

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

ADDENDUM TO JETTY COMMUNICATIONS SOLUTIONS, LLC'S AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Jetty Communications Solutions, LLC, (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, the parties have executed and accepted Jetty Communications Solutions, LLC's Invoice #228 and Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal (CONFIDENTIAL), (the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for software annual subscription with 22 sites along with Social Media enhanced features and training (the "Services"); and

WHEREAS, County desires that Contractor provide Services as will be more specifically described in this Agreement; and

WHEREAS, Contractor represents that it is qualified and desires to perform such Services; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

AGREEMENT

- 1. Scope of Services.** Subject to this Addendum, Contractor will render Services to County as described in Exhibit A. Any applicable training services shall be scheduled at a time that is mutually agreeable between the parties but without reasonable delay.
- 2. Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.
- 3. Limit of Appropriation.** Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Sixty-nine Thousand, Five Hundred and 00/100 dollars (\$69,500.00), specifically allocated to fully discharge any and all liabilities County may incur. Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations

thereof exceed Sixty-nine Thousand, Five Hundred and 00/100 dollars (\$69,500.00). In no event will the amount paid by the County for all services under this Agreement exceed this Limit of Appropriation without an agreement executed by the parties.

4. **Public Information Act.** Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Contractor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Contractor for any reason are hereby deleted.
6. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Contractor in any way associated with the Agreement.
7. **No Waiver of Jury Trial.** The County does not agree that all disputes (including any claims or counterclaims) arising from or related to this Agreement shall be resolved without a jury. Therefore, any references to waiver of jury trial are hereby deleted.
8. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
 - a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
 - b. Texas Government Code § 2252.152 Acknowledgment: By signature below, Contractor represents pursuant to § 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2252.153.

9. **Modifications.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute. No other provisions to this Agreement apply except for the terms which appear and/or are incorporated in this Addendum and the attached Exhibits.
10. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, CONTRACTOR ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
11. **Personnel.** Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Services when and as required and without delays.

All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor or agent of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to providing Services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the Services required under this Agreement.

When performing Services for the County, Contractor shall comply with, and ensure that all Contractor Personnel comply with, all rules, regulations and policies of County that are communicated to Contractor, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

12. **Use of Customer Name.** Contractor may use County's name without County's prior written consent only in any Contractor' customer lists, any other use must be approved in advance by County.
13. **Independent Contractor.** In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Contractor or, where permitted, of its subcontractors. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

14. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
15. **Confidential Information.** Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor' possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor' possession which embody Confidential Information.

Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is

inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

16. Insurance. Prior to commencement of the Services under this Agreement, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

(a). Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

(b). Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

(c). Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

(d). Professional Liability insurance with limits not less than \$1,000,000.

County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies including Workers' Compensation written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court. For Commercial General Liability, the County shall be named as an Additional Insured on a Primary & Non-Contributory basis.

If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time that work under the Agreement is completed.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, or faxed to the following County contact:

Name: Wyatt Scott, Director of Risk Management
Address: 301 Jackson St., Suite 224, Richmond, TX 77469
Facsimile Number: 281-341-3751

17. **Performance Warranty.** Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the services provided hereunder will be performed and delivered in accordance with the highest professional standards.

Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

18. **Assignment and Delegation.**

18.1. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

18.2. Neither party may delegate any performance under this Agreement.

18.3. Any purported assignment of rights or delegation of performance in violation of this Section is void.

18.4. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.

19. **Successors and Assigns.** County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

20. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls to the extent of the conflict. In the event there is a conflict between this Addendum and the terms and conditions of Choice Partners Contract Number 19/036MR-03, then the terms and conditions of Choice Partners Contract Number 19/036MR-03 controls to the extent of the conflict.

21. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

22. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

23. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
24. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Addendum is effective upon execution of both parties.

FORT BEND COUNTY

JETTY COMMUNICATIONS SOLUTIONS, LLC

 KP GEORGE,
 COUNTY JUDGE



 Authorized Agent - Signature

 DATE



 Authorized Agent- Printed Name

 ATTEST:



 Title

 LAURA RICHARD,
 COUNTY CLERK



 Date

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ _____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

 Robert Ed Sturdivant, County Auditor

Exhibit A: Jetty Communications Solutions, LLC's Invoice #228 and Proposal: 20220722
 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal (CONFIDENTIAL)

Exhibit A

JETTY Communications Solutions, LLC
 13939 Telge Rd.
 Cypress, TX 77429

Invoice

Date	Invoice #
7/22/2022	228

Bill To
Fort Bend County Emergency Management 301 Jackson Richmond, TX 77469 Attn: County Auditor

P.O. No.	Terms
	Net 30

Description	Qty	Rate	Date	Amount
Jetty Software Annual Subscription Fee Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal Houston UASI Fort Bend County, TX PO # Rodney Grimmer				
Jetty Software Annual Subscription Fee - 22 Sites - Includes Hosting, 24/7 Customer Support and Software Updates January - December 2022	1	68,200.00		68,200.00
Blog2Social Annual Fee - 26 Users	1	1,300.00		1,300.00
Employer ID: 46-4689135			Total	\$69,500.00



FBCOEM Houston UASI Annual Jetty Renewal 2022

July 22, 2022

Rodney Grimmer
Fort Bend County Emergency Management
Homeland Security and Emergency Management
Desk: 281-238-3417
Email: rodney.grimmer@fortbendcountytexas.gov

Dear Mr. Grimmer,

Jetty Communications Solutions (Jetty) is pleased to offer you this proposal to renew the Jetty software annual subscription with an additional 2 sites, for a total of 22 sites, along with Social Media enhanced features for 2022.

Enclosed please find the following information:

Description
Associated Costs
Proposal Acceptance

We look forward to your response and further engagement. Please do not hesitate to contact me with any questions.

Sincerely,

Andy Kendrick
The Response Group / Jetty
13939 Telge Road
Cypress, TX 77429
Office: 281-880-5000
Cell: 832-684-6777
akendrick@responsegroupinc.com



**Proposal: 20220722 FBCOEM Houston UASI Jetty
Software Subscription 2022 Renewal (CONFIDENTIAL)**

July 22, 2022



Houston UASI





Company Background:

Jetty Communication Solutions, is the provider of the Jetty Software with offices in Houston, TX and Bellingham, WA. Jetty was developed out of over many years of crisis communication experience. The company was founded in November 2013 and has been adopted by both the private and public sectors. It was specifically designed to help groups of communicators quickly respond to situations that require fast and accurate information.

Project Description/Scope of Work:

JETTY proposes the following Jetty Software Renewal:

Annual Subscription: Annual agreement includes: Hosting, 24/7 customer support, one non-public facing training site and software updates. Additional single Jetty sites can be purchased. Subscription term is January 1st, 2022 - Dec 31st, 2022.

Proposed Costs:**Jetty Standard Pricing:**

- \$18,500/year for one Jetty site subscription (additional sites @ \$8,000 each)
- \$500/year for Blog2Social with 10 user access (additional users @ \$50/year each)
- \$2,500/year for Language Translation plugin (1-5 sites)
(\$7,500/year for >10 sites with translation for 10 million characters)

Houston UASI Bulk Pricing 2022:

- 1-9 Jetty sites = \$5,700 per Jetty
- 10-19 Jetty sites = \$4,100 per Jetty
- 20-39 Jetty sites = \$3,100 per Jetty
- 40+ Jetty sites = Call for Pricing

2022 Proposed Jetty Annual Renewal:

- 22 Jetty Sites x \$3,100 = \$ 68,200 / year
- Language Translation = \$0 (includes 10 million characters; overages are \$60/per million characters)
- Blog2Social (\$1,300 / year)
 - Annual cost with 10 users = \$500
 - 16 additional users per year = \$800

Subsequent years subject to maximum 4% increase.



Software Usage:

- Includes 100,000 phone units* for all Jetty sites combined in contract.

***Units:**

- 1 phone minute = 1 unit
- 1 SMS = 1 unit
- 1 MMS = 1 unit

Additional Phone Units: \$.05 each

- Includes 1 terabyte of data transfer.

Additional data transfer: \$1 per gigabyte

All email, telephony and text messaging distributions are sent on a best-effort basis. Subscription service provider is not liable or held responsible for delays in message delivery.

Additional Services:

Jetty Software Maintenance and Support * Does not include expenses	
<ul style="list-style-type: none">• Jetty Software preloading by TRG personnel• Jetty Software Training• Drill Support• Jetty Software custom programming and/or enhancements• Response/Incident Support	\$150/Hour

Professional service engagements are conducted on a time and materials basis. Expenses (such as flights, hotels, and miscellaneous costs) are billed at actual costs incurred and estimates can be included as requested for on-site support. If it appears that the actual costs will significantly exceed the proposal, contact will be made with the client to determine appropriate action to be taken.



Proposal Acceptance

If the terms set forth in *Proposal: 20220722 FBCOEM Houston UASI Jetty Software Subscription 2022 Renewal* meet with your approval, please complete the following and fax or mail a copy to our office. An email indicating approval will also be accepted along with the attached proposal as reference (please also include proposal name).

Cost Summary

- Jetty Annual Renewal: 22 Jetty Sites x \$3,100 = \$ 68,200 / year
- Language Translation: \$0 (overages are \$60/per million characters)
- Blog2Social with 26 user accounts: \$1,300 / year

Total: \$ 69,500 / year

Agreed and accepted this _____ day of _____, _____

Signature

Printed Name