

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT (Amendment) made and entered into as of this _____ day of December 2019, amends the Agreement heretofore entered into between the CITY OF FRESNO, a municipal corporation (City), and Byrne Software Technologies, Inc., a Missouri corporation (Consultant).

RECITALS

WHEREAS, City and Consultant entered into an Agreement, dated September 7, 2018, for services related to professional services for Accela System Support (Agreement); and

WHEREAS, City and Consultant entered into a First Amendment, dated April 1, 2019, to increase the total contract amount by an additional \$200,000; and

WHEREAS, City and Consultant desire to enter into this Second Amendment to modify the Agreement to increase the total contract amount by an additional \$100,000; extend the contract term length until June 30, 2020; and to add additional scope items (**Exhibit B**).

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledge, the parties agree that the aforesaid Agreement be amended as follows:

1. Section 3 of the Agreement is amended such that the Consultant's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed \$450,000, paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A** of the original contract. This is an increase of \$100,000.

2. The Project Performance Period shall be extended until June 30, 2020.

3. The services of Consultant as defined in **Exhibit A** – Existing Scope of Services of the original agreement shall be amended to include Additional Scope of Services in **Exhibit B**.

4. In the event of any conflict between the body of this Amendment and the Agreement, the terms and conditions of the body of this Amendment shall control and take precedence over the terms and conditions expressed within the Agreement. Furthermore, any terms or conditions contained within the Agreement which purport to modify the allocation of risk between the parties, provided for within the body of this Amendment, shall be null and void.

[Signatures follow on the next page.]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
A California municipal corporation

BYRNE SOFTWARE TECHNOLOGIES, INC.,
A Missouri corporation

By: _____
Jennifer K. Clark, AICP
Director, Planning and Development
Department

By: William J Byrne

Name: William J Byrne

Title: COO - Vice President
(If corporation or LLC., Board Chair,
Pres. or Vice Pres.)

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: Brandon M. Collet 12/5/19
Senior Deputy City Attorney Date

By: _____

Name: _____

Title: _____
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

ATTEST:
YVONNE SPENCE, CRM MMC
City Clerk

REVIEWED BY:

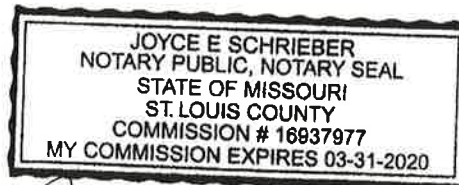
By: _____
Deputy Date

Summer Cecil

Addresses:
CITY:
City of Fresno
Attention: Summer Cecil
Management Analyst II
2600 Fresno Street, Suite 3065
Fresno, CA 93721
Phone: (559) 621-8166
Email: Summer.Cecil@fresno.gov

CONSULTANT:
Byrne Software Technologies, Inc.
Attention: Robert Cook
Vice President
16091 Swingley Ridge Road, Suite 200
Chesterfield, MO 63017
Phone: 636-573-2505
FAX: 636-537-2666

- Attachments:
1. Exhibit A – Scope of Services
2. Exhibit B – Additional Scope of Services



Joyce E Schrieber
Signed in my presence
in St. Louis County 12/3/2019

Exhibit A

SCOPE OF SERVICES
Consultant Service Agreement between City of Fresno (CITY)
and Byrne Software Technologies, Inc. (CONSULTANT)
Accela System Support

Purpose

The City of Fresno has requested Byrne Software to provide Accela consulting services for a 18-month agreement for assistance with custom scripts, reports, workflow changes, new record types, and quick fixes, in the Accela system for the following: Building Permitting and Inspections, Public Works and Utilities, Planning and Land Division, Code Enforcement, and Fire Department.

All work and any additional to be directed by Bonique Emerson or other authorized City representative

Deliverables

Task
General Scripting, Custom Reports, Workflow Changes, Configuration, & Quick Fixes (Not to exceed \$150,000; equivalent of up to 1200 hours).

General Assumptions

1. Byrne Software may utilize "GoTo Meeting" or "WebEx", for remote Discovery and review meetings. Onsite meetings will also be used when applicable.
2. Remote and local access to the City of Fresno environment is available to Byrne personnel. This will include sufficient security privileges to perform services as required.
3. No additional work or deliverables is implied unless specifically stated in this Scope of Services.
4. All work is billed on a time and materials basis.
5. Any Accela Support Cases to be submitted by the Agency.

Rate

The rate for all work related to this project is \$125/hour. The rate applies to all onsite and offsite work.

Travel Expenses

Travel expenses would only apply if on-site meetings/training is required by the Agency. Reasonable travel expenses would be approved by the Agency, in advance.

Change Control

To help contain the cost associated with the development of software, Byrne Software will utilize change control management. This process estimates the impact on the project if the client requests change to requirements after the design has been finalized. This procedure also helps Byrne Software advise clients of adjustments to the schedule and/or the total cost for any change and authorizes Byrne Software to proceed on approved changes. Our change control documents will itemize all of the requested changes, noting the item's priority and cost and schedule impact. Using this document, the Agency may determine what changes are truly necessary in order to meet their business needs and stay within the acceptable budget and schedule.

When the scope of the change has been finalized, Byrne Software will issue a Change Order Authorization document, listing the final change items, budget and schedule impact. When the Change Order Authorization has been approved and signed, Byrne Software will add the additional tasks to the schedule.

Confidential Information

Byrne Software recognizes and acknowledges that it may receive access to certain proprietary and confidential business information of Client, which Client expressly identifies as Confidential or is not known to be in the public domain, such as, client lists, marketing strategies and methods, software, and planning strategies ("Confidential Information"). Byrne Software will not, during or after the term of this Agreement for so long as such information shall be confidential, use or disclose to any third person for any reason any Confidential Information and will not disclose or make available to any third person, firm or corporation any reports, recommendations and/or work product which Byrne Software produces for Client.

Intellectual Property Rights

All applicable software developed by Byrne Software pursuant to this Statement of Work is the property of the City of Fresno. All original written materials, including programs, listing and other programming documentation prepared under this Agreement, may be used by the Agency modified or added to in any manner that it deems appropriate.

Representations and Warranties

Byrne Software Technologies represents and warrants to the Agency that the services under this engagement shall be performed in a good and workmanlike, professional and timely manner consistent with customary industry practice.

Non-Solicitation of Byrne Software Employees

During the term of this engagement and for a period of one (1) years after termination of this Agreement, City of Fresno shall not hire or contract with, directly or indirectly, in any capacity, a Byrne Software employee who performed services to the Agency, or any person, firm, corporation, partnership, association or entity employing or affiliated with such Byrne Software employee, to perform any services of any kind whatsoever for the Agency.

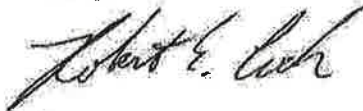
Project Schedule

Byrne Software will coordinate a scheduled start date with the City of Fresno for effort upon acceptance of the Scope of Services as noted by City of Fresno signature. Byrne Software will prepare an Agenda for review and concurrence by the Agency.

Summary

Byrne Software Technologies, Inc. thanks you for the opportunity to submit this Scope of Services to the City of Fresno. Please contact me if you have any questions. We look forward to enhancing your Accela experience.

Sincerely,



Bob Cook

Vice President

Byrne Software Technologies, Inc.

rec@ByrneSoftware.com

636-537-2505

SCHEDULE OF FEES AND EXPENSES

Billing and Payment Schedule

All services are provided on a time and material basis plus any out of pocket expenses, unless documented in the Scope of Services. Estimates given are not considered as a fixed bid unless specifically stated as such, in writing, by Byrne Software. This Scope of Services is not to exceed \$150,000; equivalent up to 1200 hours; the Agency will only be charged for the time spent to complete; if additional hours are required a change order must be first approved by the agency. Byrne Software bills weekly for services provided the previous week. Billing terms are Net 30; a 1.5% penalty per month will be assessed for any late payments. A billing rate of \$125/hour will be used through the project.

EXHIBIT B
ADDITIONAL SCOPE OF SERVICE

All items outlined within Exhibit A of the original contract between the CITY and CONSULTANT remain in full force. Items listed herein this Exhibit B are in addition to, and/or for clarification of Exhibit A.

1. CONSULTANT shall send acknowledgement of receipt of communications from CITY representatives within one business day.
2. CONSULTANT shall provide support with implementation of any desired software version updates to include, but not limited to:
 - a. Meeting with CITY staff prior to implementation of new software version in preparation of upgrade and to identify any potential complications or opportunities with the implementation;
 - b. Training sessions for all staff specific to new features within the software update prior to implementation. Number and frequency of training sessions will be agreed upon by the CITY and CONSULTANT during pre-implementation meetings;
 - c. All required technical assistance, testing, scripting, configuration, etc. required for successful implementation of new software version;
 - d. On-site triage support during first week of software update launch. CITY and CONSULTANT may agree to increase or decrease number of CONSULTANT staff on-site during this time period based on need, at any time;
 - e. Provide biweekly trainings to CITY technical staff regarding scripting, custom reports, workflow changes, configuration, and general software fixes.
3. CONSULTANT shall provide monthly continued education trainings to all staff regarding general use of new software version by internet and phone conference.