

FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO THE FEBRUARY 9, 2021 AGREEMENT ("First Amendment") is made and entered into this 12th day of July, 2022, by and between COUNTY OF FRESNO, a political subdivision of the State of California, Fresno, California ("COUNTY"), and Accruent, LLC., a Delaware limited liability company, whose address is 11500 Alterra Parkway, Suite 110, Austin, TX 78758 ("CONTRACTOR").

WITNESSETH:

WHEREAS, COUNTY and CONTRACTOR entered into Agreement number 21-034, effective February 9, 2021 ("Agreement"), pursuant to which CONTRACTOR agreed to provide a Computerized Maintenance Management System (CMMS) for work order management, inventory control, mobile functionality, and capital planning tools to COUNTY;

WHEREAS, CONTRACTOR no longer offers portions of the software covered by the Agreement, including capital planning tools and services, due to a corporate restructuring; and

WHEREAS, COUNTY and CONTRACTOR now desire to amend the Agreement in order to remove those portions of the software no longer available from CONTRACTOR.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

1. Section 1 of the Agreement, located on page 1, line 21 through page 2, line 25, is deleted in its entirety and replaced with the following:

1. **DEFINITIONS:**

The following terms are defined as follows for purposes of this Agreement:

Change Control Process means the process used by the Information Services Division of COUNTY's Internal Services Department ("ISD") to inform COUNTY staff of new or updated production use systems.

County System Hardware means the central processing units owned or leased by COUNTY on which COUNTY is licensed to use the System Software, any back-up equipment for such central processing units, and any peripheral hardware such as terminals, printers, and personal computers.

COUNTY System Software means the operating system and database software, excluding

1 CONTRACTOR'S System Software, installed on the County System Hardware.

2 ISD is the COUNTY's Internal Services Department.

3 License is the license granted under Section 2(A) of this Agreement, and the rights and
4 obligations that it creates under the laws of the United States of America and the State of California,
5 including without limitation, copyright and intellectual property law.

6 System refers to the System Software and System Documentation, collectively, including all
7 modifications and updates and Third-Party Software.

8 System Documentation means the documentation relating to the use of the System Software,
9 including all instructions, release notes, manuals, and online help files in the form generally made
10 available by CONTRACTOR.

11 System Software is the computer software provided and hosted by CONTRACTOR, including
12 AppTree, FAMIS Cloud Maintenance, and Accruent Analytics. FAMIS is a CMMS that provides digital
13 tools for maintaining and operating COUNTY facilities. Accruent Analytics is an analytics and business
14 intelligence platform that allows for more in-depth reporting on the data contained within the other
15 software platforms. All systems are web applications that will be accessed via internet browsers on
16 personal computers, and via applications on mobile devices. System Software does not include
17 operating system software, or any other third-party software.

18 System Software Maintenance and Support means software hosting for System Software,
19 regular software updates to System Software, and support provided for System Software in case of
20 errors, mistakes, or other technical difficulties.

21 Third-Party Software is software in object code form, including documentation and updates,
22 owned by an entity other than CONTRACTOR, which is to be provided to COUNTY by
23 CONTRACTOR on a pass-through, reseller, or OEM basis."

24 2. In Section 2 of the Agreement, lines 13 through 17, are deleted in their entirety.

25 3. Section 6 of the Agreement, located on page 12, line 4 through page 13, line 23, is
26 deleted in its entirety and replaced with the following:

27 2. **" COMPENSATION/INVOICING:** COUNTY agrees to pay CONTRACTOR, and
28 CONTRACTOR agrees to receive compensation, as follows:

A. Software Support and Maintenance/Subscription Fees:

COUNTY agrees to compensate CONTRACTOR for support, maintenance, and subscription fees as described below:

	Year 1	Year 2	Year 3	Year 4	Year 5
EMS Workplace Subscription	N/A	N/A	\$39,750.00	\$39,750.00	\$40,952.40
EMS/FAMIS Intregation (Single Dept)	N/A	N/A	\$2,500.00	\$2,500.00	\$2,575.00
EMS Room Integration (125)	N/A	N/A	\$5,000.00	\$5,000.00	\$5,150.00
FAMIS Cloud Maintenance	\$39,097.80	\$41,052.69	\$43,105.32	\$46,122.70	\$49,351.29
* Advanced Inventory	\$15,639.12	\$16,421.08	\$17,242.13	\$18,449.08	\$19,740.51
* FAMIS Cloud APIs	\$3,090.00	\$3,244.50	\$3,406.73	\$3,645.20	\$3,900.36
AppTree	\$16,421.08	\$17,242.13	\$18,104.24	\$19,371.53	\$20,727.54
Accruent Analytics	\$10,300.00	\$10,815.00	\$11,355.75	\$12,150.65	\$13,001.20
Subtotal	\$84,548.00	\$88,775.40	\$140,464.17	\$146,989.16	\$155,398.30
Total					\$616,175.03

+ The table above reflects that maximum annual increase to fees during the initial 3-year term shall not exceed 5%. Thereafter, the maximum annual increase to fees shall not exceed 7%.

Additional modules may be added to the System Software as determined necessary by the Contract Administrator. The total cost for these additional modules shall not exceed \$616,175.03 for the term of the Agreement. The maximum total compensation payable for software support and maintenance and annual subscription fees is \$950,000.00 for the term of the Agreement.

Managed Services:

COUNTY agrees to compensate CONTRACTOR for Managed Services. The maximum total compensation payable for Managed Services is \$130,000.00.

Additional Services:

COUNTY may request additional services, including training, implementation services, or other services that are not otherwise included under this Agreement, and that COUNTY, in consultation with CONTRACTOR, deems necessary for additional fees. CONTRACTOR will provide a written quotation for

1 the required services for approval by the COUNTY's Contract Administrator. The maximum total
2 compensation payable for these additional services is \$150,000.

3 CONTRACTOR shall submit monthly invoices referencing the provided contract number via email,
4 to the Internal Services Business Office (ISDBusinessOffice@FresnoCountyCA.gov) or via mail to County
5 of Fresno, Department of Internal Services, Attention: Business Office, 333 W. Pontiac Way, Clovis, CA
6 93612. COUNTY shall pay CONTRACTOR within forty-five (45) days of receipt of an approved invoice.
7 COUNTY shall remit payment to CONTRACTOR's address specified in the approved invoice.

8 The total maximum compensation payable to CONTRACTOR during the first three years of this
9 Agreement is \$797,000.00. If this Agreement is extended for the first additional year as provided in
10 Section 4, above, the total maximum compensation payable to CONTRACTOR will increase to \$997,000.
11 The maximum total compensation payable for all goods and services under this Agreement for all five
12 years, if the Agreement is extended for both additional years as provided in Section 4, above, is
13 \$1,230,000. It is understood that all expenses incidental to CONTRACTOR's performance of services
14 under this Agreement shall be borne solely by CONTRACTOR."

15 COUNTY and CONTRACTOR agree that this First Amendment is sufficient to amend the
16 Agreement and, that upon execution of this First Amendment, the Agreement and this First
17 Amendment together shall be considered the Agreement.

18 The parties agree that this First Amendment may be executed by electronic signature as
19 provided in this section. An "electronic signature" means any symbol or process intended by an
20 individual signing this First Amendment to represent their signature, including but not limited to (1) a
21 digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically
22 scanned and transmitted (for example by PDF document) of a handwritten signature. Each electronic
23 signature affixed or attached to this First Amendment (1) is deemed equivalent to a valid original
24 handwritten signature of the person signing this First Amendment for all purposes, including but not
25 limited to evidentiary proof in any administrative or judicial proceeding, and (2) has the same force and
26 effect as the valid original handwritten signature of that person. The provisions of this section satisfy
27 the requirements of Civil Code section 1633.5, subdivision (b), in the Uniform Electronic Transaction
28 Act (Civil Code, Division 3, Part 2, Title 2.5, beginning with section 1633.1). Each party using a digital

signature represents that it has undertaken and satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5), and agrees that each other party may rely upon that representation. This First Amendment is not conditioned upon the parties conducting the transactions under it by electronic means and either party may sign this First Amendment with an original handwritten signature.

The Agreement, as hereby amended, is ratified and continued. All provisions, terms, covenants, conditions and promises contained in the Agreement and not amended herein shall remain in full force and effect.

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EXECUTED AND EFFECTIVE as of the date first above set forth.

CONTRACTOR

DocuSigned by:

Michael Thomas

DE5534802E4C492

COUNTY OF FRESNO

Brian Pacheco

(Authorized Signature)

Brian Pacheco, Chairman of the Board of
Supervisors of the County of Fresno

Michael Thomas Vice President, Operations

Print Name & Title

Mailing Address

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By:

Hanan

Deputy

FOR ACCOUNTING USE ONLY:

Fund: 1045

Subclass: 10000

ORG: 8935

Account: 7205