

### THIRD AMENDMENT TO AGREEMENT

THIS THIRD AMENDMENT TO AGREEMENT (Amendment) made and entered into as of this \_\_\_\_\_ day of June 2020, 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 entered into a Second Amendment, dated December 31, 2019 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; and

WHEREAS, City and Consultant desire to enter into this Third Amendment to modify the Agreement to extend the contract term length to June 30, 2021 and to add additional scope items (**Exhibit B**).

#### AGREEMENT

NOW, THEREFORE, the parties agree that the Agreement be amended as follows:

1. The Project Performance Period shall be extended until June 30, 2021.
2. 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**.
3. 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: Catherine Byrne  
4C1B2FDE5F58441  
Catherine Byrne  
Name: \_\_\_\_\_  
Title: Chief Executive officer

(If corporation or LLC., Board Chair,  
Pres. or Vice Pres.)

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: Brandon M. Collet 6/17/2020  
Date  
Senior Deputy City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
(If corporation or LLC., CFO, Treasurer,  
Secretary or Assistant Secretary)

ATTEST:  
YVONNE SPENCE, CRM MMC  
City Clerk

REVIEWED BY:

By: \_\_\_\_\_  
Date  
Deputy

\_\_\_\_\_  
Summer Cecil

Addresses:  
CITY:  
City of Fresno  
Attention: Summer Cecil  
Project Manager  
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

**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 16-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***

<b>Task</b>
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](mailto: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

City of Fresno, CA

### Accela Upgrade Services **PROPOSAL**

v1.0

Byrne Software Technologies, Inc.

---

#### Accela Civic Platform

Licensing System | Mobile Field Collaboration | Permitting System |  
Code Enforcement | Inspections | Workflow & Record Keeping | and More!

## Prepared for:

City of Fresno, CA

Bryce Hubbell - Information Systems Manager, GIS Division

Summer Cecil - Project Manager, Planning and Development

**Table of Contents**

Revision Log..... 3

Executive Summary ..... 4

Services..... 4

General Assumptions ..... 4

Travel Expenses..... 5

Change Control..... 5

Confidential Information..... 6

Intellectual Property Rights..... 6

Billing and Payment Schedule ..... 6

Representations and Warranties ..... 6

Non-Solicitation of Byrne Software Employees..... 6

Project Schedule ..... 6

Termination ..... 6

Summary ..... 7

Signature and Acceptance ..... 7

## Revision Log

This log provides a synopsis of revisions made to this document.

Version	Date	Author	Description
1.0	5/1/2020	Amber Digenan	Initial Document



## Executive Summary

The City of Fresno, CA has requested Byrne Software to perform Accela Upgrade Services. The City is self-hosted with a Development, Test and Production environment. Byrne proposes to upgrade the City of Fresno's Accela Civic Platform from version 9.x to version 19.x, which includes all relevant patches to date or most current version available and selected by the City.

Byrne Software is committed to providing a superior consulting experience for the current and future needs of City of Fresno. Byrne Software will work with City staff to perform all upgrade activities for these two environments.

All work and any additional to be directed by Bryce Hubbell.

## Services

Deliverable	Byrne Tasks	City Tasks
Upgrade Database	<ul style="list-style-type: none"> <li>Perform upgrade of database.</li> </ul>	<ul style="list-style-type: none"> <li>Grant any necessary permissions to the network file share.</li> <li>Assist with any technical assistance on Fresno servers and network</li> <li>Provide Conversion Machine that has administrator Access.</li> </ul>
Upgrade DEVELOPMENT and TEST environments	<ul style="list-style-type: none"> <li>Perform upgrade of DEVELOPMENT and TEST environments</li> </ul>	<ul style="list-style-type: none"> <li>Support upgrade effort by investigating issues</li> </ul>
Testing and Verification of DEVELOPMENT and TEST environments	<ul style="list-style-type: none"> <li>Execute unit tests</li> </ul>	<ul style="list-style-type: none"> <li>Provide requirements for verification testing</li> <li>Perform verification testing of upgraded DEVELOPMENT and TEST environments</li> </ul>
Technical Support for City Testing	<ul style="list-style-type: none"> <li>Provide support for City testing</li> </ul>	<ul style="list-style-type: none"> <li>Provide details on any issues encountered</li> </ul>
Project Management	<ul style="list-style-type: none"> <li>Coordinate Byrne resources for the project</li> <li>Coordinate with Accela and City as necessary to complete the project.</li> </ul>	<ul style="list-style-type: none"> <li>Coordinate City resources for the project</li> <li>Coordinate resolution of issues and decisions assigned to City.</li> </ul>
Implementation	<ul style="list-style-type: none"> <li>Perform upgrade to PRODUCTION</li> </ul>	<ul style="list-style-type: none"> <li>Perform final validation of PRODUCTION environment</li> <li>Sign off</li> </ul>

**Note: Technical specification documentation was already created under the existing support hours agreement and pertains to this effort.**

## General Assumptions

1. Byrne Software may utilize "GoTo Meeting" for remote Discovery and review meetings.
2. Remote and local access to the City's 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 Proposal.
4. Current Self Hosted Configuration will be detailed in the Technical Upgrade Plan Document.
5. The latest install files provided by Accela are complete and without issue and cause no unexpected delays to the proposed work.
6. City and Byrne Software will review their responsibilities before work begins to ensure that Services can be satisfactorily completed.
7. City will maintain primary responsibility for the scheduling of City employees and facilities in support of project activities.
8. City is responsible for proper desktop hardware/software/network preparation in accordance with Accela specifications and Accela software requirements.
9. City is responsible to ensure City participants have adequate hardware/software to successfully participate in user acceptance testing.
10. City and Byrne will work together to determine appropriate timeframes for upgrade activities.
11. City will provide separate environments to perform the upgrade to minimize risk and issues that result from converting the existing environments.
12. Communications to the City staff and citizens regarding the timing of the upgrade and new features of the upgrade are the sole responsibility of the City project manager(s).
13. Testing of SSRS reports will be conducted by the City.
14. Does not include changes to the reports due to database changes or functions of the latest Accela version.
15. Does not include Master Scripts upgrade.
16. IVR is out of scope for this effort.
17. May require an upgrade of ESRI depending of version of Accela implemented. If required, it is the sole responsibility of City to perform the ESRI upgrade.
18. May require an upgrade of SQL and other Server components to support the new version. If required, it is the sole responsibility of City to perform the upgrades.
19. Training is out of scope for this effort.
20. City resources have ten consecutive business days to perform testing; delays could cause a Change Order to be issued.
21. City resources have ten consecutive business days to perform final validation in production; delays could cause a Change Order to be issued.

## Travel Expenses

N/A – all work to be conducted remotely

## 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 City 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 at \$145/hour, 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 proposal 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 City modified or added to in any manner that it deems appropriate.

### **Billing and Payment Schedule**

Byrne's total price to perform the Services and provide the Deliverables described is \$18,750.00 exclusive of taxes and expenses (the "Fixed-Fee"). The Fixed-Fee price is based on the information available at the time of signing and the assumptions, dependencies and constraints, and roles and responsibilities of the Parties, as stated in this proposal. Invoice of \$9,375.00 will sent out at contract execution. The remaining balance of \$9,375.00 will be invoiced at completion of the upgrade of production.

### **Representations and Warranties**

Byrne Software Technologies represents and warrants to the City 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, the City of Fresno shall not hire or contract with, directly or indirectly, in any capacity, a Byrne Software employee who performed services to the City, 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 City.

### **Project Schedule**

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

### **Termination**

Either party may terminate if the other party materially breaches this proposal and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Upon any termination or expiration of this proposal, all rights granted to City are

cancelled and revert to Byrne Software. City will pay all outstanding invoices and any monies due based on the terms described in this proposal.

**Summary**

Byrne Software Technologies, Inc. thanks you for the opportunity to submit this Proposal to the City of Fresno. Amber Digenan will serve as the contact for this effort. She can be reached directly at 858-382-4813 and by email at [and@byrnesoftware.com](mailto:and@byrnesoftware.com). We thank you for the continued support.

Sincerely,



**Bob Cook**  
Chief Business Officer  
Byrne Software Technologies, Inc.  
[rec@ByrneSoftware.com](mailto:rec@ByrneSoftware.com)  
636-537-2505

**Signature and Acceptance**

**City of Fresno, CA**

**Byrne Software Technologies, Inc.**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

Its \_\_\_\_\_  
(Title)

Its \_\_\_\_\_  
(Title)

Dated: \_\_\_\_\_  
(Month, Day, Year)

Dated: \_\_\_\_\_  
(Month, Day, Year)