must not exceed the not-to-exceed amount.

- 1.4 Contractor shall designate a primary point of contact for all support issues and an escalation manager in the event issues require escalation. The City reserves the right to reject designated Contractor personnel who are unable to perform requested services in a timely manner. In such cases, the issue will first be escalated to the designated escalation manager.
- 1.5 Contractor shall provide the City with a minimum of 1 FTE (40 hours/week).
- 1.6 Contractor shall provide City's Project Manager with projected hours for review prior to beginning work and will only work on tasks designated, approved, and tracked by the City's Project Manager.
- 1.7 Contractor shall provide City with access to its Service Desk Tool for creating and tracking tickets.
- 1.8 Contractor shall provide offshore support services in accordance with the following Service Level Targets:

Priority Level	Description	Response Times*
Priority Level 1 – High	Application down	2 hours
Priority Level 2 – Medium	Major functionality not working with no workaround available	4 hours
Priority Level 3 - Low	Minor functionality not working but workaround typically available	8 hours

*Response Times for offshore services are based on standard offshore support hours of 2:00pm to 10:00pm IST, Monday through Friday, excluding the following India holidays:

Offshore Services Holidays (1 day each)	
Republic Day	Ganesh Chaturthi
Holi / Dhulivandan	Mahatma Gandhi Jayanti
Maharashtra Day/ Labour Day	Laxmi Puja
Ramadan Eid	Dipawali

2 City agrees to provide Contractor with the following:

- 2.1 A City Project Manager who will prioritize and assign tasks to ensure effective utilization of the allocated hours, including specifications for new features and enhancements, and a designated City Escalation Manager in the event escalation is required.
- 2.2 Reasonable lead time for the assignment of Contractor resources.
- 2.3 Access to existing development and test environments, tools, portals, etc. as needed.
- 2.4 Access to the City's key users and management as required for interviews, system testing, and decision-making to facilitate timely completion of project tasks.
- 2.5 Access to documentation, information, and data related to the in-scope applications.
- 2.6 Access to additional information as required to enable/assist Contractor with troubleshooting and issue resolution of integrated products (e.g. 3rd party application information when dealing with API issues, etc.).
- 2.7 City's Project Manager will ensure that internal resources complete required tasks in a timely fashion.
- 2.8 City's Project Manager shall coordinate UAT testing.
- 2.9 The City's Project Manager shall sign-off on final acceptance of fixes, new features, enhancements, etc. after full quality assurance has been completed by the Contractor and prior to implementation in the production environment.

3 Acceptance by City

The Services described herein have a maximum amount to be charged for this work by Contractor of Sixty-Five Thousand Dollars (\$65,000). The City will be invoiced no more frequently than monthly for the actual work performed (i.e., on a time and materials basis).

4 Maximum Compensation

The maximum amount of compensation to be paid to Contractor for these supplemental services pursuant to this First Amendment shall not exceed Sixty-Five Thousand Dollars (\$65,000). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the City.

SECOND REVISED EXHIBIT B - COMPENSATION AND PAYMENT SCHEDULE

1 COMPENSATION AND PAYMENT TERMS

- 1.1 The maximum amount payable for all services provided under this Agreement shall not exceed **Five Hundred Thirty-Nine Thousand Four Hundred Eighty-Three Dollars (\$539,483)** during the initial five-year term. Any additional services requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures. No additional services will be performed unless both Parties execute a Change Order outlining the services requested and the compensation agreed for such services.
- 1.2 Progress payments shall be made to Contractor by City based on net thirty (30) days payment terms, following acceptance of designated milestones as shown below in Table B1-Payment Schedule. All payments are based upon City's acceptance of Contractor's performance as evidenced by successful completion of all of the deliverables as set forth for each milestone. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the Milestone for which payment is due.
- 1.3 Payment for any part or parts of the System implementation provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any or all of the System, which does not conform to the Specifications or other requirements of this Agreement. Portions of the System implementation, which are rejected shall be promptly corrected by Contractor. If components of the System contain defects not reasonably apparent on initial inspection, City reserves the right to require prompt correction by Contractor in accordance with Contractor's warranty obligations.

2 PROJECT PERFORMANCE & PAYMENT SCHEDULE

- 2.1 Following execution of this Agreement, work shall begin on a date mutually agreed upon by the Parties. All timeline dates are understood to be close of business, 5:00 p.m. Pacific Time. If timeline dates fall on a weekend or City holiday, the date is understood to be the next business day.
- 2.2 Compensation and payments shall be made to Contractor by City based on Net Thirty (30) day payment terms.
- 2.3 Invoicing procedure: The City agrees to compensate Contractor for the Services performed in accordance with the terms and conditions of this Agreement. Contractor shall invoice the City on a upon completion of each milestone according to Table B1 listed below:

Table B1: Payment Schedule

Phase	Del #	Description	Fees
Design	P1A-01	Project Kick-off	\$21,990
	P1A-02	Project Plan	\$32,985
Model	P1A-03	Technical and Functional Design	\$32,985
Verify	P1A-04	System Integration Testing Completed	\$32,985
	P1A-06	User Acceptance Testing Completed	\$32,985
Deploy	P1A-07	Train-the-Trainer Training Delivered	\$10,995
	P1A-08	Go-Live with OSvC Applications	\$32,985
	P1A-09	Post Production Support Complete (Project Accepted)	\$21,990
Implementation Services Subtotal			\$219,900

Annual Mobile App Support/Maintenance	
- Year 1 (12/01/16 – 6/30/17)	\$7,583
- Year 2 (7/01/17 – 6/30/18)	\$13,000
- Year 3 (7/01/18 – 6/30/19)	\$13,000
- Year 4 (7/01/19 – 6/30/20)	\$13,000
- Year 5 (7/01/20 – 6/30/21)	\$13,000
Support/Maintenance Subtotal	\$59,583

Supplemental Services (as may be required) Not-to-Exceed*	\$95,000
Change Order #1	\$60,095
Change Order #2	\$39,905
First Amendment (this action)	\$65,000
TOTAL COMPENSATION NOT-TO-EXCEED	\$539,483

*Supplemental Services are subject to a City-approved Supplemental Work Order Form (Exhibit E).

3 RENEWAL PERIOD COMPENSATION

3.1 After the Initial Term, the City reserves the right to extend the term of this Agreement pursuant to Section 2.2 (“Option to Extend”) for ongoing services at the same rates as the final year of the Initial Term unless otherwise requested and agreed to in writing by the Parties.

3.2 Price Renegotiation. Contractor may request adjustments to the compensation rates 60 days prior to an option term. Contractor shall provide information justifying reasons for any increase, and City shall not unreasonably withhold approval of any increase provided the renewal quote for ongoing services does not increase more than the Consumer Price Index if applicable, over the previous year’s fees, unless otherwise negotiated.

3.3 City shall provide Contractor prior written notice in the form of EXHIBIT F of its intention to exercise its option for the next term prior to the end of the then current term. The City's Director of Finance or designee is authorized to exercise options on behalf of the City.

4 SUPPLEMENTAL WORK ORDER FORM (for additional "in-scope" services)

In the event the City requires supplemental services for additional in-scope work as described in Appendix A4 Price List (Item 3), Contractor shall provide a written quotation that includes all costs to complete the supplemental service requested and shall obtain approval before start of work using the Supplemental Work Order Form in Exhibit E. Upon receiving City's written approval to proceed with the supplemental service, Contractor shall perform the supplemental service at a time mutually agreed upon by Contractor and City according to quoted price.

5 CHANGE ORDER FORM (for additional "out of scope" services)

5.1 Supplemental Services

"Supplemental Services" are ad hoc services related to those set forth in this Agreement, but not specifically identified herein. Contractor shall provide Supplemental Services on a level-of-effort basis as authorized in advance, in writing, by the Director of Finance pursuant to Section 7 Change Order Procedure and Authorization.

In the event the City requires additional services beyond the Scope of this Agreement, Contractor shall provide a written quotation, at no cost to the City, of the type of Supplemental Services requested and the time required to complete the requested work.

5.1.1 Supplemental professional service rates shall not exceed the following:

Additional Services	Hourly Rate
Solutions Architect	\$160
Programmer (Offshore)	\$55
Project Manager	\$160
Configuration Specialist (Offshore)	\$55
Trainer (Functional Consultant)	\$155
Configuration Specialist (Onshore)	\$155
Technical Analyst (Offshore)	\$55

Reimbursable expenses shall include travel expenses, which will be reimbursed based on actual cost but limited to the current Internal Revenue Service maximum rates for mileage and per diems according to the federal government, general services schedule for the continental United States.

Contractor may adjust hourly rates upon justification and approval by City. In no event, shall the adjusted rates increase by more than 3%.

- 5.2 City reserves the right to request a fixed priced quote in lieu of time and materials. Any fixed price quotes shall not exceed the agreed-upon supplemental service rates in Section 5.1.1 above and must be good for at least 90 days.
- 5.3 Quotes must be approved by the City through an executed Change Order prior to any work being performed.