

## AGREEMENT FOR CONSULTANT SERVICES

This Agreement (this "Agreement"), by and between the CITY OF FONTANA, a California charter city (hereinafter referred to as "City") and Crossroads Software, Inc., a California Corporation, (hereinafter referred to as "Consultant").

### RECITALS

WHEREAS, City desires to obtain the services of a private consultant to provide a Handheld Traffic Citation and Collision Reporting System; and

WHEREAS, Consultant is a Computer Software consultant and has represented that Consultant possesses the necessary qualifications to provide such services; and

WHEREAS, this Agreement sets forth the terms and conditions upon which Consultant will provide a Handheld Traffic Citation and Collision Reporting System to City.

NOW, THEREFORE, the City and the Consultant, for the mutual consideration described herein, agree as follows:

1. Scope of Services.

Consultant shall provide services as described in Exhibit "A" entitled "Scope of Work" attached hereto and made a part hereof ("Services").

2. Compensation and Reimbursement.

City shall compensate Consultant a fee up to \$75,700.00 for the Services. Consultant shall submit invoices no more frequently than monthly. Invoices shall include a summary of work performed for the period being billed, percentage of work completed for each task, and overall percentage of work completed for Services as identified in the Scope of Work. All work completed under this agreement must be invoiced no later than June 30, 2022.

3. Term of Agreement.

This Agreement shall be effective from the period commencing on the effective date and ending December 31, 2026 unless sooner terminated by City as provided in the section of this Agreement entitled "Termination." Upon expiration or termination of this Agreement, Consultant shall return to City any and all equipment, documents or materials and all copies made thereof which Consultant received from City or produced for City for the purposes of this Agreement.

5. Termination.

This Agreement may be terminated with or without cause by City. Termination without cause shall be effective only upon 15-day written notice to Consultant. During said 15-day period Consultant shall perform all consulting services in accordance with this Agreement. This Agreement may be terminated by City for cause in the event of a material breach of this Agreement, misrepresentation by Consultant in connection with the formation of this Agreement or the performance of Services, or the failure to perform Services as directed by City. Termination for cause shall be effected by delivery of written notice of termination to Consultant. Such termination shall be effective upon delivery of said notice.

6. Confidential Relationship.

City may from time to time communicate to Consultant certain information to enable Consultant to effectively perform the Services. Consultant shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the City. Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the Services. The foregoing obligation of this Paragraph 6, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Consultant, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to Consultant by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

Consultant shall not disclose any reports, recommendations, conclusions or other results of the Services or the existence of the subject matter of this Agreement without the prior written consent of the City. In its performance hereunder, Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

In the event of termination of this Agreement, Consultant agrees that it shall return any confidential information which was provided by City, in the event such information is in a format that makes it feasible to return same to City, or destroy such material if not returnable.

7. Ownership of Documents.

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement shall be the property of City and shall be delivered to City by Consultant upon demand.

8. Office Space and Clerical Support.

Consultant shall provide its own office space and clerical support at its sole cost and expense.

9. Covenant Against Contingent Fees.

Consultant declares that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach of violation of this warranty, City shall have the right to annul this Agreement without liability, or, at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee

10. Conflict of Interest and Political Reform Act Obligations.

During the term of this Agreement Consultant shall not act as consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of the City. Consultant shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. Consultant shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Consultant has a financial interest as defined in Government Code Section 87103. Consultant represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the City.

Consultant shall comply with all of the reporting requirements of the Political Reform Act and local ordinance. Specifically, Consultant shall file Statements of Economic Interest with the City Clerk of the City in a timely manner on forms which Consultant shall obtain from the City Clerk.

11. No Assignments.

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which City, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

12. Maintenance of Records.

Consultant shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement, for inspection by City and copies thereof shall be furnished, if requested.

13. Independent Contractor.

At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of the City. City shall have the right to control Consultant only insofar as the results of Consultant's Services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes such Services.

14. Licenses, Permits, Etc.

Consultant represents and declares to City that it has all licenses, permits, qualifications, and approvals of whatever nature that is legally required to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for Consultant to practice its profession.

15. Consultant's Insurance.

1. Policies:

Consultant shall obtain and maintain during the entire term of this Agreement the following insurance policies from companies authorized to issue insurance in the State of California:

(a). Comprehensive General Liability, including premises-operations, products/completed, broad form property damage, bodily injury, and blanket contractual liability with the following coverage's:

General Liability	\$2,000,000 per person per occurrence; \$4,000,000 annual aggregate combined; \$2,000,000 property damage or bodily injury per occurrence; Cross-liability exclusions prohibited
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(b). Automobile Liability, including owned, hired, and non-owned vehicles with the following insurance coverage's:

Auto Liability	\$1,000,000 per person per occurrence; \$1,000,000 annual aggregate combined; \$1,000,000 property damage or bodily injury per occurrence; Cross-liability exclusions prohibited
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(c) Workers' Compensation insurance in amounts in accordance with statutory requirements.

2. Endorsements:

Endorsements shall be obtained so that each policy contains the following provisions:

(a) Additional Insured. (Not required for Professional Errors and Omissions Liability Insurance or Workers' Compensation.)

(b) Notice.

"Said policy shall not terminate, nor shall it be canceled or reduced in coverage, without thirty (30) days' written notice to the City of FONTANA."

(c) Primary Coverage.

"The policy provides primary coverage to the City of FONTANA and its elected and appointed boards, officers, agents, and employees. It is not secondary or in any way subordinate to any other insurance or coverage maintained by the City of FONTANA."

16. Insurance Certificates:

Consultant shall provide City with certificates of insurance and accompanying endorsements showing the insurance coverages described in the paragraphs above, in a form and content approved by the City, prior to City's execution of this Agreement.

17. Liability.

Notwithstanding any other provision contained in this Agreement, Consultant shall be responsible for all injuries to persons and for all damage to real or personal property of City or others, to the extent caused by or resulting from the wrongful act or negligent acts, errors, or omissions of itself, its employees, or its agents during the progress of, or in connection with, the rendition of Services hereunder. To the fullest extent permitted by law, Consultant shall hold harmless and indemnify City and its elected and appointed officials, officers, agents and employees from all costs and claims for damages to real or personal property, or personal injury to any third party, including reasonable attorney fees resulting from the negligent performance of Consultant, its employees, or its agents, under this Agreement.

18. Consultant Not an Agent.

Except as City may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, expressed or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

19. Personnel.

Consultant shall assign qualified and certified personnel to perform requested Services. The City shall have the right to review and disapprove personnel for assignment to City Projects.

City shall have the unrestricted right to order the removal of any person(s) assigned by Consultant by giving oral or written notice to Consultant to such effect.

Consultant's personnel shall at all times comply with City's drug and alcohol policies then in effect.

20. Notices.

All notices, billings and payments which are required or permitted to be made hereunder shall be in writing and shall be sent by personal delivery; first-class mail, return receipt requested; overnight or express mail service; or facsimile. Notices shall be deemed to have been received: upon delivery if personally delivered; seventy-two (72) hours after deposit in the U.S. Mail; on the day of transmission via facsimile unless sent after business hours and in that event, on the next business day. Notices may be sent to the following addresses; the parties may deliver notice of change of address or delivery information in the manner outlined in this Section E.

City (original):

City of Fontana Police Department  
Attn: Daniel Flores  
8353 Sierra Avenue  
Fontana, CA. 92335  
(760) 702-0077

Consultant:

Crossroads Software, Inc.  
201 W. Birch Street  
Suite #207  
Brea, CA 92821  
Attn: Jeff Cullen  
(714) 990-6433  
Facsimile: (714) 990-5628

20. Conflict Resolution.

In the event of a dispute between City and Consultant concerning the terms of this Agreement or its performance, the parties agree to submit such dispute to arbitration before the American Arbitration Association or other mutually acceptable arbitrator. In the event that the subject of such arbitration is compensation claimed by Consultant in the event of termination, Consultant's damages shall be limited to compensation for the 15-day period for which Consultant would have been entitled to receive compensation if terminated without cause. In the event of arbitration, each party shall bear its own attorneys' fees and costs incurred.

21. Gender.

Whether referred to in the masculine, feminine, or as "it," "Consultant" shall mean the individual or corporate consultant and any and all employees of consultant providing Services hereunder.

22. Exhibits.

All Exhibits referenced in this Agreement, and each of them, are incorporated into this document as though set forth in full at this point.

23. Entire Agreement.

This Agreement shall constitute the entire understanding between Consultant and City relating to the terms and conditions of the Services to be performed by Consultant.

24. Severability.

If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement will be construed as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

25. Governing Law, Jurisdiction, and Venue.

The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Fontana.

26. Modifications.

This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.

27. Waivers.

No waiver of a breach, default, or duty under this Agreement will be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.

*SIGNATURES ON FOLLOWING PAGE*

28. Counterparts.

This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

29. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date first above written.

**CONSULTANT:**

Crossroads Software, Inc., a California Corporation

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

**CITY:**

CITY OF FONTANA, a California charter city

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

**ATTEST:**

\_\_\_\_\_

Date: \_\_\_\_\_  
("Effective Date")

**COUNTERSIGNED:**

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

# EXHIBIT "A"

## Cost Proposal

For:

Fontana Police Department

## **Crossroads Software**

210 W. Birch Street, Suite 207

Brea, CA 92821

Number: CP 21-56

<i>Item No</i>	<i>Item Description</i>	<i>Quantity</i>	<i>Price</i>	<i>Taxable</i>	<i>Amount</i>
1	iOS (iPhone/Ipad) Citation System - Site License	1	\$28,500.00	No	\$28,500.00
2	Syncing Module (as a Windows Service application)	1	\$3,900.00	No	\$3,900.00
3	Desktop Citation Management App (CCM)	1	\$3,900.00	No	\$3,900.00
4	Court Export Software Module	1	\$6,900.00	No	\$6,900.00
5	Interface to Output Records to RMS System (Collisions and Citations)	1	\$0.00	No	\$0.00
6	Crossroads Report Writer for Collision Reporting	1	\$9,800.00	No	\$9,800.00
7	Interface to Upload Collision Report Data and Documents to the California Highway Patrol SWITRS System	1	\$24,800.00	No	\$24,800.00
8	Crossroads Collision Database Analytics Program	1	\$19,800.00	No	\$19,800.00
9	Training and Installation (one training session - using remote login)	1	\$600.00	No	\$600.00
10	Yearly Maintenance and Support (includes upgrade to new versions as they become available)	1	\$2,500.00	No	\$2,500.00

Thursday, August 05, 2021

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<i>Item No</i>	<i>Item Description</i>	<i>Quantity</i>	<i>Price</i>	<i>Taxable</i>	<i>Amount</i>
11	Agency Discount (former Crossroads user, Traffic Engineering Department user)	1	(\$25,000.00)	No	(\$25,000.00)
					<hr/>
				<i>Sub Total</i>	<i><u>\$75,700.00</u></i>
<i>Sales Tax</i>				<i>7.750% on</i>	<i>\$0.00</i>
				<i>Total</i>	<i><u>\$75,700.00</u></i>