

## MEMORANDUM

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council  
From: Alicia St.Cyr, Court Administrator  
Date: February 12, 2015  
Re: Court collections

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**Council Action:** Consider approval of contract with Convergence Recovery Solutions for collection of past due court cases.

**Background Information:**

Currently, we contract with GVT for court collections on past due accounts. In talking to other cities about the vendors they use for collections on past due accounts, we have found another company that offers more useful tools for warrant collection for city staff. As such, staff recommends that Council consider the attached contract with Convergence Recovery Solutions as the provider for our past due court cases. There is no cost to the City. A 30% collection fee, which was approved by legislation, is added to each case at the time it is turned over for collections and is paid by the defendant. In addition to the court collections, we will have access to the StreetCred software which will serve as a tool to the Marshal and Officers who are serving the warrants for our City. Convergence Recovery Solutions/StreetCred will be making a presentation and will be available to answer any questions.

**Board/Citizen Input:** N/A

**Financial Impact:**

**Staff Contact:**

Alicia St.Cyr  
817-616-3828  
[astcyr@richlandhills.com](mailto:astcyr@richlandhills.com)

**Attachments:** Convergence Recovery Solutions contract

## COLLECTION SERVICES AGREEMENT

THIS COLLECTION SERVICES AGREEMENT (the "Agreement") is made and entered by and between Convergence Recovery Solutions, LLC, a Texas limited liability company ("Agency") and the City of Richland Hills ("Client"), effective this \_\_\_ day of \_\_\_\_\_, 2015.

### RECITALS

WHEREAS, Client may have delinquent accounts which it may desire Agency to collect from time to time according to the terms and conditions set forth in this Agreement; and

WHEREAS, Agency is in the business of providing third party collection services (the "Services") with respect to various debts and obligations owed by debtors and obligators to such third parties.

### AGREEMENT

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

1. Services: Agency agrees to perform the Services in accordance with the terms of this Agreement, which shall include sending letters and other communication to all individuals with warrants that have been outstanding for more than sixty-one (61) days and have been referred to Agency for collection (the "Accounts"), and to use due diligence and employ such means, methods and procedures as it, in its judgment, discretion, and experience, believes will best effect the collection of such accounts, provided such means, methods and procedures comply with Client's then current collection standards. Agency's Services and performance under this Agreement shall be in compliance with all applicable federal, state and local laws and regulations. Agency shall not: (a) harass, oppress, or abuse an Account debtor, the executor or personal representative of the Account debtor's estate, or the Account debtor's relatives in the collection of Accounts; (b) use any false, deceptive or misleading representation in connection therewith; or (c) use an unfair or unconscionable means to collect such Accounts.

2. Accounts.

a. In addition to the definition above, "Accounts" shall include debts, accounts receivable, amounts, and penalties or fees as described in Texas Code of Criminal Procedure, Chapter 103, Article 103.0031.

b. Client shall be required to refer all Accounts to Agency for Agency's performance of the Services. Client may remove from collections any account that it deems necessary in the interest of justice, or for any other reason as determined by the Municipal Court Judge on a case by case basis. The number of cases removed from collections shall not exceed a commercially reasonable number.

c. Accounts do not include, and Agency is not due any Collection Fee (as defined below) on, any account balances for cases that have been dismissed or to any

account that has been satisfied via a time served credit or community service. However, Collection Fees may be applied to any Account balance after time served credits if such Account balance is more than sixty (60) days past due.

3. A debt is considered more than sixty (60) days past due if it is unpaid on the 61<sup>st</sup> day after the date the accused is ordered to appear in the applicable court of jurisdiction.

4. Collection Procedure: With respect to each Account placed by Client with Agency for collection, Agency shall use its best efforts to collect the unpaid principal balance(s), accrued interest and any costs or fees, and otherwise perform the Services in accordance with applicable law. Agency represents to Client that its collection procedures shall consist of sending letters and other communications, as well as those other methods listed on Exhibit A attached hereto. The agency will consult with the Client during the creation of the aforementioned scripts and letters. If Agency is unable to contact an Account debtor, or if an Account debtor is unwilling to make acceptable payment arrangements with the Agency within three (3) years of Client's placement of such Account with Agency, then the Agency shall promptly return the Account to Client, together with all updated information which Agency has obtained on the Account debtor. During the Term of this Agreement, Client may withdraw or recall individual Accounts from Agency at any time, and Agency agrees that upon notification of an Account recall it shall immediately cease all collection efforts with regard to that Account.

5. Dispute Resolution. If an Account debtor disputes any collections claims made by Agency in connection with the Services, Agency will follow the requirements set forth on Exhibit B attached hereto with respect to the handling of such dispute, and will otherwise act in accordance with all applicable laws, rules and regulations.

6. StreetCred Software.

a. Subscription. Agency has previously entered into a licensing arrangement with StreetCred Software, Inc. ("StreetCred") for the StreetCred proprietary StreetCred software product, which provides data analysis, assistance and managements services to assist in safely locating individuals with outstanding warrants (the "Software"). Agency acknowledges that Client will utilize the Software to assist with its collection services (the "Purpose"). Therefore, subject to the terms of this Agreement and the terms and conditions set forth in Appendix A, "Subscription Agreement", Client hereby subscribes to use the Software via a web browser and Agency covenants to host and make the Software available for use by Client, subject to downtime for maintenance and Force Majeure Events (defined below). Agency hereby grants to Client, and Client accepts, a limited, non-exclusive, non-transferable, subscription to access and use the Software in the geographic location of Richland Hills, Texas in connection with the Purpose and subject to the terms and conditions. The rights granted in this Section 6(a) do not permit Client to do any of the following:

i. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the Software;

ii. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the Software, in whole or in part, to or by any third party without Agency's prior written consent;

iii. Modify, enhance, improve or otherwise create derivative works in and to the Software; or

iv. Cause or permit any change to be made to the Software.

b. *Ownership.* Client acknowledges and agrees that:

i. All right, title and ownership interests in and to the Software, including all intellectual property rights therein, will at all times remain with Agency or StreetCred, and that to the extent Client is deemed to own any right or interest in and to such Software or any modifications, enhancements, derivative works or modifications thereto, Client hereby assigns all such rights to Agency and will take all necessary actions in the future to assign any such rights to Agency; and

ii. the Software contains confidential and proprietary trade secrets of Agency and StreetCred which are protected by law and are of substantial value to Agency and StreetCred, and that Client will not take any actions that may impair or otherwise harm Agency's or StreetCred's rights therein.

c. *Maintenance.* The software and any hardware on which the software operates shall be maintained by the Agency or StreetCred at its sole expense.

d. Client shall remain responsible for procuring all other software, hardware and services necessary for the operation and connectivity of the Software, including for the procurement and operation of TLETS and any other similar product or service. Client shall remain responsible for maintaining the security of its account, including its username and password, and shall not disclose it to any third party except as authorized herein. Agency will not be responsible or liable for any loss or damage caused by Client's failure to comply with its security obligation. Client remains responsible for all activity occurring under its accounts, and shall notify Agency immediately of any unauthorized use of any password or account or any other known or suspected breach of security.

e. Client further agrees not to challenge Agency's or StreetCred's ownership rights in and to the Software. Client acknowledges that its rights in and to the Software may not be assigned or otherwise transferred for any reason without the prior written consent of Agency; nor may the Software be used by Client in a service bureau or like capacity to provide collection services to any other person or entity, governmental or non-governmental.

7. Proprietary Rights: All Accounts placed by Client with Agency shall continue to be the exclusive property of Client and are placed with Agency for the sole purpose of collection on behalf of Client. Agency shall acquire no rights or interest in any account(s) placed by Client

with Agency except those limited rights to receive the Collection Fee hereunder and to otherwise perform the Services in accordance with the terms of this Agreement.

8. Records: Each party shall maintain all necessary and appropriate books, records, and files with respect to any Accounts as are customary in the industry in accordance with industry standards and all applicable laws.

9. Consideration.

a. Client agrees to add on to all amounts owed on an Account an amount, designated as a collection fee, equal to thirty percent (30%) of the total amount due on the Account (the "Collection Fee"), as permitted pursuant to Texas Code of Criminal Procedure Section 103.0031(b). In consideration of Agency's performance under this Agreement, and except as otherwise provided herein, Client agrees to pay to Agency such Collection Fee for each Account balance that is collected by Client. For purposes of clarification, Agency shall be paid the Collection Fee on all Accounts.

b. To the extent that Client collects less than the original amount of the Account from the Account debtor due to a reduction, by the court, in the fines and/or fees owed, then the Collection Fee owed to Agency shall be reduced proportionately so that the total Collection Fee due to Agency represents thirty percent (30%) of the amount of the Account actually collected.

c. Within five (5) days after the end of each month, Client may provide to Agency a statement regarding collections during the previous month on all Accounts if a discrepancy exists between the invoice issued by the Agency and the Client record. The Client record shall prevail. Such statement shall contain a summary of the Accounts, and the amounts collected on said Accounts during the previous month.

d. All Collection Fees shall be remitted to Agency with the statement within 30 days of receipt of the invoice. Any amount not paid when due shall thereafter bear interest until paid at a rate equal to the lesser of one and one half percent (1 ½%) per month or the maximum rate allowed by applicable law. Each party shall have the right to suspend further performance under this Agreement should the other party default in the payment of any undisputed sum due. All amounts due shall be paid in United States currency.

e. For purposes of clarification, no Collection Fee shall be collected by Client or paid to Agency for any Account that occurred prior to Sept. 1, 1997.

10. Independent Contractor: The parties acknowledge and agree that Agency shall furnish services under this Agreement as an independent contractor and not as an employee, agent or partner of Client. The parties acknowledge and agree that all persons employed by Agency are employees of Agency and not employees of Client. Agency may freely select its employees and may freely assign, transfer or terminate the employment of any employee engaged in the services described herein. Agency further agrees to honor a request by Client to remove any Agency employee from participation in the services described herein should Client deem such employee's conduct detrimental.

11. Agency Representations; Covenants and Warranties: Agency represents, warrants and covenants to Client that:

a. Agency is a limited liability company duly organized, validly existing and in good standing in the State of Texas;

b. Agency has the corporate power to execute, deliver and carry out this Agreement and its management has duly authorized and approved the terms and conditions of this agreement and this agreement constitutes the valid and binding obligation of Agency, enforceable in accordance with its terms;

c. Agency is duly licensed, bonded and insured as may be required in the jurisdiction(s) where the Services hereunder will be performed and other applicable law;

d. All collection efforts by Agency, its agents and employees shall be provided by properly licensed and trained personnel and done in a lawful manner that is consistent with and in full compliance with Client's then current collection standards, as well as all applicable state and federal laws and regulations; and

e. Agency, its employees, agents, and representatives will use the information obtained from the Client only for the purpose of collecting the Accounts assigned to it by the Client and in all cases will preserve the confidentiality of such information, with the exception of public records.

12. Client Representations; Covenants and Warranties: Client represents, warrants and covenants to Agency that:

a. Client will be the owner of all Accounts placed with Agency.

b. The information regarding any Account provided by Client to Agency will be prepared in good faith based upon the Client's books and records.

c. Client is authorized to enter into this Agreement.

d. Client will provide Agency with any reasonable supplemental information within its possession that Client deems appropriate to facilitate the collection of any Account placed with the Agency by Client.

13. Indemnity. To the extent permitted by applicable law, each party shall indemnify, defend and hold harmless the other from all liability, claims, demands, causes of action, judgments, costs, expenses, and all losses and damages or bodily injury, death and property damage that result from the indemnifying party's (a) fraudulent, criminal or willful acts of misconduct or its reckless or negligent acts or omissions in the performance of its duties under this Agreement, or (b) breach of any provision, representation or warranty under this Agreement.

14. Limitation of Liability. Regardless of whether any remedy set forth herein fails in its essential purpose or otherwise, unless a party hereto is required to indemnify one or more

other parties hereunder for the following items that must be paid to a third party, in no instance will either party be liable for any direct, incidental, consequential, punitive or other special damages arising out of or relating to this Agreement, including damages arising out of a tort, action for breach of contract, negligence, strict liability or breach of warranty, even if the indemnifying party has been advised of the possibility of such damages.

15. Warranty. Except as otherwise expressly provided herein, neither party makes any warranties or representations to the other party or to any other person or entity as to the performance or quality of the Services provided hereunder. Neither Party shall provide any third party with separate and additional warranties for the Services which are not otherwise provided under this Agreement. If either Party provides such warranties in violation of the immediately preceding sentence, the other Party shall not be bound by such additional warranties, which shall be the sole and exclusive obligation of the Party providing such addition, and the warranting Party shall indemnify the non-warranting Party against liabilities associated with such warranties. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, ARE HEREBY DISCLAIMED BY EACH PARTY.**

16. Term; Termination:

a. This Agreement shall commence on the Effective Date and shall remain in effect for a period of one (1) year from the Effective Date (the "Initial Term"). This Agreement shall automatically renew for additional one (1) year periods (each a "Renewal Term" and collectively, with the Initial Term, the "Term"), unless either party provides the other party with written notice of its intention not to renew the Agreement within thirty (30) days of the expiration of the then-current Initial Term or Renewal Term.

b. This Agreement may be terminated at any time by either party and for any reason on thirty (30) days' written notice to the other party. Further, either party may immediately terminate this Agreement as follows:

i. For any material breach or default of this Agreement by the other party which has not been cured within fourteen (14) business days after the delivery of written notice thereof to the party alleged to be in breach, specifying with particularity the condition, act, omission or course of conduct asserted to constitute such material breach;

ii. If the other party files or has filed against it a petition in bankruptcy or for reorganization, or is adjudicated bankrupt, or becomes insolvent, or makes an assignment for the benefit of its creditors, or suffers the appointment of a receiver for any of its assets, or discontinues its business; or

iii. If required by law or by any rule, regulation, order, decree, judgment or other act of any governmental authority.

c. Upon notice of termination by either party, Agency shall promptly return all of Client's Accounts, together with Account documentation. **[Client shall not be responsible for any further Fee payment to Agency on a terminated Account under Section 8 above unless Agency has received full or approved partial payment on an Account on or before the 5<sup>th</sup> calendar day after the date of the terminated request, in which case full reimbursement shall be due from Client in accordance with Section above.]**

17. Confidentiality: Each party (the "Disclosing Party") may provide the other party hereto (the "Receiving Party") with certain confidential and proprietary information ("Confidential Information"). Confidential Information includes the Software and all relevant documentation and code, personal information related to Accounts, as well as all information that is marked "confidential" or "proprietary" (or with words of similar import) and any information that is orally disclosed, identified as confidential at the time of disclosure and confirmed in writing as being confidential within thirty (30) days thereafter. Confidential Information does not include information that (a) is publicly known at the time of its disclosure; (b) is lawfully received by the Receiving Party from a third party not under an obligation of confidentiality to the Disclosing Party; (c) is published or otherwise made known to the public by the Disclosing Party; or (d) was generated independently by the Receiving Party before disclosure by the Disclosing Party. The Receiving Party will refrain from using the Disclosing Party's Confidential Information except to the extent necessary to perform its obligations under this Agreement. The Receiving Party will likewise restrict its disclosure of the Disclosing Party's Confidential Information to those who have an absolute need to know such Confidential Information in order for the Receiving Party to perform its obligations under this Agreement. Such persons will be informed of and will agree to the provisions of this Section 17 and the Receiving Party will remain responsible for any unauthorized use or disclosure of the Confidential Information by any of them. The above-described nondisclosure obligations shall be in effect during the Term and for a period of 2 years thereafter; provided, however, that to the extent Confidential Information constitutes trade secrets under applicable law, then the nondisclosure obligations shall be in effect for so long as such Confidential Information shall be considered trade secrets under applicable law. Further, the Receiving Party may disclose Confidential Information if required or requested to do so by a governmental agency, a court or administrative subpoena, an order or other legal process or requirement of law, or in order to defend its rights hereunder. If so requested or required, the Receiving Party shall (x) first notify the Disclosing Party of such request, requirement or proposal for use in defense; (y) in the case of a required disclosure, furnish only such portion of the Confidential Information as it is advised in writing by counsel that it is legally required to disclose; and (z) cooperate with the Disclosing Party in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to that portion of the Confidential Information that is required to be disclosed. Upon the termination of this Agreement, each Receiving Party shall return all Confidential Information of the Disclosing Party which is in its possession or under its control. The provisions of this Section 17 shall survive termination of this Agreement.

18. Notices: All notices, requests demands or other routine communications to shall be in writing and shall be deemed to have been given if hand delivered or mailed first class postage prepaid to the following address or to such other address of which notice has been given as provided below:

a) If to Client send to:

City of Richland Hills  
3200 Diana Drive  
Richland Hills, Texas 76118  
Attn: Alicia St. Cyr

If to Agency send to:

Convergence Recovery Solutions LLC  
420 N. Carroll Ave, Suite 120  
Southlake, TX 76092  
Attention: Cody Durham

19. Force Majeure. Neither party shall be liable for damages under this Agreement for a delay or failure in its performance of any obligation under this Agreement as a result of causes beyond its reasonable control, including acts of God, fire, riots, acts of war, terrorism, labor disputes, lockouts, embargoes, insurrection, riots, inability to obtain materials or labor due to governmental acts, rules, regulations or directives, utility or communication interruptions, transportation delays, power failure, computer failure, breakdown of machinery, accidents, fires, floods or other natural disasters (each a "Force Majeure Event"). Upon the giving of prompt written notice to the other party of a Force Majeure Event, the time of performance by the party so affected shall be extended to the extent and for the period that its performance of said obligations is prevented by such cause; provided, however, that if such delay or failure in performance continues for more than ninety (90) consecutive days, the other party shall have the right to terminate this Agreement upon written notice to the affected party.

20. Miscellaneous: This Agreement shall be governed by and construed under the laws of the State of Texas without giving effect to conflicts of laws principles thereof. The parties hereby agree and consent to the exclusive jurisdiction of any state or federal court sitting in Tarrant County, Texas (if federal jurisdiction exists) with respect to all matters relating to this Agreement, waive all objections based on lack of venue and forum non conveniens, and irrevocably consent to the personal jurisdiction of all such courts. The waiver of any default or condition shall not constitute the waiver of any other default or condition or the same default or condition on a different occasion. This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto; provided, however, that this Agreement may not be assigned by either party without the express prior written consent of the other party. No amendment or modification shall be binding or completed without the written consent of both parties to this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original and all which together shall constitute one and the same instrument. Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other provision of this Agreement. As of the date

first written above, this Agreement supersedes any and all previous agreements between the parties and all accounts being held by Agency as of the date of this Agreement shall be governed by and administered in accordance with terms of this Agreement. The paragraph headings contained herein are for the convenience of the parties only and shall not be deemed a part of this Agreement. The words "or" and "nor" are inclusive and include "and". "Including" means "including without limitation" and does not limit the preceding words or terms. The singular shall include the plural and vice versa. References to "Sections", "Subsections" or "Exhibits" shall mean the Sections of this Agreement, Subsections of this Agreement or Exhibits attached to this Agreement, unless otherwise expressly indicated. The headings or titles preceding the text of the Sections or Subsections are inserted solely for convenience of reference, and shall not constitute a part of this Agreement, nor shall they affect the meaning, construction or effect of this Agreement. Each party will from time to time during and after the Term, upon every reasonable request and at the cost of the other party, execute documents and do all further assurances and things for the purpose of giving full effect to the terms and conditions of this Agreement. The provisions of this Agreement that will not be fully performed during the term of this Agreement, including Sections 5, 6(a), 6(b), 6(e), 8, 9, 12-19 and this Section 20, shall survive the termination of this Agreement to the extent applicable.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Convergence Recovery Solutions, LLC, a Texas limited liability company	City of Richland Hills City Manager
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By: Ben Singleton

By: Eric Strong

Title: Account Executive

Title: City Manager

**EXHIBIT A**

**SERVICES**

In addition to the provision to Client by Agency of StreetCred software, Agency shall conduct traditional Third Party Collection Agent services in accordance with industry practices, including but not limited to performing work and research to determine where commercially reasonably possible the correct and updated address of accounts, sending demand letters to accounts and engaging in telephone collection attempts consistent with the Texas Debt Collection Practices Act ("TDCPA") and the Fair Debt Collection Practices Act (FDCPA).

**EXHIBIT B**

**Dispute Resolution Process**

Agency will adhere to the following dispute resolution process for addressing any disputes issued by an Account debtor with respect to an Account or services performed by Agency in connection therewith:

- Agency must make a written record of the dispute.
- Agency shall cease debt collection services while investigating the correct amount of the debt owed.
- Agency shall send a written statement to the complainant within 30 days which (a) denies the inaccuracy, (b) admits the inaccuracy, or (c) provides that the Agency has not had sufficient time to complete an investigation of the alleged inaccuracy.
- If in the letter above, the inaccuracy is admitted, Agency must, within 5 business days of the admission, correct the inaccuracy in the file and cease collection of the portion of the debt that was inaccurate and correct the inaccurate information in any reports that were shared with others
- If the Agency states in the letter that there was insufficient time for the investigation, then:
  - o the Agency must change the information (contradiction/amount of debt) per the individual's initial dispute;
  - o Within 5 business days, correct the inaccurate information in any reports that were shared with others; and
  - o Cease collection efforts.
- If after investigation the Agency determines that the information was accurate, the Agency may again report the information and resume collection efforts.

## APPENDIX A:

### SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT (this "Agreement") is made and entered into by and between STREETCRED SOFTWARE, INC., a Delaware corporation ("StreetCred"), and The City of Richland Hills ("Customer"), effective this \_\_\_\_ day of \_\_\_\_\_, 2015.

#### RECITALS:

A. StreetCred is an information technology company that provides services to customers such as those described in this Agreement.

B. Customer desires to obtain from StreetCred, and StreetCred desires to provide to Customer, certain information technology services during the term of, and subject to the terms and conditions of, this Agreement.

#### AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. DEFINITIONS. The following terms, when used in this Agreement with initial capital letters, have the meanings ascribed to such terms in this Section 1.

1.1 "API" means application programming interface, an interface or "go-between" that enables a software program to interact with other software.

1.2 "Available" means, with respect to the StreetCred Application, that Customer is able to log in to the StreetCred Application and view the fugitives main page.

1.3 "Business Day" means a day other than a Saturday, Sunday, or day on which banking institutions in Tarrant County, Texas, are authorized or required by law or executive order to be closed.

1.4 "Customer Network" means the network of Customer's computers and other hardware components interconnected by communication channels that allow sharing of resources and information.

1.5 "Customer Repositories" means those applications, data stores, or data repositories owned by, subscribed to, or licensed to Customer, that are listed on Exhibit B attached to this Agreement.

1.6 "Effective Date" means the effective date listed in this Agreement.

1.7 "Force Majeure" means acts or omissions beyond the reasonable control of the party in question, including but not limited to delays or failures due to acts of God, natural

disasters, acts of civil or military authority, fire, flood, earthquake, strikes, wars, or utility disruptions (shortage of power).

1.8 “FTP” means file transfer protocol, a standard network protocol used to transfer files from one host or to another host over a TCP-based network, such as the internet.

1.9 “Identity Theft Enforcement and Protection Act” means Chapter 521, Subtitle B, Title 11 of the Texas Business and Commerce Code.

1.10 “Intellectual Property Rights” means all trademark, trade name, trade secret, copyright, or patent rights, moral rights, and other proprietary rights throughout the world.

1.11 “Law Enforcement Sensitive/FOUO Data” means data, information, or records from law enforcement systems or servers; data which is provided to law enforcement exclusively for investigative or confidential purposes by law enforcement officers; and “PII” or “SPI”. Law Enforcement Sensitive/FOUO Data does not include Public Data.

1.12 “PII” means “personal identifying information” as defined in the Identity Theft Enforcement and Protection Act.

1.13 “Public Data” means any information which may be accessed by the general public, including but not limited to unclassified documents and court records, but specifically excluding PII and SPI.

1.14 “Reports” means data reports generated by the StreetCred Application that contain the results of the analysis performed by the StreetCred Application.

1.15 “Service Hours” means, unless otherwise noted, the hours of 8 a.m. to 5 p.m. Central time, on Business Days.

1.16 “Service Order” means that certain Service Order attached as Addendum A to this Agreement, if any.

1.17 “Services” means the services provided by StreetCred to Customer, as set forth in this Agreement and in the Service Order.

1.18 “Software” means software programs, including supporting documentation and online help facilities. Software includes applications software programs and operating systems software programs.

1.19 “SPI” means “sensitive personal information” as defined in the Identity Theft Enforcement and Protection Act.

1.20 “SQL” means structured query language, a special-purpose programming language designed for managing data in relational database management systems.

1.21 “SQL View” means a virtual table based on the result-set of an SQL statement.

1.22 “StreetCred Application” means an intranet-only, web-based application that provides Customer with: (a) warrant and fugitive data analysis; (b) geospatial visualization of the location of fugitives; (c) stack-ranking analysis and scoring that represents the priority of arrest warrants to be served by Customer; (d) workflow planning and management; (e) notes, reminders, and collaboration between law enforcement officers with respect to fugitive cases; and (f) reporting on data associated with Customer’s warrant program.

1.23 “StreetCred Server” means a proprietary computer appliance which resides within the Customer Network.

1.24 “Term” means the term of this Agreement, commencing on the Effective Date and ending on the anniversary of the Effective Date, unless earlier terminated as provided herein.

## 2. SERVICES; RIGHTS; LICENSES.

2.1 Provision of Services. Subject to the terms and conditions of this Agreement, during the Term, StreetCred will provide to Customer the Services.

2.2 Grant of Access. To facilitate StreetCred’s provision of the Services, Customer hereby grants StreetCred the right to access, aggregate, assess, test, and synthesize all data residing in Customer Repositories. Customer represents that it is the owner of such data or otherwise has the authority to permit StreetCred to access, aggregate, test, assess, and synthesize such data.

2.3 Limited License and Use Restrictions. Subject to the terms of this Agreement, StreetCred grants Customer a limited license to access and use the StreetCred Application. Customer shall not: (i) copy or otherwise reproduce, whether in whole or in part, the StreetCred Application or Software associated therewith; (ii) modify or create any derivative work of the StreetCred Application or Software associated therewith; (iii) sell, rent, loan, license, sublicense, distribute, assign, or otherwise transfer the StreetCred Application and Software associated therewith; (iv) cause or permit the disassembly, decompilation, or reverse engineering of the StreetCred Application or Software or hardware associated therewith or otherwise attempt to gain access to the source code to the StreetCred Application or Software associated therewith; or (v) cause or permit any third party to do any of the foregoing.

2.4 Reservation of Rights. Each party reserves all rights not expressly granted in this Agreement and no licenses are granted by either party to the other party under this Agreement, whether by implication, estoppel, or otherwise, except as expressly stated in this Agreement. StreetCred owns and retains all right, title, and interest (including all Intellectual Property Rights) in and to the StreetCred Application, the StreetCred Server, the Services, and associated Software and materials, including any modifications or improvements thereof, and to all data generated in performing the Services. StreetCred hereby grants Customer a perpetual, royalty-free right and license to use the data contained in the Reports for any legal purpose. StreetCred reserves the right to use and disclose the underlying data used to generate the Reports in an aggregate format, provided that Law Enforcement Sensitive/FOUO Data cannot be identified or derived.

3. CUSTOMER OBLIGATIONS.

3.1 Technical Facilities. Customer, at Customer's cost, shall provide to StreetCred such technical facilities as StreetCred requires to operate the StreetCred Server, including but not limited to rack space/floor space, conditioned electrical connectivity and sufficient broadband (greater than 1.5Mb/s synchronous) internet and intranet (at least 10Mb/s) connectivity, and static local internet protocol (IP) address for the proper functioning of the StreetCred Server as reasonably required for similar information technology resources. Further technical requirements necessary to deploy the StreetCred Server are set forth on Exhibit A attached to this Agreement.

3.2 Access to Customer Data. Customer shall provide StreetCred with user name, password, and authentication information to enable StreetCred to access the Customer Repositories. Customer is responsible for providing all configuration data (hostnames, user accounts, etc.) necessary for the proper functioning of the StreetCred Application. Failure to provide configuration data does not release Customer from any responsibility under this Agreement. Customer shall be responsible to pay all licensing and other fees associated with Application Programming Interface, data dictionaries, and data connection to Customer Repositories. Customer shall use best efforts to facilitate communication with any third-party providers of Customer Repositories to grant to StreetCred access to such Customer Repositories, including but not limited to access by API, FTP, secure FTP, SQL, "dumps", and SQL Views. For web-based services, Customer shall ensure that StreetCred's access and use of such Customer Repositories complies with applicable terms and conditions of use that may be posted on, linked to, or otherwise provided with, such web-based Customer Repositories, as StreetCred is accessing such Customer Repositories at Customer's behest and on the Customer's behalf.

3.3 Access to StreetCred Server and StreetCred Application. Customer shall provide StreetCred with remote access sufficient to remotely administer the StreetCred Server. Customer shall require Customer employees, vendors, agents, consultants, and independent contractors to cooperate with StreetCred where reasonably possible to ensure unfettered remote or physical access to the StreetCred Server in a reasonable amount of time to effect repairs, upgrades, or updates to the StreetCred Server and/or the StreetCred Application.

3.4 Protection of StreetCred Server. Customer shall protect the StreetCred Server using Customer's security regime, including Customer's firewall, virtual private network, and other security measures in place at the Customer Network.

3.5 Updating and Maintaining Data. Customer acknowledges and agrees that it is Customer's sole responsibility to update and maintain the data within those Customer Repositories that are under Customer's control. Customer shall be responsible for training law enforcement officers in gathering information at the time of citation to ensure the quality of information within such Customer Repositories.

3.6 Customer Use of StreetCred Application. Customer acknowledges and agrees that use of the StreetCred Application by Customer and Customer's agents, employees, and contractors is dependent upon access to telecommunications and internet services. Customer shall be solely responsible for acquiring and maintaining all telecommunications and

internet services and other hardware and software required for its access and use of the StreetCred Application, including, without limitation, any and all costs, fees, expenses, and taxes of any kind related to the foregoing. StreetCred shall not be responsible for any loss or corruption of data, lost communications, or any other loss or damage of any kind arising from any such telecommunications or internet services.

#### 4. STREETCRED OBLIGATIONS.

4.1 StreetCred Server and Application. StreetCred shall install the StreetCred Server within the Customer Network and shall provide Customer with use of the StreetCred Application.

4.2 Service and Support. StreetCred shall provide the service and support described in Section 5 below.

4.3 Protection of Sensitive Data. At all times during the Term and thereafter, all data stored within the StreetCred Server and the StreetCred Application shall be handled, at a minimum, in accordance the provisions of the Identity Theft Enforcement and Protection Act. Such handling will include, but not be limited to, the following: encryption of all data in transit between the StreetCred Application and any authorized user accessing such data within the Customer Network, encryption of all data at rest on the StreetCred Server, and configuration consistent with information security industry best practices. Law Enforcement Sensitive/FOUO Data shall not be transmitted outside of the Customer Network. Customer acknowledges that StreetCred may perform passive routine network traffic security monitoring on the Customer Network and may advise Customer from time to time of threats detected or attempts to access the StreetCred Server via network or physical (local) access.

#### 5. SUPPORT.

5.1 Customer Support Web Portal. Upon execution of this Agreement, StreetCred will supply Customer with a URL link to enable Customer to set up a portal password on StreetCred's customer support web portal. To contact StreetCred customer support, Customer should go first to StreetCred's customer support web portal. From the web portal, Customer will have the ability to log and track all of its service support requests. Customer will also be able to review written or video service manuals, answers to frequently asked questions, and continually updated web security information.

5.2 Other Customer Support. Other methods to reach customer support include sending an email to support@StreetCredsoftware.com or calling (817) 989-6298 during Service Hours.

5.3 System Upgrades. There are no charges for updates, upgrades, or feature enhancements to the StreetCred Application, with the exception of those enhancements specifically built or designed for Customer, which will be charged separately. StreetCred may periodically schedule a maintenance window for upgrades to the StreetCred Application. StreetCred will use commercially reasonable efforts to inform Customer of the date, time, and duration of such maintenance windows at least twenty-four (24) hours in advance of the commencement of such maintenance. In scheduling maintenance windows, StreetCred will

take into consideration minimizing the disruption to Customer's use of the StreetCred Application.

5.4 CUSTOMER COVENANT. CUSTOMER ACKNOWLEDGES AND AGREES THAT IT WILL NOT ALLOW OR CAUSE ANY PERSON OTHER THAN AN EMPLOYEE OR AGENT ACTING ON BEHALF OF STREETCRED TO PERFORM ANY WORK, MAINTENANCE, EXAMINATION OF, OR CHANGES TO THE STREETCRED SERVER OR RELATED HARDWARE. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY SUCH ACTIVITY, OR IN ANY WAY OPENING OR ACCESSING THE STREETCRED SERVER SHALL RESULT IN A ONE-TIME CHARGE TO THE COMPANY OF \$1,000, PAYABLE ON STREETCRED'S DEMAND. STREETCRED SHALL PROVIDE CUSTOMER WITH SUPERVISED ACCESS TO CONDUCT HARDWARE AUDITS IF REQUESTED BY CUSTOMER, OR OTHERWISE REQUIRED BY LAW.

6. TERMINATION. Either party may terminate this agreement with 30 days written notice provided to the other respective party.

7. DISCLAIMERS.

7.1 Nature of Reports and Findings. The prioritization of warrants produced by the StreetCred Application represents an estimate of the relative ease of locating a given fugitive and, where relevant, the relative ability of the fugitive to pay outstanding fines. The Reports, including but not limited to scores and prioritizations, are not fact, but rather analysis generated by the StreetCred Application for use by law enforcement officers and personnel in their work. The StreetCred Application derives information from Customer systems and Customer Repositories, and from a variety of proprietary, open-source, and commercial sources which may vary from time to time without notice to Customer. The StreetCred Application uses StreetCred proprietary methods which may vary from time to time without notice to Customer. Reports, data, and other information generated by the StreetCred Application are based on information gather from within Customer systems and Customer Repositories, aggregated with and correlated with items identified in the open-source internet and do not constitute actual legal evidence. The Reports may be used to provide leads, present background information, context, and disclosures, and are a collection of information that may be of value to the Customer. Information contained in Reports may be considered valuable, but should not be considered reliable or factual unless properly validated. The conclusion of fact is only made when data are confirmed by vetting and authentication. Findings stated in the Reports do not equate to facts and do not independently confirm actus reus (criminal act) or mens rea (intent/knowledge) of a subject or person(s) in question.

7.2 NO IMPLIED OR EXPLICIT AUTHORITY TO ARREST. FUGITIVE AND WARRANT INFORMATION CONTAINED AND DISPLAYED WITHIN THE STREETCRED APPLICATION IS PROVIDED FOR THE CONVENIENCE AND FURTHER EXAMINATION BY CUSTOMER. NO STREETCRED SCORE, REPORT, DATA OR OTHER INFORMATION GENERATED BY THE STREETCRED APPLICATION SHALL BE RELIED UPON BY AGENTS OR OFFICERS OF CUSTOMER AS AUTHORITY TO ARREST UNDER LOCAL, COUNTY, STATE OR FEDERAL LAW. CUSTOMER ACKNOWLEDGES AND AGREES THAT ALL WARRANTS SHALL BE SEPARATELY CONFIRMED BY ALL USERS WITH THE COURT OF

RECORD FOR ANY WARRANT, AND THAT CUSTOMER SHALL PROVIDE SPECIFIC GUIDANCE, POLICY AND TRAINING FOR ITS AGENTS AND OFFICERS IN THIS RESPECT.

7.3 DISCLAIMER OF WARRANTY. STREETCRED PROVIDES THE STREETCRED SERVER AND THE STREETCRED APPLICATION "AS IS" AND MAKES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE STREETCRED SERVER, THE STREETCRED APPLICATION, REPORTS OR ANY OTHER RELATED DATA OBTAINED FROM THE STREETCRED APPLICATION, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF ACCURACY, RELIABILITY, USEFULNESS, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY CONDITION OR WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY.

8. LIMITATION OF LIABILITY. IN NO EVENT SHALL STREETCRED HAVE ANY LIABILITY TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR ANY LOST OPPORTUNITY, DATA, OR PROFITS, OR THE COSTS OF PROCUREMENT OR SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF THIS AGREEMENT, OR ANY EXHIBIT, SERVICE ORDER, SCHEDULE OR ADDENDUM THERETO, UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY (INCLUDING NEGLIGENCE OR OTHER TORT), WHETHER OR NOT STREETCRED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL STREETCRED'S AGGREGATE LIABILITY HEREUNDER FOR ANY CAUSE OF ACTION OR THEORY OF LIABILITY EXCEED THE AMOUNTS PAID BY CUSTOMER TO STREETCRED HEREUNDER DURING THE PRECEDING SIX-MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE. THESE LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY. NOTHING CONTAINED WITHIN THIS SECTION 8 SHALL BE CONSTRUED TO CONSTITUTE A WAIVER OF ANY IMMUNITY DEFENSE AVAILABLE TO CUSTOMER, NOR DOES ANYTHING IN THIS SECTION 8 HOLD HARMLESS STREETCRED FOR GROSS NEGLIGENCE ON STREETCRED'S PART.

9. CONFIDENTIALITY.

9.1 Definition of Confidential Information. By virtue of this Agreement, the parties may have access to each other's Confidential Information. "Confidential Information," as used in this Agreement, means any written, machine-reproducible and/or visual materials that are clearly labeled as proprietary, confidential, or with words of similar meaning, and all information that is orally or visually disclosed, if not so marked, if it is identified as proprietary or confidential at the time of its disclosure or in a writing provided within thirty (30) days after disclosure. Confidential Information does not include information that: (a) is now, or hereafter becomes, through no act or failure to act on the part of the receiving party, generally known or available to the public; (b) was acquired by the receiving party before receiving such information from the disclosing party and without restriction as to use or disclosure; (c) is hereafter rightfully furnished to the receiving party by a third party, without restriction as to use or disclosure; or (d)

is information which the receiving party can document was independently developed by the receiving party without use of the disclosing party's Confidential Information.

9.2 Use of Confidential Information. Neither party shall disclose any of the other party's Confidential Information to any third party or use such Confidential Information for any purpose other than to (i) perform its obligations or exercise its rights under this Agreement; or (ii) as otherwise required by law. Each party shall use the same measures to protect the Confidential Information of the other party as it uses with respect to its own confidential information of like importance, but in no event shall it use less than reasonable care, including, instructing its employees, vendors, agents, consultants and independent contractors of the foregoing and requiring them to be bound by appropriate confidentiality agreements. If a party is required to disclose by law Confidential Information of the other party, such party shall use best efforts to give the other party reasonable advance notice of such required disclosure. StreetCred reserves the right to disclose the terms and conditions of this Agreement, in confidence, (a) to accountants, banks, and financing sources and its advisors for the purpose of securing financing; (b) in connection with an actual or proposed merger or acquisition or similar transaction. Upon termination or expiration of this Agreement the receiving party will promptly return to the disclosing party, at the disclosing party's option, all tangible items containing or consisting of the disclosing party's Confidential Information.

10. NOTICES. Any notice given in connection with this Agreement that is required to be in writing must be given by personal delivery, overnight delivery, confirmed facsimile, or United States certified or registered mail with postage prepaid and return receipt requested, addressed to StreetCred or Customer at the addresses set forth on the Service Order. Notice is deemed to have been given on the date the notice is delivered by personal delivery or by confirmed facsimile or on the date the notice is deposited with an overnight delivery service or in the United States mail. Notice is deemed to have been received on the date the notice is actually received or delivery is refused.

## 11. GENERAL.

11.1 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations and understandings between the parties regarding the subject matter hereof. Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the parties to be bound.

11.2 Severability. If any provision of this Agreement or any portion of any provision of this Agreement is determined to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability may not alter the remaining portion of such provision, or any other provision of this Agreement, as each provision of this Agreement is deemed severable from all other provisions of this Agreement.

11.3 Additional Acts. The parties agree to execute promptly all other documents and perform all other acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

11.4 Business Days. If this Agreement requires any act to be done or action to be taken on a date which is not a Business Day, that act or action will be deemed to have been validly done or taken if done or taken on the next succeeding Business Day.

11.5 Headings. All headings herein are not to be considered in the construction or interpretation of any provision of this Agreement.

11.6 Relationship of Parties. The parties are independent contractors, and neither party will have the power to bind the other or to incur obligations on the other's behalf without such other party's prior written consent.

11.7 Waiver. Failure of either party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right, or privilege.

11.8 Assignment. This Agreement shall inure to the benefit of and be binding on the respective successors and assigns of the parties. Neither party may assign this Agreement without prior written consent of the other party, except that StreetCred may assign this Agreement to any successor to substantially all of its business or assets to which this Agreement relates. StreetCred shall provide written notice to the client if such an assignment is made.

11.9 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas, without reference to its conflict of laws principles. The parties consent to exclusive jurisdiction and venue in state and federal courts sitting in and for Tarrant County, Texas.

11.10 Injunctive Relief. Each party reserves the right to seek injunctive relief due to the other party's actual or threatened breach of this Agreement.

11.11 Force Majeure. Neither party will be liable for delays or failure to perform under this Agreement if due to Force Majeure.

11.12 Survival. The following provisions shall survive the termination or expiration of this Agreement: Section 2.4, Section 6, Section 7, and Section 9.

11.13 Construction. This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this Agreement must be construed in accordance with their usual and customary meanings. The parties hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of this Agreement.

11.14 Counterparts/Facsimile. This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into

one instrument. This Agreement may be signed and delivered by facsimile (fax or email) which shall be effective as an original.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

STREETCRED SOFTWARE, INC.

City of Richland Hills (Customer)

By: \_\_\_\_\_

By: \_\_\_\_\_

Ben Singleton

Eric Strong

Account Executive

City Manager

## EXHIBIT A (APPENDIX A)

### TECHNICAL REQUIREMENTS

Customer shall provide, at its own expense:

- Rack space for a full-sized, 1U appliance, 110V, 60Hz conditioned AC power
- Intranet connection equal to or greater than 5MB/s
- Internet connection equal to or greater than 1.5MB/s
- Permission; network configuration to permit of SSH connection between StreetCred server and StreetCred Data Center, directing that SSH connection may address only the StreetCred Server
- Assignment of a static IP address within the Customer data center
- Permission and configuration of connection between StreetCred server and such repositories as required (See Exhibit B)
- Credentials to such repositories as set forth in Exhibit B
- Physical security with respect to access to the Customer Data Center
- Physical security with respect to the security of the StreetCred Server with the exception that access shall be granted by StreetCred to Customer to power down, disconnect from Customer Network or otherwise isolate the StreetCred Server in the case of a network outage or saturation that Customer
  - a. Reasonably believes has been caused by the StreetCred Server; and
  - b. StreetCred has not responded to Customer support request within a reasonable period (no less than 15 minutes)

## EXHIBIT B (APPENDIX A)

### CUSTOMER REPOSITORIES

Customer shall provide to StreetCred access to court records of warrants and citations including full text of warrant and the underlying citation and violations, including "Failure to Appear" and "Violate promise to Appear" data from within Tyler InCode, in a machine readable format to be provided by Customer. Such data shall be provided so as to include at a minimum the following Tyler tables/files:

'ctname' (Names)

'ctvehl' (Vehicles)

'ctcite' (Citations)

'ctviol' (Violations)

'ctwrnt' (Warrants)

'ctwrntv' (More Warrant data)

'ctofcr' (Officers)

'ctrcpt' (Payments and receipts)

Customer shall provide to StreetCred access to such Customer Records Management System (RMS) data by providing a read only account on the Customer's CRIMES, Spillman, OSSI or other similar system (Global Records).

Customer shall provide access to such sex offender, parolee and probationer data as Customer wishes placed within the StreetCred environment. Customer shall provide these data in the form of Comma Separated Values (CSV) or SQL formatted documents, databases or views, respectively.

Customer shall provide access to such other repositories as Customer and StreetCred shall agree from time to time shall be processed and made available via the StreetCred Service.