

**AMENDMENT No. 1
TO
SOFTWARE LICENSE, IMPLEMENTATION AND SUPPORT AND MAINTENANCE
AGREEMENT**

THIS AMENDMENT to the Software License, Implementation, Support and Maintenance Agreement (the "Amendment") is dated and made effective on May 27, 2015 by and between N. Harris Computer Corporation ("Harris") and City of Yakima, Washington ("Organization")

RECITALS

WHEREAS, the parties have entered into the Software License, Implementation, Support and Maintenance Agreement dated February 12, 2012 (the "Agreement");

WHEREAS, Organization wishes to license an additional software module from Harris, and Harris wishes to license such additional software to Organization together with certain professional services to be provided by Harris; and

WHEREAS, the parties desire to amend the Agreement as set forth herein to provide for such software and services from Harris to Organization on the terms and conditions set out this Amendment NO. 1.

NOW, THEREFORE, in consideration of the foregoing and the premises and mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals: Defined Terms. The Recitals set forth above are true and correct in all material respects and are hereby incorporated into this Amendment by reference. Capitalized terms used in this Amendment (including, without limitation, the Recitals set forth above) but not otherwise defined herein shall have the respective meanings given to such terms in the Agreement.

2. Amendments. The Agreement is hereby amended as follows:

(a) The last sentence in the definition of Software in Section 1.1(q) is hereby replaced with the following:

"The Software to be provided by Consultant as part of this Agreement is identified in the attached Schedule "A". Third Party Software is not included in the definition of Software except where this Agreement explicitly states otherwise."

(b) The following is added to the end of Schedule "A" to the Agreement:

CIS Software Description
Cayenta Software
Cayenta CIS solution
Customer Self-Service (web)
Miscellaneous billing and AR

APIs for Beacon AMI and Solid Waste mobile app
Mobile Work Management
GIS connector
Conference registration for 6 employees
Third Party Software
Uniface system software
Planet Press (PDF bill formatting)

(c) The following is added as to the end of Schedule "B" to the Agreement:

Cayenta Licenses		
	Amount	Annual Maintenance
Cayenta CIS v7.8 (\$10 per account - for 25,000 accounts)	\$ 250,000	\$ 55,000
Customer Self-Service (web)	included	\$ -
Miscellaneous billing and AR	included	\$ -
APIs for Beacon AMI and Solid Waste mobile app	included	\$ -
Mobile Work Management	\$ 25,000	\$ 5,500
<i>New item:</i> GIS connector (new item)	\$ 15,000	\$ 3,300
<i>New item:</i> User Conference registration for 6 employees	\$ -	\$ 5,250
License Sub-Total	\$ 290,000	\$ 69,050
3rd Party Licenses		
	Amount	Annual Maintenance
Uniface system software	\$ 34,800	\$ 7,656
Planet Press (PDF bill formatting)	\$ 10,000	\$ 2,200
3rd Party License Sub-Total	\$ 44,800	\$ 9,856

Implementation Services	Amount	Annual Maintenance
CIS implementation (all core module)	\$ 900,000	\$ -
<i>New item:</i> GIS integration	\$ 35,000	\$ -
Cayenta Financials and Work Management upgrade		
Environment Management and Technical consulting	\$ 25,000	\$ -
Environment Management (technical work covered by CIS project)	\$ (25,000)	\$ -
Upgrade general testing support (4 Months @ \$5,000)	\$ 20,000	\$ -
<i>New item:</i> Work Inquiry & Workflow enhancement for Water Dept.	\$ 25,000	\$ -
<i>New item:</i> Miscellaneous AR - Includes Core Cayenta Invoice and statement	\$ 30,000	\$ -
Implementation Services Sub-Total (excludes T&M travel costs)	\$ 1,010,000	\$ -
Project Total	\$ 1,344,800	\$ 78,906

“Payment Schedule:

The License fees for Cayenta and 3rd Parties are due 30 days after contract signing. Support and Maintenance fees begin on July 1, 2015.

The fees for Implementation Services (\$1,010,000) shall be paid in the manner as delineated in the Statement of Work. The payment schedule will be based on milestone deliverables and will include a holdback payment for final acceptance. Travel and living costs are additional and are billed as incurred.

- (d) The Statement of Work attached hereto is hereby added to Schedule “D” to the Agreement and shall be deemed to be an integral part of the Agreement.
- (e) The following is added to the Agreement as Section 2.8:

“Section 2.8 Third Party Software

- (a) Harris shall distribute to Organization the Third Party Software. Organization shall pay Harris for the Third Party Software in the amount of the purchase price(s) listed on Schedule “B. Harris and/or the Third Party Software manufacturer(s) will provide Organization with one copy of the then current user documentation for use with the Third Party Software.
- (b) It is acknowledged by the parties hereto that the Third Party Software provided by Harris to Organization pursuant to this Agreement was developed and delivered to Harris by one or more third party software companies. As such, the Third Party Software is licensed to Organization by the applicable licensor listed in Schedule “A” and subject to the terms and conditions of the applicable license agreement for such Third Party Software. Harris makes no warranties, express or implied, with respect to the Third Party Software, including, without limitation, their merchantability or

fitness for a particular purpose and Harris accepts no liability of any kind whatsoever with respect to the Third Party Software. Any warranty Organization has with respect to the Third Party Software shall be solely provided by the Third Party Software licensor except where this Agreement may expressly state otherwise.

- (c) Organization acknowledges that IBM's relevant standard licensing and use terms, as amended by IBM from time to time, a copy of which is attached to this Agreement as Schedule "G", apply to its use of the IBM/Cognos products listed in Schedule "A" and that Organization is bound by such licensing and use terms. The standard licensing and use terms shall include anything described as a "Licensing Information Document" by IBM and all licensing files and NOTICE files that are included with the IBM/Cognos software or as may be supplied by IBM to Organization from time to time. To the extent that the terms in the Licensing Information Document or similar type documents provided by IBM differ from those in Schedule "G", the terms in the Licensing Information Document shall take precedence;
- (d) All such licenses are restricted licenses which means that the IBM/Cognos software may only be used with the Software.
- (e) Organization agrees that it shall not permit any third party to have access to the Third Party Software during the term of this Agreement and that the restrictions as set out in **Error! Reference source not found.** and Section 2.4 and the confidentiality obligations set out in Section 2.5 shall equally apply to the Third Party Software, subject to any specific permissions that are provided in the license provided by the third party licensor to the Organization."
- (f) Section 7.1(b)(i) of the Agreement is replaced with following:

"EXCEPT FOR DAMAGES ARISING OUT OF (a) THE CONSULTANT'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS OR (b) THE CONSULTANT'S INTENTIONAL MISREPRESENTATION, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, BOTH PARTIES AGREE THAT THE CONSULTANT'S LIABILITY (UNDER BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), IF ANY, FOR ANY DAMAGES RELATING TO THIS AGREEMENT SHALL NOT EXCEED (i) IN THE CASE OF DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, THE FEES PAID TO CONSULTANT BY ORGANIZATION IN RESPECT OF THE PARTICULAR SERVICES GIVING RISE TO THE CLAIM; AND (ii) IN THE CASE OF DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE, THE LICENSE FEES PAID TO CONSULTANT BY ORGANIZATION IN RESPECT OF THE SOFTWARE."

4. General Provisions.

4.1 No Other Amendments. Except as specifically modified by this Amendment, the terms of the Agreement, including its schedules, attachments, appendices, and exhibits, shall remain unchanged and in full force and effect and the parties hereto confirm and agree to be bound by all the terms and provisions of the Agreement as amended hereby.

4.2 Entire Agreement; Amendment; Waiver. The Agreement, as amended by this Amendment, sets forth the entire agreement and understanding of the parties hereto with respect to the matters contemplated by the Agreement and this Amendment, and supersedes all prior agreements, arrangements, and understandings (whether oral or written) relating to the subject matter thereof. The Agreement may not be amended, waived, discharged, or terminated other than by a written instrument signed by the party against whom enforcement of such amendment, waiver, discharge, or termination is sought.

4.3 Counterparts. This Amendment may be executed in two or more counterparts (whether by facsimile or PDF signature or otherwise), each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

4.4 Binding Effect. This Amendment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

4.5 If any provision of this Amendment shall be declared void or unenforceable by any judicial or administrative authority, the validity of any other provision and of the entire Amendment shall not be affected thereby. The titles and subtitles used in this Amendment are for convenience only and are not to be considered in construing or interpreting any term or provision of the Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above through their duly authorized representatives.

N. Harris Computer Corporation

City of Yakima, Washington

By:  _____

By: _____

Title: CHIEF FINANCIAL OFFICER

Title: _____

STATEMENT OF WORK

[ATTACH]