

Revised

Purchasing and Contracting Department  
Sole Source Request and Certification Form

To: Director of Purchasing and Contracting  
Cc: Chief Financial Officer  
From: Tracy Cadena, Deputy Director Treasury Systems  
Date: June 3, 2021

In alignment with the guidance provided in the San Diego Municipal Code section 22.3016, the Purchasing Agent (Director of Purchasing and Contracting) must certify that the award of a sole source contract is necessary by memorializing in writing why strict compliance with a competitive process would be unavailing or would not produce an advantage, and why soliciting bids or proposals would therefore be undesirable, impractical, or impossible.

For consideration, this form must be completed and all required accompanying information must be submitted together, including any related contracts. Failure to do so will result in a delay of approval of the request.

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Describe commodity or service(s) to be purchased. Include vendor contact information.

The Office of the City Treasurer is requesting a sole source contract with Ontario Systems to continue providing licensing and support for the debt collections system, Columbia Ultimate Business Solutions (CUBS), on a month-to-month basis during calendar year 2022. For over 25 years, our office has used the CUBS application to manage all Citywide delinquent receivables. In 2018, our office completed a Request for Proposal (RFP) for a comprehensive debt collections system. As a result, a new contract was awarded to CSS, Inc. to implement the Impact application as a replacement of CUBS. The existing support and maintenance contract with Ontario expires on 12/31/21. This purpose of this sole source contract extension is to enable our office to continue using the existing CUBS system to facilitate debt collections efforts until implementation of the new Impact system is complete.

The implementation project, which began in 2019, has faced unanticipated challenges and delays resulting in a current anticipated go-live date of November 2021. While the implementation of the system was originally estimated to take 18 months, continued and multi-faceted issues have resulted in project delays and postponement of the go-live date. These issues include the departure of key project team members, migration of significant databases and documents, lack of current system documentation and other complex issues. While the anticipated November 2021 go-live date is prior to the 12/31/21 expiration date of the current CUBS contract, any further delays in the implementation schedule would potentially threaten our office's ability to have access to a debt collections system to manage Citywide delinquent receivables.

To mitigate the risk of CUBS licensing and support expiring prior to the Impact system being available for use, it is critical we execute a sole source contract on a month-to-month basis for one (1) year to provide for any further project delays. Any lapse in access to the debt collections system would effectively halt our ability to pursue delinquent receivables owed to the City. In other words, continuity of operations using CUBS is imperative. On average, the Delinquent Accounts Program receives over 150,000 new referrals and collects \$25-30 million.

As Ontario is the only vendor able to provide software licensing, maintenance and support for their proprietary CUBS system, this contract should be certified as a sole source vendor and excluded from competition. This extension with Ontario ensures continued maintenance and support of the current system such as responding to system issues, providing upgrades, and maintaining all customized programming. CUBS is also the mechanism in which collection notices and other customer communications are generated.

Total Dollar Value of Contract, Not to Exceed: \$250,000  
Proposed Contract Term: Month-to-month basis during calendar year 2022

Vendor – Ontario Systems (Ontario), formerly known as Columbia Ultimate Business Solutions, Inc. (CUBS) (vendor number 10015362)

### Justification

1. This product or service is available from only one supplier and meets at least one of the following criteria (please check all that are applicable):

- One-of-a-kind/Compatibility*
- a. Required by Warranty: the product matches existing equipment, infrastructure and is required by warranty. (A letter from the provider which supports this claim must be provided.)
  - b. Goods and Services:
    - i. the good has no competitive product or alternative on the market.
    - ii. the service requires a special skill, ability, or expertise linked to the current project that cannot be provided by another supplier.

**(Documentation in support of either of the above claims must be provided by the requesting department.)**

*City Standards*      The product or service complies with established, existing City standards.

*Replacement*      The product or service is the only compatible replacement component that supports a larger system. Or, the services are the only ones that can replace the existing service requirements.

2. Do any of the following situations exist?

*Limited Competition*      Department made an attempt to find a second or multiple sources to no avail.

*Emergency*      There is an urgent need for the item or service and time does not permit the City to solicit for competitive bids, as in the cases of emergencies as defined under SDMC section 22.3208,. (Delays in solicitation do not satisfy this criteria)

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### Cost/Market Analysis

Purchasing and Contracting will perform due diligence on each request. If Purchasing and Contracting can find a suitable, cost effective alternative, this request will be denied and that alternative will be pursued after your department has been contacted to discuss the revised determination.

This form does not take the place of an agreement and all sole source requests for a period of one year or longer will require the **submission of an agreement**. The requesting department must submit a purchase requisition and a copy of this certification to Purchasing and Contracting for a Purchase Order to be issued.

PCO Due Diligence (PCO to initial all that apply)

- \_\_\_\_\_ Proof of warranty or maintenance requirement for standardized and replacement items confirmed.
- \_\_\_\_\_ Vendor/Supplier confirmed submission of justification letter.
- \_\_\_\_\_ Market test confirmed that there is no advantage to the City in competing this contracting opportunity to multiple vendors.
- \_\_\_\_\_ Emergency verified with the department.
- \_\_\_\_\_ Pricing agreement has been reviewed.

SV Purchasing and Contracting has reviewed this request and affirms that this request for a sole source justification is appropriate.

*\* Current contract expires 12/31/21*

This sole source is approved for:

*1/1/22 - 12/31/22*

*This is for 1/1/22 - 12/31/22*

- One (1) year ~~from the signature date below.~~
- For the entire length of the contract, but not more than five (5) years.

The length of the contract must be consistent with the sole source approval. A sole source request must be submitted and approved by the Purchasing and Contracting Director prior to the award of each new contract and prior to each extension of an existing contract that was not contemplated in the initial contract term.

\_\_\_\_\_ After reviewing the provided information and due diligence, I cannot recommend the approval of this request.

Purchasing and Contracting Director Review

I certify that strict compliance with a competitive process would be unavailing or would not produce an advantage, and that soliciting bids or proposals would be therefore undesirable, impracticable or impossible. My approval is contingent on the information provided in this form.

- In accordance with SDMC §22.3016, this request is approved.
- Based on the information provided and due diligence recommendation of staff, this request is denied.

*CJA*

\_\_\_\_\_  
Claudia C. Abarca, Director, Purchasing and Contracting

*August 16, 2021*

\_\_\_\_\_  
Date

**DUPLICATE**

**SIXTH AMENDMENT TO MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

This Sixth Amendment to the Master Services Contract with Columbia Ultimate, Inc. (Sixth Amendment) is made and entered into by and between The City of San Diego (City) and Columbia Ultimate, Inc. (Consultant), each also referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

WHEREAS, on November 15, 2011, the Parties entered into the Master Services Contract (as amended from time to time, the Contract), to provide licensing to the City of Consultant's proprietary debt collection software known as "The Collector System," as well as affiliated products and related modules (System) on an as-needed basis; and

WHEREAS, the Parties have amended the Contract from time-to-time; and

WHEREAS, the City is in the process of implementing new software that will replace the System , but must continue to utilize it during the transition to the new vendor; and

WHEREAS, the City's Purchasing Agent provided written sole source approval for the Contract for an additional three years; and

WHEREAS, the Contract is set to expire on December 31, 2021, and the City, through this Sixth Amendment , is seeking to extend the term of the Contract for up to an additional one (1) year with an annual expenditure amount of up to \$250,000<sup>1</sup>, which extends the Contract further beyond five years requiring San Diego City Council approval under San Diego City Charter section 99;

NOW, THEREFORE, the City and Consultant agree as follows:

1. Section 105.a.(1) of the Contract shall be deleted and replaced in its entirety with the following language:

"105. COMPENSATION AND METHOD OF PAYMENT

a. Fees and Expenses

Corporation shall pay Consultant as follows for Services provided:

<sup>1</sup> Note that approximately \$150,000 of the total annual expenditure amount is attributable to printing and mailing costs associated with Consultant's collections efforts.

0-21384

(1) Fees and Compensation: Corporation shall pay Consultant the fees and compensation in the amounts specified in the Fee Schedule attached to the Sixth Amendment as Attachment A. Payment for Services provided after January 1, 2022 will be payable monthly at the rates indicated in Attachment A.”

2. Section 106, TERM, of the Contract as revised in Amendment No. 4 shall be deleted and replaced in its entirety with the following language:

“106. TERM

The term of this Contract with the City commenced on January 1, 2012 and shall remain in effect until December 31, 2022, unless terminated earlier pursuant to Section 314 of this Contract.

3. This Sixth Amendment will be effective when signed by both parties and approved by the City Attorney in accordance with Charter section 40.

4. All provisions of the Contract not addressed in this Sixth Amendment shall remain in full force and effect.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Sixth Amendment is executed by the City and Consultant acting by and through their authorized officers.

**Consultant**

By: Kevin Rhodes  
Name: Kevin Rhodes  
Title: Chief Financial Officer  
Date: August 3, 2021

**City of San Diego**

By: [Signature]  
Name: Claudia C. Abares  
Title: Director, Purchasing & Contracting  
Date: November 4, 2021

Approved as to form this 9<sup>th</sup> day of November, 2021.

MARA W. ELLIOTT, City Attorney

By: [Signature]  
Deputy City Attorney  
Bret A. Bartolotta  
Print Name

0-21384

Attachment A  
Fee Schedule

**SILVER SUPPORT MONTHLY FEES**  
for January 1, 2022 through June 30, 2022

Qty	Description	Monthly Support	Monthly License
53	Revenue Plus Collector System (RPCS) Licenses	\$2,261.51	\$753.84
53	NT Software Support	\$248.60	
58	CU-Emulate	\$411.96	
1	CU-Transit	\$213.08	
1	Client Acces Logon	\$46.17	
1	Test Logon	\$0.00	
1	Account Distribution/Payment Proration Module	\$431.49	\$86.42
1	Tax Intercept Module	\$85.82	\$17.16
1	CU-Archive	\$54.45	
3	MV.Net License	\$0.00	
1	CU-Schedule	\$11.84	
1	Custom Programs (detail on Custom Programs wksht)	\$813.87	
1	Annual Test/Backup Server Support	\$177.57	
1	Annual JBase Windows Software Support 3 Licenses	\$19.89	
<b>SUBTOTAL</b>		<b>\$4,776.24</b>	<b>\$857.42</b>
<b>TOTAL</b>		<b>\$5,633.66</b>	

**CUSTOM PROGRAMS**  
for January 1, 2022 through June 30, 2022

Qty	Project #	Description	Monthly Support
1	Project #287194/303826/303287/303288	SAP Interfaces with General AR	\$62.40
1	Project #322732	Modify Current RTax Referral	\$20.80
1	Project #315331	SAP Interface with Water Module	\$116.48
1	Project #335448	Library Interface	\$31.20
1	Project #346315	Parking Interfaces	\$114.40
1	Project #345369	Accurant Interface	\$62.40
1	Project #361723	CFDAILY2-WORK-DIST CFDAI	\$38.03
1	Project #378274	Add X5 Command to Support	\$41.60
1	Project #375835	Automate Download process in Day	\$87.36
3	Project #416223	Web Service for CUBS	\$72.80
1	Project #432308	Crywolf Interface	\$124.80
1	Project #446850	Btax	\$41.60
<b>TOTAL</b>			<b>\$813.87</b>

**SILVER SUPPORT MONTHLY FEES**  
for July 1, 2022 through December 31, 2022

Qty	Description	Monthly Support	Monthly License
53	Revenue Plus Collector System (RPCS) Licenses	\$2,329.35	\$776.45
53	NT Software Support	\$256.05	
58	CU-Emulate	\$424.32	
1	CU-Transit	\$219.47	
1	Client Acces Logon	\$47.55	
1	Test Logon	\$0.00	
1	Account Distribution/Payment Proration Module	\$444.44	\$89.01
1	Tax Intercept Module	\$88.40	\$17.68
1	CU-Archive	\$56.09	
3	MV.Net License	\$0.00	
1	CU-Schedule	\$12.19	
1	Custom Programs (detail on Custom Programs wksht)	\$838.27	
1	Annual Test/Backup Server Support	\$182.90	
1	Annual jBase Windows Software Support 3 Licenses	\$20.48	
	<b>SUBTOTAL</b>	<b>\$4,919.52</b>	<b>\$883.14</b>
	<b>TOTAL</b>	<b>\$5,802.65</b>	

**CUSTOM PROGRAMS**  
for July 1, 2022 through December 31, 2022

Qty	Project #	Description	Monthly Support
	Project		
1	#287194/303826/303287/303288	SAP Interfaces with General AR	\$64.27
1	Project #322732	Modify Current RTax Referral	\$21.42
1	Project #315331	SAP Interface with Water Module	\$119.97
1	Project #335448	Library Interface	\$32.14
1	Project #346315	Parking Interfaces	\$117.83
1	Project #345369	Accurant Interface	\$64.27
1	Project #361723	CFDAILY2-WORK-DIST CFDAI	\$39.17
1	Project #378274	Add X5 Command to Support	\$42.85
1	Project #375835	Automate Download process in Day	\$89.98
3	Project #416223	Web Service for CUBS	\$74.98
1	Project #432308	Crywolf Interface	\$128.54
1	Project #446850	Btax	\$42.85
	<b>TOTAL</b>		<b>\$838.27</b>



**FIFTH AMENDMENT TO MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

This Fifth Amendment to the Master Services Contract with Columbia Ultimate, Inc. (Fifth Amendment) is made and entered into by and between the City of San Diego (City) and Columbia Ultimate, Inc. (Contractor), also referred to individually as "Party" and collectively as the "Parties."

**RECITALS**

WHEREAS, on November 15, 2011, the parties entered into the Master Services Contract (Contract), to provide licensing of its proprietary debt collection software known as "The Collector System" as well as affiliated products and related modules on an as-needed basis by the City; and

WHEREAS, the parties have amended the Contract from time-to-time; and

WHEREAS, the City is in the process of implementing new software that will replace the system provided by Columbia Ultimate, Inc., but must continue to utilize the debt collection services provided by Columbia Ultimate, Inc. during the transition to the new vendor; and

WHEREAS, the City's Purchasing Agent provided written sole source approval for this contract for an additional three years; and

WHEREAS, the Contract is set to expire on December 31, 2019, and the City, through this Amendment No. 5, is seeking to extend the term of the Contract for up to an additional (2) years with an annual expenditure amount of up to \$240,000, which extends the Contract further beyond five years requiring City Council approval under San Diego City Charter section 99;

NOW, THEREFORE, the City and Columbia Ultimate, Inc. agree as follows:

1. Section 105.a.(1) of the Contract shall be deleted and replaced with the following language:

**"105. COMPENSATION AND METHOD OF PAYMENT**

**a. Fees and Expenses**

Corporation shall pay Consultant as follows for Services provided:

- (1) Fees and Compensation: Corporation shall pay Consultant the fees and

compensation in the amount specified in the Price Schedule attached to the Fifth Amendment. Payment for Services provided after July 1, 2021 will be payable monthly at the rate indicated in Attachment A.”

2. Section 106, TERM, of the Contract as revised in Amendment No. 4 shall be deleted and replaced with the following language:

“106. TERM


The term of this Contract with the City commenced on January 1, 2012 and shall remain in effect until December 31, 2020, unless terminated earlier pursuant to Section 314 of this Contract. The City shall have the right in its sole discretion to exercise one (1) additional one (1) year option to extend the Contract term until December 31, 2021. If the City chooses to exercise any options, the City shall do so in writing to Columbia Ultimate, Inc. 30 days before the expiration of the term currently in effect. This Contract shall not extend beyond December 31, 2021, until and unless City Council approval is obtained in accordance with City Charter section 99.”

3. This Fifth Amendment will be effective when signed by both parties and approved by the City Attorney in accordance with Charter section 40.

4. All provisions of the Agreement not addressed in this Fifth Amendment remain in full force and effect.

IN WITNESS WHEREOF, this Fifth Amendment is executed by City and Contractor acting by and through their authorized officers.

**Contractor**

By:   
Name: DAVID L. HAHN  
Title: VP-Finance  
Date: 10/17/19

**City of San Diego**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form this \_\_\_ day of \_\_\_\_\_, 20\_\_.

MARA W. ELLIOTT, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
Print Name

Attachment A  
Fee Schedule

City desires to change its current license count and remove the below identified products as of July 1, 2020:

Qty	Project #	Description	Value Amount	Annual Support
1	Project #270485		\$2,400.00	\$31.20
1	Project #13387	Modify interface routine to receive payments on rental properties	\$1,200.00	\$15.60
1	Project #130880	Aging Requirement for Credit Reporting	\$3,408.00	\$408.96
1	Project #345550	Distribution Changes Automated Program	\$2,400.00	\$288.00
1	Project #357457	Review the Quick Post Programs	\$0.00	\$0.00
1	Project #363433	RTAX/BTAX interface inbound modi	\$1,920.00	\$0.00

City agrees to pay the following fees:

**SILVER SUPPORT ANNUAL FEES**  
for July 1, 2020 through June 30, 2021

Qty	Description	Annual Support	Annual License
	Revenue Plus Collector System (RPCS)		
53	Licenses	\$20,267.43	\$6,755.81
53	NT Software Support	\$2,227.89	
58	CU-Emulate	\$3,691.93	
1	CU-Transit	\$1,909.62	
1	Client Acces Logon	\$413.75	
1	Test Logon	\$0.00	
	Account Distribution/Payment Proration		
1	Module	\$3,866.98	\$774.46
1	Tax Intercept Module	\$769.15	\$153.83
1	CU-Archive	\$488.01	
3	MV.Net License	\$0.00	
1	CU-Schedule	\$106.09	
1	Custom Programs (detail on Custom Programs wksht)	\$7,512.60	
1	Annual Test/Back up Server Support	\$1,591.35	
1	Annual jBase Windows Software Support 3 Licenses	\$178.23	
	<b>SUBTOTAL</b>	<b>\$43,023.04</b>	<b>\$7,684.10</b>

**TOTAL** **\$50,707.14**

**CUSTOM PROGRAMS**  
for July 1, 2020 through June 30, 2021

Qty	Project #	Description	Value Amount	Annual Support
	Project			
1	#287194/303826/303287/303288	SAP Interfaces with General AR	\$4,800.00	\$576.00
1	Project #322732	Modify Current RTax Referral	\$1,600.00	\$192.00
1	Project #315331	SAP Interface with Water Module	\$8,960.00	\$1,075.20
1	Project #335448	Library Interface	\$2,400.00	\$288.00
1	Project #346315	Parking Interfaces		\$1,056.00
1	Project #345369	Accurint Interface	\$4,800.00	\$576.00
1	Project #361723	CFDAILY2-WORK-DIST CFDAI	\$0.00	\$351.00
1	Project #378274	Add X5 Command to Support	\$3,200.00	\$384.00
1	Project #375835	Automate Download process in Day	\$6,720.00	\$806.40
3	Project #416223	Web Service for CUBS	\$5,600.00	\$672.00
1	Project #432308	Crywolf Interface	\$9,600.00	\$1,152.00
1	Project #446850	Btax	\$3,200.00	\$384.00
<b>TOTAL</b>			<b>\$50,880.00</b>	<b>\$7,512.60</b>

**SILVER SUPPORT MONTHLY FEES**  
for July 1, 2021 through December 31, 2021

Qty	Description	Monthly Support	Monthly License
53	Revenue Plus Collector System (RPCS) Licenses	\$2,261.51	\$753.84
53	NT Software Support	\$248.60	
58	CU-Emulate	\$411.96	
1	CU-Transit	\$213.08	
1	Client Acces Logon	\$46.17	
1	Test Logon	\$0.00	
1	Account Distribution/Payment Proration Module	\$431.49	\$86.42
1	Tax Intercept Module	\$85.82	\$17.16
1	CU-Archive	\$54.45	
3	MV.Net License	\$0.00	
1	CU-Schedule	\$11.84	
1	Custom Programs (detail on Custom Programs wksht)	\$813.87	
1	Annual Test/Back up Server Support	\$177.57	
1	Annual JBase Windows Software Support 3 Licenses	\$19.89	
<b>SUBTOTAL</b>		<b>\$4,776.24</b>	<b>\$857.42</b>

**TOTAL**

**\$5,633.66**

**CUSTOM PROGRAMS**

*for July 1, 2021 through December 31, 2021*

Qty	Project #	Description	Monthly Support
	Project		
1	#287194/303826/303287/303288	SAP Interfaces with General AR	\$62.40
1	Project #322732	Modify Current RTax Referral	\$20.80
1	Project #315331	SAP Interface with Water Module	\$116.48
1	Project #335448	Library Interface	\$31.20
1	Project #346315	Parking Interfaces	\$114.40
1	Project #345369	Accurint Interface	\$62.40
1	Project #361723	CFDAILY2-WORK-DIST CFDAI	\$38.03
1	Project #378274	Add X5 Command to Support	\$41.60
1	Project #375835	Automate Download process in Day	\$87.36
3	Project #416223	Web Service for CUBS	\$72.80
1	Project #432308	Crywolf Interface	\$124.80
1	Project #446850	Btax	\$41.60
		<b>TOTAL</b>	<b>\$813.87</b>

**AMENDMENT NO. 4  
TO THE MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

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This Amendment No. 4 to the Master Services Contract is made and entered into by and between the City of San Diego, a municipal corporation (City), and Columbia Ultimate, Inc. (which may be individually or collectively referred to herein as a "Party" or the "Parties") as of the Effective Date described herein.

**RECITALS**

WHEREAS, San Diego Data Processing Corporation (SDPPC) previously provided certain information technology-related procurement services to the City; and

WHEREAS, on November 15, 2011, SDDPC entered into the Master Services Contract (Contract) with Columbia Ultimate Business Services, Inc., a Washington corporation, on behalf of its customer, the City, to provide licensing of its proprietary debt collection software known as "The Collector System" as well as affiliated products and related modules on an as-needed basis by the City; and

WHEREAS, effective on January 1, 2012, the Contract was assigned by SDPPC to the City pursuant to a letter agreement dated November 22, 2011; and

WHEREAS, the Washington corporation known as Columbia Ultimate Business Services, Inc. has never existed and did not exist at the time that the Contract was entered into and does not currently exist, as the true and correct corporate name of such entity as of November 15, 2011, is and was Columbia Ultimate, Inc.; and

WHEREAS, the Contract erroneously listed Columbia Ultimate Business Services, Inc. as the corporate entity contracting with SDDPC; and

WHEREAS, Columbia Ultimate, Inc. is a Washington corporation and the operations company that handles the day-to-day functions and agreements with clients and which has performed on the Contract and assumed all of the rights, obligations, and responsibilities under the Contract; and

WHEREAS, as of October 1999, Columbia Ultimate Business Systems, Inc. is a Nevada holding company for Columbia Ultimate, Inc., and does not contract with clients; and

WHEREAS, as referenced in the recitals of the Contract, the City through SDDPC has entered into various agreements with Columbia Ultimate Inc., and its related entities:

- a. Effective November 21, 1997, SDDPC entered into both a Software License Agreement and Software Support Agreement with Columbia Ultimate Business Systems, Inc.
- b. Effective February 4, 2004, SDDPC entered into an Immedia Agreement with Columbia Ultimate, Inc.; and

WHEREAS, on June 17, 2014, the City's Purchasing Agent provided written sole source approval for this Contract authorizing an expenditure of up to \$220,000 per year; and

WHEREAS, on August 6, 2014, the City entered into Amendment No. 1 to allow for enhanced reporting and performance services and skip tracing capabilities in addition to the current debt collection services provided by Columbia Ultimate, Inc.; and

WHEREAS, on July 22, 2015, the City entered into Amendment No. 2 to discontinue Ultimate Analytics services provided as part of Amendment No. 1 as set forth in the Ultimate Analytics License and Service Subscription Agreement; and

WHEREAS, on January 21, 2016, the City entered into Amendment No. 3 to add three additional services, specifically, the National Change of Address service, Electronic Address Confirmation service, and Multiple Letters Per Envelope (Householding) service and included a revised Exhibit C ; and

WHEREAS, on June 10, 2016, Ontario Systems, LLC acquired Columbia Ultimate Business Systems, Inc., but Columbia Ultimate, Inc. retains its status as a separate legal entity under its parent corporation, Columbia Ultimate Business Systems, Inc.; and

WHEREAS, the Contract is set to expire on December 31, 2016, and the City, through this Amendment No. 4, is seeking to extend the term of the Contract for up to an additional term of (3) years, which will extend the Contract beyond a total of five years and to increase the annual expenditure authorization under the Contract from \$220,000 to \$230,000;

NOW, THEREFORE, the City and Columbia Ultimate, Inc. agree as follows:

1. Upon the signatures of the Parties and the City Attorney, the effective date for this Amendment No. 4 shall be January 1, 2017 (Effective Date).



2. The Parties acknowledge and agree that the foregoing recitals are true and correct.
3. Section 106, TERM, of the Contract as revised in Amendment No. 3 shall be deleted and replaced with the following language:

“106. TERM

The term of this Contract with the City commenced on January 1, 2012 and shall remain in effect until December 31, 2017, unless terminated earlier pursuant to Section 314 of this Contract. The City shall have the right in its sole discretion to exercise two (2) additional one (1) year options to extend the Contract term until December 31, 2019. If the City chooses to exercise any options, the City shall do so in writing to Columbia Ultimate, Inc. before the expiration of the term currently in effect. This Contract shall not extend beyond December 31, 2019, until and unless City Council approval is obtained in accordance with City Charter section 99.”

4. The Contract shall be in an amount not to exceed \$230,000 annually on a fiscal year basis.
5. This Amendment No. 4 shall affect only the pages and sections and terms and conditions referred to herein. All other terms and conditions of the Contract shall remain in full force and effect.

[The rest of this page intentionally left blank]

IN WITNESS WHEREOF, this Amendment No. 4 is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by Columbia.

I HEREBY CERTIFY that I can legally bind Columbia Ultimate, Inc. and that I have read all of this Amendment No. 4 this 22<sup>nd</sup> day of September, 2016.

COLUMBIA ULTIMATE, INC.

CITY OF SAN DIEGO

By: *Jim Adamson*  
Jim Adamson  
Vice President

By: \_\_\_\_\_  
Kristina Peralta  
Director of Purchasing & Contracting

Date: 9/22/2016

Date: \_\_\_\_\_

I HEREBY APPROVE this Amendment No. 4 as to form this \_\_\_ day of \_\_\_\_\_, 2016.

JAN I. GOLDSMITH, City Attorney

By: \_\_\_\_\_  
Kenneth R. So  
Deputy City Attorney

**AMENDMENT NO. 3  
TO THE MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

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This Amendment No. 3 to the Master Services Contract is made and entered into by and between the City of San Diego, a municipal corporation (City), and Columbia Ultimate, Inc. (which may be individually or collectively referred to herein as a "Party" or the "Parties") as of the Effective Date described herein.

**RECITALS**

WHEREAS, San Diego Data Processing Corporation (SDPPC) previously provided certain information technology-related procurement services to the City; and

WHEREAS, on November 15, 2011, SDDPC entered into the Master Services Contract (Contract) with Columbia Ultimate Business Services, Inc., a Washington corporation, on behalf of its customer, the City, to provide licensing of its proprietary debt collection software known as "The Collector System" as well as affiliated products and related modules on an as-needed basis by the City; and

WHEREAS, effective on January 1, 2012, the Contract was assigned by SDPPC to the City pursuant to a letter agreement dated November 22, 2011; and

WHEREAS, the Washington corporation known as Columbia Ultimate Business Services, Inc. has never existed and did not exist at the time that the Contract was entered into and does not currently exist, as the true and correct corporate name of such entity as of November 15, 2011, is and was Columbia Ultimate, Inc.; and

WHEREAS, the Contract erroneously listed Columbia Ultimate Business Services, Inc. as the corporate entity contracting with SDDPC; and

WHEREAS, Columbia Ultimate, Inc. is a Washington corporation and the operations company that handles the day-to-day functions and agreements with clients and which has performed on the Contract and assumed all of the rights, obligations, and responsibilities under the Contract; and

WHEREAS, as of October 1999, Columbia Ultimate Business Systems, Inc. is a Nevada holding company for Columbia Ultimate, Inc., and does not contract with clients; and

WHEREAS, as referenced in the recitals of the Contract, the City through SDDPC has entered into various agreements with Columbia Ultimate Inc., and its related entities:

- a. Effective November 21, 1997, SDDPC entered into both a Software License Agreement and Software Support Agreement with Columbia Ultimate Business Systems, Inc.
- b. Effective February 4, 2004, SDDPC entered into an Immedia Agreement with Columbia Ultimate, Inc.; and

WHEREAS, on June 17, 2014, the City's Purchasing Agent provided written sole source approval for this Contract authorizing an expenditure of up to \$220,000 per year; and

WHEREAS, on August 6, 2014, the City entered into Amendment No. 1 to allow for enhanced reporting and performance services and skip tracing capabilities in addition to the current debt collection services provided by Columbia Ultimate, Inc.; and

WHEREAS, on July 22, 2015, the City entered into Amendment No. 2 to discontinue Ultimate Analytics services provided as part of Amendment No. 1 as set forth in the Ultimate Analytics License and Service Subscription Agreement; and

WHEREAS, the City now wishes to add three additional services as part of this Amendment No. 3, specifically, the National Change of Address service, Electronic Address Confirmation service, and Multiple Letters Per Envelope (Householding) service; and

WHEREAS, the National Change of Address service will ensure to the extent possible that the City is sending notices and mailings to the most recent known address by utilizing a dataset of addresses from the United States Postal Service (USPS) where individuals and businesses have filed a change of address; and

WHEREAS, the Electronic Address Confirmation service will provide updated address information electronically to the City when the City has sent notices and other mailings, which have come back to the United States Postal Service (USPS) as undeliverable and where the USPS has identified the new address for the returned mailing; and

WHEREAS, the Householding service will merge correspondence that is being mailed to the same address; and

WHEREAS, the City is seeking to extend the term of the Contract to the maximum five year term allowable at this time under City Charter section 99 without approval by City Council ordinance so that the City can have more time to determine how it would like to proceed;

NOW, THEREFORE, the City and Columbia Ultimate, Inc. agree as follows:

1. Upon the signatures of the Parties and the City Attorney, the effective date for this Amendment No. 3 shall be Jan 1<sup>st</sup>, 2016. (Effective Date).
2. The Parties acknowledge and agree that the foregoing recitals are true and correct.
3. Exhibit C of the Contract (Immedia Agreement) shall be deleted in its entirety and shall be replaced by Revised Exhibit C (UltimateConnect Software License and Service Order). The terms, conditions, and pricing in the Revised Exhibit C shall be fully incorporated as part of the Contract. Parties agree that whenever the Contract refers to Exhibit C, it shall be understood and read to mean Revised Exhibit C.
4. Section 106, TERM, of the Contract shall be deleted and replaced with the following language:  
  
"106. TERM  
  
The term of this Contract with the City shall commence on January 1, 2012 and shall remain in effect until December 31, 2016, unless terminated earlier pursuant to Section 314 of this Contract. This Contract shall not extend beyond this date until and unless City Council approval is obtained in accordance with City Charter section 99."
5. The Contract shall be in an amount not to exceed \$220,000 annually on a fiscal year basis.
6. This Amendment No. 3 shall affect only the pages and sections and terms and conditions referred to herein. All other terms and conditions of the Contract shall remain in full force and effect.


[The rest of this page is intentionally left blank]

IN WITNESS WHEREOF, this Amendment No. 3 is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by Columbia.

I HEREBY CERTIFY that I can legally bind Columbia Ultimate, Inc. and that I have read all of this Amendment No. 3 this 31<sup>st</sup> day of December, 2015.

COLUMBIA ULTIMATE, INC.

CITY OF SAN DIEGO

By:   
Jim Adamson  
CFO

By: \_\_\_\_\_  
Kristina Peralta  
Director of Purchasing & Contracting

Date: 12/31/2015

Date: \_\_\_\_\_

I HEREBY APPROVE this Amendment No. 3 as to form this \_\_\_ day of \_\_\_\_\_, 201\_.

JAN I. GOLDSMITH, City Attorney

By \_\_\_\_\_  
Kenneth R. So  
Deputy City Attorney



# CU•CORRESPOND

# Revised Exhibit C

SERVICE ORDER

## SIGNATURES

Columbia Ultimate, Inc., a Washington corporation ("Columbia Ultimate")  
 4400 NE 77<sup>th</sup> Avenue, Suite 100  
 Vancouver, Washington 98662  
 Telephone: 360-256-7358

City of San Diego Treasurer, Collections Division, Client ID# 052292
1010 2nd Avenue STE 666
San Diego, CA, 92101-4920
619-533-3828
Diana Muzquiz("notice party")

This UltimateConnect Software License and Service Order is a supplement to the Master Service Contract ("Contract") and consists of this "Signature Page" and the below described schedule ("Schedule"). If there are any conflicting terms, the conflict shall be resolved in order of precedence as set forth in Section 103 of the Contract as amended.

- Terms and Conditions      Client initials: \_\_\_\_\_      Columbia Ultimate initials:
- Schedule A – Fee Schedule      Client initials: \_\_\_\_\_      Columbia Ultimate initials:

The parties are signing this Service Order on the date last indicated below:

CLIENT  
 Authorized Signature  
 By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

COLUMBIA ULTIMATE, INC.  
 Authorized Signature  
 By:         
 Print Name:         
 Title:         
 Date:

## TERMS AND CONDITIONS

### 1. SERVICE DESCRIPTION.

**1.1.** Columbia Ultimate, or Columbia Ultimate's third-party print vendors, will receive Client's data and letter forms, merge the data with the forms, print and mail the letters. Each print vendor imposes a time cut-off for submissions. Subject to the vendor's time cut-off, letter transmissions will be processed, printed, and inserted within 24 hours for delivery to the US Postal Service. If Columbia Ultimate is unable to perform the 24 hours of receipt by Columbia Ultimate processing to mail based on service level agreement, Client will have the option of a delayed mailing or to perform the mailing within the Client's office. Client will give Columbia Ultimate not less than 24 hours' notice of estimated daily letter volume increases of 25% or more of normal daily volume.

**1.2. Tracking and Reporting.** Columbia Ultimate will provide weekly usage reports for letter tracking and postage availability. Columbia Ultimate also provides communication logs of all files transmitted. Client is responsible for reconciling these against the various data vendor reports indicating files that were processed.

**2. CU•CORRESPOND LICENSE.** In order to make use of the CU•Correspond Service, Client's data must be formatted appropriately using the CU•Correspond Software. Columbia Ultimate hereby grants Client a personal, nonexclusive, nontransferable license to use the CU•Correspond Software. Columbia Ultimate will provide Client with a copy of the CU•Correspond

Software. CU•Correspond also requires a CU•Transit fee for data transmission for non-Ajility Clients.

**3. SYSTEM REQUIREMENTS.** Data submitted for letters must be in a Columbia Ultimate specified format.

**4. FEES.** Client will pay Columbia Ultimate the fees and charges set forth in the Fee Schedule. All fees must be prepaid. If Client has no remaining pre-paid funds, Columbia Ultimate will charge an additional fee of four (4) cents a letter for those letters processed when no prepaid funds exist. If payment is not timely received, Columbia Ultimate may cease supplying CU•Correspond services until the balance and any penalties are paid, and make use of all remedies available under existing laws.

**5. LIMIT OF LIABILITY.** LIABILITY ON THE PART OF COLUMBIA ULTIMATE FOR LOSS, DESTRUCTION, OR DAMAGE BY BREAKAGE, LEAKAGE, THEFT OR ACCIDENTAL CAUSES PRIOR TO MAILING SHALL BE EXCLUSIVELY LIMITED TO REPLACEMENT WITH EQUIVALENT SERVICES AND REPROCESSING, AT NO CHARGE TO CLIENT. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, COLUMBIA ULTIMATE SHALL HAVE NO LIABILITY FOR DAMAGES RESULTING OR CLAIMED TO HAVE RESULTED FROM ERRONEOUS OR INCOMPLETE COMPILATION, PROCESSING OR TRANSMISSION OF INFORMATION OR DATA, INACCURATE SPECIFICATIONS PROVIDED OR APPROVED BY CLIENT OR ANY OTHER ERROR OF CLIENT.



# SCHEDULE A – FEE SCHEDULE

## INITIAL TERM:

**CU•Transit Fee (If applicable)** **\$150/Month**

**CU•Correspond Services** The current rate of \$0.1390 remains in effect until 7/1/2016 **Per Piece**  
 Letter printed on 24 lb. White Woven 8 1/2 X 11 Cutsheet Laser Paper Stock. **\$0.149\*\***

Text printed in Black Laser Image on Full 8 1/2 X 11 with 300 X 300 DPI.  
 Standard 2/3 Bottom Page Micro Perforation for easy tear and return stub.  
 White Woven #10 Double Window, Inside tinted Security Envelope.  
 All Mail Processing, including folding, inserting, sorting, etc.  
 All addresses are processed to confirm/append ZIP+4 and delivery point barcodes.

\*\*Based on estimated volume.

## Volume Discounts:

0 – 49,999 letters/month	\$0.149*
50,000 - 99,999 letters/month	\$0.139*
100,000 - 199,999 letters/month	\$0.134*
200,000 or more letters/month	\$0.129*

\*Pricing excludes postage. Actual postage rates will vary based upon current USPS postage rate and are calculated on letter volume per transmission and geographical distribution.

\*Prices subject to change based on volume.

## Optional Features:

**Per Piece**

Courtesy Reply Envelope (CRE) #9 White Wove 24 lb. Single Window	\$0.0197
Additional Page - 24 lb. White Woven 8 1/2 x 11 Cutsheet Laser Paper	\$0.062
Duplex Printing	\$0.045
Code 39 or OCR Barcode	N/C
Current Specialty Letter Stock	N/C
Custom Envelope or Letter Stock	varies

Custom specialty stock printed to Client's specification.

Minimum volume: 6 months usage.

Charged as used based on actual usage per transmission, billed on CU•Correspond weekly Invoice.

Client must pay for unused stock at termination of CU•Correspond services or discontinuation of using the particular stock. Columbia Ultimate will provide charges (per piece and volume). Shipping of unused stock at the expense of the Client.

<b>Digital Full Color Print:</b>	<b>Color (first page)</b> _____	<b>Duplex (additional)</b>
0 – 49,999 letters/month	\$0.164	\$0.072
50,000 - 99,999 letters/month	\$0.154	\$0.072
100,000 - 199,999 letters/month	\$0.149	\$0.072
200,000 or more letters/month	\$0.144	\$0.072

<b>Pressure Seal:</b>	<b>Color</b> _____	<b>B&amp;W</b>
0 – 49,999 Mallsers/month	\$0.169	\$0.134
50,000 - 99,999 Mallsers/month	\$0.159	\$0.124
100,000 - 199,999 Mallsers/month	\$0.154	\$0.119
200,000 or more Mallsers/month	\$0.149	\$0.114

## Optional Set-Up Features:

**One Time Charge**

Digitized Scanning and Imaging of Agency Logo	\$150.00
Digitized Scanning and Imaging of Agent's Signatures	\$125.00
Free Letter Set-up for New Form Letters (changes apply for reformatting of existing letters)	N/C
Changes to Specific Form or Letter Body Text	\$ 20.00
Custom Programming (Per Hour)	\$125.00

## Estimated Monthly Volume:

**X Estimated Standard Fees:** **(50% of monthly volume X .75)**

**[PREPAID FEES ON 2 WEEKS VOLUME DUE AT SIGNING AND MUST BE MAINTAINED AT ALL TIMES]**

CU•CORRESPOND AGREEMENT

**SCHEDULE A – FEE SCHEDULE – RECOMMENDED ADDITIONAL SERVICES**

**INITIAL TERM FOR ADDITIONAL SERVICES:**

**NCOALink**

Client Initial: \_\_\_\_\_

National Change of Address search for addresses on all letters being processed.

EXCLUDED STATES. During implementation, Client must provide Columbia Ultimate with a list of all states that Client desires to exclude from mailing. If an updated mailing address is to one of the excluded states, the mail item will not be mailed and Client will be informed of the address change. If Client fails to indicate excluded states, the NCOALINK™ Service will mail to all states not excluded. Pursuant to the terms of this agreement, the excluded states list may be modified only in a written instrument executed by Client. **Price: \$0.10 / Per Hit**

**EAC**

Client Initial: \_\_\_\_\_

ELECTRONIC ADDRESS CONFIRMATION. Electronic Address Confirmation ("EAC") is an automated electronic process for providing address corrections to mailers provided by the U.S. Postal Service ("USPS"). When USPS receives a mail piece and it is undeliverable-as-addressed at an old address due to a move, the USPS attempts to match the name and address of the recipient to the USPS Change of Address database. New address matches are provided through daily electronic notification. EAC is not intended as a replacement for manual processing, but instead is intended to reduce the volume of manual address correction notifications. **Price: \$0.15 / Per Hit**

**Web Archiving**

Client Initial: \_\_\_\_\_

**Initial Setup Fees: \$750 (invoiced after implementation)**

Includes: Reproduction of statements, Client specific indexing requirements, and one month online viewing.

Letter Volume	Price
<50,000	\$ 150.00
50,000 – 100,000	\$ 175.00
100,001 – 150,000	\$ 250.00
150,001– 200,000	\$ 300.00
>200,000	\$ 350.00

**Return Mail Management (RMM)**

Client Initial: \_\_\_\_\_

Description	Estimated # of Letters Per P.O. Box	Price	Note
Basic Service		\$ 0.15	Price is per scanned piece
S&H for returned letter/payments		\$ 10.00	Price is per shipped package
x-small P.O. Box	10 - 15	Prevailing rate	P.O. Box annual price
Small P.O. Box	20 - 30	Prevailing rate	P.O. Box annual price
Medium P.O. Box	40 - 60	Prevailing rate	P.O. Box annual price
Large P.O. Box	70 - 100	Prevailing rate	P.O. Box annual price
X-large P.O. Box	140 - 200	Prevailing rate	P.O. Box annual price

**Multiple Letters Per Envelope (Householding)**

Client Initial: \_\_\_\_\_

Description	Price
Up to 6 pages per envelope, or 5 pages with a return envelope	Surcharge of \$ 0.10 for each letter

**AMENDMENT NO. 2  
TO THE MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

---

This Amendment No. 2 to the Master Services Contract is made and entered into by and between the City of San Diego, a municipal corporation (City), and Columbia Ultimate, Inc. (which may be individually or collectively referred to herein as a "Party" or the "Parties") as of the Effective Date described herein.

**RECITALS**

WHEREAS, San Diego Data Processing Corporation (SDPPC) previously provided certain information technology-related procurement services to the City; and

WHEREAS, on November 15, 2011, SDDPC entered into the Master Services Contract (Contract) with Columbia Ultimate Business Services, Inc., a Washington corporation, on behalf of its customer, the City, to provide licensing of its proprietary debt collection software known as "The Collector System" as well as affiliated products and related modules on an as-needed basis by the City; and

WHEREAS, effective on January 1, 2012, the Contract was assigned by SDPPC to the City pursuant to a letter agreement dated November 22, 2011; and

WHEREAS, the Washington corporation known as Columbia Ultimate Business Services, Inc. has never existed and did not exist at the time that the Contract was entered into and does not currently exist, as the true and correct corporate name of such entity as of November 15, 2011, is and was Columbia Ultimate, Inc.; and

WHEREAS, the Contract erroneously listed Columbia Ultimate Business Services, Inc. as the corporate entity contracting with SDDPC; and

WHEREAS, Columbia Ultimate, Inc. is a Washington corporation and the operations company that handles the day-to-day functions and agreements with clients and which has performed on the Contract and assumed all of the rights, obligations, and responsibilities under the Contract; and

WHEREAS, as of October 1999, Columbia Ultimate Business Systems, Inc. is a Nevada holding company for Columbia Ultimate, Inc., and does not contract with clients; and

WHEREAS, as referenced in the recitals of the Contract, the City through SDDPC has entered into various agreements with Columbia Ultimate Inc., and its related entities:

- a. Effective November 21, 1997, SDDPC entered into both a Software License Agreement and Software Support Agreement with Columbia Ultimate Business Systems, Inc.; and
- b. Effective February 4, 2004, SDDPC entered into an Immedia Agreement with Columbia Ultimate, Inc.

WHEREAS, the City entered into Amendment No. 1 to allow for enhanced reporting and performance services and skip tracing capabilities in addition to the current debt collection services provided by Columbia Ultimate, Inc.; and

WHEREAS, the City now wishes to discontinue services provided as part of Amendment No. 1 as set forth in the Ultimate Analytics License and Service Subscription Agreement; and

WHEREAS, on October 24, 2014, the City notified Columbia Ultimate to turn off all Ultimate Analytics data services (including address and SSN) effective immediately until further notice; and

WHEREAS, on January 30, 2015, the City notified Columbia Ultimate to discontinue the remaining Ultimate Analytics services; and

WHEREAS, on February 4, 2015, Columbia Ultimate provided the Client Confirmation Notice and Client Decommission Checklist, which outlined the necessary steps required for the removal of all Ultimate Analytics services. Both documents are attached to this Amendment No. 2; and

NOW, THEREFORE, the City and Columbia Ultimate, Inc. agree as follows:

1. Upon the signatures of the Parties and the City Attorney, the effective date for this Amendment No. 2 shall be February 4, 2015. (Effective Date).
2. The parties acknowledge and agree that the foregoing recitals are true and correct.
3. The "Ultimate Analytics License and Service Subscription Agreement" attached to Amendment No. 1 as Exhibit D to the Contract is hereby terminated and the services set forth in the Ultimate Analytics License and Service Subscription Agreement shall no longer be provided as part of the Contract.

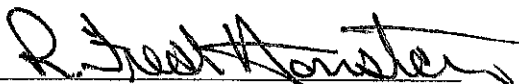
4. Within five (5) business days of the execution of this Amendment No. 2, Columbia Ultimate, Inc. shall certify in writing under penalty of perjury under the laws of the State of California that Columbia Ultimate, Inc. has deleted any and all data housed with Columbia Ultimate, Inc. as part of providing Ultimate Analytics services to the City.
5. This Amendment No. 2 shall affect only the pages and sections and terms and conditions referred to herein. All other terms and conditions of the Contract shall remain in full force and effect.


IN WITNESS WHEREOF, this Amendment No. 2 is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by Columbia.

I HEREBY CERTIFY that I can legally bind Columbia Ultimate, Inc. and that I have read all of this Amendment No. 2 this 29<sup>th</sup> day of June, 2015.

COLUMBIA ULTIMATE, INC.

CITY OF SAN DIEGO

By:   
R. Fred Houston  
CEO

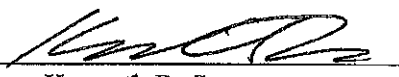
By:   
Kristina Peralta  
Interim Director  
Purchasing & Contracting

Date: 6-29-15

Date: 7/21/2015

I HEREBY APPROVE this Amendment No. 2 as to form this 22<sup>nd</sup> day of July, 2015.

JAN I. GOLDSMITH, City Attorney

By:   
Kenneth R. So  
Deputy City Attorney

**AMENDMENT NO. 1  
TO THE MASTER SERVICES CONTRACT  
WITH  
COLUMBIA ULTIMATE, INC.**

---

This Amendment No. 1 to the Master Services Contract is made and entered into by and between the City of San Diego, a municipal corporation (City), and Columbia Ultimate, Inc. (which may be individually or collectively referred to herein as a "Party" or the "Parties") as of the Effective Date described herein.

**RECITALS**

WHEREAS, San Diego Data Processing Corporation (SDPPC) previously provided certain information technology-related procurement services to the City; and

WHEREAS, on November 15, 2011, SDDPC entered into the Master Services Contract (Contract) with Columbia Ultimate Business Services, Inc., a Washington corporation, on behalf of its customer, the City, to provide licensing of its proprietary debt collection software known as "The Collector System" as well as affiliated products and related modules on an as-needed basis by the City; and

WHEREAS, effective on January 1, 2012, the Contract was assigned by SDPPC to the City pursuant to a letter agreement dated November 22, 2011; and

WHEREAS, the Washington corporation known as Columbia Ultimate Business Services, Inc. has never existed and did not exist at the time that the Contract was entered into and does not currently exist, as the true and correct corporate name of such entity as of November 15, 2011, is and was Columbia Ultimate, Inc.; and

WHEREAS, the Contract erroneously listed Columbia Ultimate Business Services, Inc. as the corporate entity contracting with SDDPC; and

WHEREAS, Columbia Ultimate, Inc. is a Washington corporation and the operations company that handles the day-to-day functions and agreements with clients and which has performed on the Contract and assumed all of the rights, obligations, and responsibilities under the Contract; and

WHEREAS, as of October 1999, Columbia Ultimate Business Systems, Inc. is a Nevada holding company for Columbia Ultimate, Inc., and does not contract with clients; and

WHEREAS, as referenced in the recitals of the Contract, the City through SDDPC has entered into various agreements with Columbia Ultimate Inc., and its related entities:

- a. Effective November 21, 1997, SDDPC entered into both a Software License Agreement and Software Support Agreement with Columbia Ultimate Business Systems, Inc.; and

- b. Effective February 4, 2004, SDDPC entered into an Immedia Agreement with Columbia Ultimate, Inc.

WHEREAS, the City wishes to enter into this Amendment No. 1 to allow for enhanced reporting and performance services and skip tracing capabilities in addition to the current debt collection services provided by Columbia Ultimate, Inc.; and

WHEREAS, the licensing of these additional services is intrinsically related to the licensed debt collection software currently provided by Columbia Ultimate, Inc. and will enhance the City's debt collection abilities by offering greater debt collection functionality and capability to the City;

NOW, THEREFORE, the City and Columbia Ultimate, Inc. agree as follows:

1. The effective date for this Amendment No. 1 will be the later of Aug 6., 2014, or upon the signatures of the Parties and the City Attorney (Effective Date).
2. The parties acknowledge and agree that the foregoing recitals are true and correct.
3. All references to "San Diego Data Processing Corporation", "SDDPC", and "Corporation" in the Contract shall be replaced by, and understood to be, the "City of San Diego".
4. All references to "Columbia Ultimate Business Services, Inc." in the Contract shall be replaced, and understood to be, "Columbia Ultimate, Inc." Columbia Ultimate, Inc. agrees and acknowledges that at all times during the effectiveness of the Contract that Columbia Ultimate, Inc. has understood the Contract to be legally binding in all respects as to Columbia Ultimate, Inc. and has performed in accordance with such understanding and assumed all of the rights, responsibilities and obligations of the "Consultant" under the Contract.
5. Columbia Ultimate, Inc. warrants and represents that it has been assigned the rights of Columbia Ultimate Business Systems, Inc. under the Software License Agreement attached as Exhibit A to the Contract and the Software Support Agreement attached as Exhibit B to the Contract, or that Columbia Ultimate, Inc. otherwise has the legal rights to administer to these agreements.
6. Columbia Ultimate, Inc. agrees to defend and indemnify the City, its elected officials, employees, representatives, departments, and agents from and against any and all claims asserted, or liability established, for damages or injuries related to, which arise from, or in any way connected with, or are caused, or claimed to be caused by any failure of Columbia Ultimate, Inc. to have the right to administer the Software License Agreement attached as Exhibit A to the Contract or the Software Support Agreement attached as Exhibit B to the Contract.
7. The "Ultimate Analytics License and Service Subscription Agreement" attached to this Amendment No. 1 shall be added as Exhibit D to the Contract and fully incorporated in the Contract as of the Effective Date of this Amendment No. 1.
8. Section 103 of the Contract shall be deleted in its entirety and replaced with the following provision:
  - "a. List of Attachments and Exhibits

The above services shall be performed in accordance with the following listed documents that are attached hereto and made a part hereof:

1. Reimbursable Travel Expense Schedule, Contract Attachment No. 1
2. Software License Agreement, Exhibit A
3. Software Support Agreement, Exhibit B
4. Immedia Agreement, Exhibit C
5. Ultimate Analytics License and Service Subscription Agreement, Exhibit D”

“b. Order of Precedence

In the event of any inconsistencies between or among the documents, the inconsistency shall be resolved by giving precedence in the following order:

1. Contract Amendments in reverse numeric sequence
  2. This Contract #4500050609
  3. Statements of Work in reverse numeric sequence
  4. Contract Attachment No. 1
  5. Exhibit D
  6. Exhibit C
  7. Exhibit A
  8. Exhibit B”
9. The following language of Section 107 of the Contract shall be deleted:

“If to Corporation:           San Diego Data Processing Corporation  
  Attention: Corporate Counsel  
  5975 Santa Fe Street  
  San Diego, CA 92109”

And shall be replaced with the following:

“If to City:                    City of San Diego  
  Attention: Office of the City Treasurer  
  1200 Third Avenue, Suite 100  
  San Diego, CA 92101”

10. A new Section 322 will be added to the Contract and will read as follows:

Americans with Disabilities Act

Columbia agrees and acknowledges that it is aware of and will comply with Council Policy 100-04, adopted by Resolution no. 282153 relating to the federally mandated Americans with Disabilities Act (ADA).

11. This Amendment No. 1 shall affect only the pages and sections and terms and conditions referred to herein. All other terms and conditions of the Contract shall remain in full force and effect.



IN WITNESS WHEREOF, this Amendment No. 1 is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by Columbia.

Columbia Ultimate, Inc. *(initials)*

I HEREBY CERTIFY that I can legally bind ~~EOS~~ and that I have read all of this Amendment No. 1 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COLUMBIA ULTIMATE  
, INC.

CITY OF SAN DIEGO

By: *Jim Adamson*  
Jim Adamson  
CFO

By: *Dennis Gakunga*  
Dennis Gakunga  
Director of Purchasing & Contracting

Date: *6/12/2014*

Date: *7/17/14*

I HEREBY APPROVE the form and legality of this Amendment No. 1 this *6<sup>th</sup>* day of *August*, 2014.

JAN I. GOLDSMITH, City Attorney

By: *Kenneth R. So*  
Kenneth R. So  
Deputy City Attorney

**SAN DIEGO DATA PROCESSING CORPORATION  
MASTER SERVICES CONTRACT**

**WITH**

**COLUMBIA ULTIMATE BUSINESS SERVICES, INC.**

**CONTRACT # 4500050609**

This Master Services Contract ("Contract") is effective as of November 15, 2011 (the "Effective Date"),

between the Corporation:

**SAN DIEGO DATA PROCESSING CORPORATION**, a public entity organized as a California nonprofit public benefit corporation, on behalf of the City of San Diego, California ("Customer")  
Attn: Accounts Payable  
5975 Santa Fe Street, San Diego, CA 921093  
(858) 581-9600 Telephone  
(858) 581-9689 Facsimile

and the Consultant:

**COLUMBIA ULTIMATE BUSINESS SERVICES, INC.**  
4400 NE 77<sup>th</sup> Avenue, Suite 100  
Vancouver, WA 98662  
(360) 256-7358 Telephone  
(360) 604-1104 Facsimile

**RECITALS**

Corporation and Consultant have entered into a Software License Agreement with an effective date of November 21, 1997 (Exhibit A of this Contract), included herein by reference as if in full text.

Corporation and Consultant have entered into a Software Support Agreement with an effective date of November 21, 1997 (Exhibit B of this Contract), included herein by reference as if in full text.

Corporation and Consultant have entered into an Immedia Agreement with an effective date of February 4, 2004 (Exhibit C of this Contract), included herein by reference as if in full text.

100. BASE TERMS

101. DEFINITIONS

In this Contract, the following words and expressions will have the following meanings:

**"Change Request"** means the document which has been signed by both parties and which defines and values a change to the scope of work to a duly signed Statement of Work.

**"Deliverables"** means the specific materials, products or other results of the Services that are required by the Statement of Work to be provided to Corporation by Consultant.

**"Payment Schedule"** means the payment schedule set out in a duly executed Statement of Work.

**"Services"** means the professional consulting services described in each Statement of Work.

**"Statement of Work"** means the sequentially numbered document which has been signed by both parties that describes Services and Deliverables to be provided by Consultant to Corporation and includes a Payment Schedule and other designated documents in addition to those otherwise specified in this Contract that are deemed applicable to the Services to be performed.

102. DESCRIPTION OF SERVICES

Consultant shall provide the Services described in a Statement of Work that details the relationship of the parties with regard to a specific project. Each Statement of Work shall: (i) be signed by Corporation and Consultant; (ii) incorporate by reference this Contract; and, (iii) provide a detailed description of the Services.

103. CONTRACT ATTACHMENTS AND EXHIBITS

a. List of Attachments and Exhibits

The above services shall be performed in accordance with the following listed documents that are attached hereto and made a part hereof:

1. Reimbursable Travel Expense Schedule, Contract Attachment No. 1
2. Software License Agreement, Exhibit A
3. Software Support Agreement, Exhibit B
4. Immedia Agreement, Exhibit C

b. Order of Precedence

In the event of any inconsistencies between or among the documents, the inconsistency shall be resolved by giving precedence in the following order:

1. Contract Amendments in reverse numeric sequence
2. This Contract # 4500050609
3. Statements of Work in reverse numeric sequence
3. Contract Attachment No. 1

4. Exhibit C
5. Exhibit A
6. Exhibit B

#### 104. TIME OF PERFORMANCE

All Services required pursuant to each Statement of Work shall commence when and as directed by the Corporation in writing, and shall be completed within such times as are reasonably agreed between Corporation and Consultant, or when the maximum compensation specified in each Statement of Work is expended.

#### 105. COMPENSATION AND METHOD OF PAYMENT

##### a. Fees and Expenses

Corporation shall pay Consultant as follows for Services provided:

- (1) Fees and Compensation: Corporation shall pay Consultant the fees and compensation specified in the Payment Schedule contained in each Statement of Work.
- (2) Expenses: In connection with the performance of Services by Consultant under this Contract, Consultant shall be reimbursed solely for direct out-of-pocket travel expenses of its employees or agents who do not live in San Diego County as set forth in the terms, conditions and limitations set forth in the "Reimbursable Travel Expense Schedule", attached as Contract Attachment No. 1 and incorporated herein. Such expenses shall not include overhead or administrative costs.

##### b. Taxes

- (1) Unless otherwise specified in an applicable Statement of Work, Corporation shall pay for all sales, use, value-added, goods and services, consumption and other similar taxes and duties in connection with this Contract.
- (2) Each party shall be responsible for taxes based on its own net income, employment taxes of its own employees and form taxes on any property it owns or leases.

##### c. Method of Payment

- (1) Invoices: The Consultant shall submit invoices to the Corporation at the address given above specifying the amount due for Services performed and expenses incurred by the Consultant during the invoice period. Each invoice shall: Reference the Contract number and reference the tasks and milestones of the Statement of Work covered by the invoice.
- (2) Payment: Unless otherwise agreed in writing between the parties and subject to Corporation's approval of the invoice, which approval will not be

unreasonably withheld, the Corporation shall make payment within thirty (30) calendar days of its receipt of the invoice.

106. TERM

The term of this Contract shall commence on the Effective Date and shall remain in effect until June 30, 2016, unless terminated earlier pursuant to Section 314 of this Contract.

107. NOTICES

Any notice or instrument required or permitted to be given under this Contract shall be deemed received upon personal or courier delivery or seventy-two (72) hours after deposit in any United States post office, first class postage prepaid, and addressed to the party for whom intended, as follows:

If to Corporation: San Diego Data Processing Corporation  
Attention: Corporate Counsel  
5975 Santa Fe Street  
San Diego, CA 92109

If to Consultant: Columbia Ultimate Business Services, Inc.  
4400 NE 77<sup>th</sup> Avenue, Suite 100  
Vancouver, WA 98662

200. SERVICES

When and as directed by the Corporation, the Consultant shall perform professional consulting services to include, but not be limited to, the Services described in each Statement of Work executed pursuant to this Contract.

201. CONSULTANT'S PERSONNEL

Consultant shall be responsible for selection of the personnel to carry out the Services and shall be responsible for the day-to-day management of their employees and any Corporation-approved subcontractors.

Consultant, within its reasonable control, shall use its best efforts to have the same staff perform all of the Services contemplated in each Statement of Work issued under this Contract. In the event such staff is replaced with others, Consultant shall cause a knowledge transfer between the previous and new staff sufficient to minimize any delays caused by the replacement. Such knowledge transfer shall be performed at no additional cost to Corporation. Corporation shall have the right to accept or reject Consultant's staff with reasonable cause.

Consultant, within its reasonable control, agrees to provide Corporation with fourteen (14) calendar day's prior written notice before replacing from the performance of Services any

resource that is identified as a "Key Resource" in any Statement of Work. Such "Key Resource" may not be transferred without prior written consent of Corporation, such consent not to be unreasonably withheld. The following shall not constitute a removal of a Key Resource requiring Corporation's written consent: a) if a Key Resource takes sick, personal, vacation or family leave time; or, where a Key Resource's employment with Consultant is discontinued. Should Consultant replace a Key Resource, Consultant shall replace such Key Resource with an individual that possesses qualifications and experience equal to or greater than the named Key Resource and that is reasonably acceptable to Corporation.

Corporation reserves the right to reasonably request the replacement of any Consultant resource that is not performing to the standards reasonable expected of professional consultants. Consultant agrees to endeavor to promptly replace such resource with other resources of similar or greater qualifications and experience if such resource's performance is not promptly improved to the standards reasonable expected of professional consultants.

None of Consultant's resources shall be considered an employee of Corporation.

Consultant shall be solely responsible for the conduct of its respective resources and subcontractors in their performance of the Services, including compliance with Corporation's reasonable policies, provided that Consultant has been made aware of such policies, in writing, reasonable prior to the applicability of such policies to Consultant.

## 202. APPROVED AFFILIATES AND SUBCONTRACTORS

Corporation approves the following affiliate and their successors: RevQ, a Columbia Ultimate Company. Consultant's use of any approved affiliate and subcontractor is subject to the terms and conditions of Sections 303, 304, 310, 320 and 321 of this Contract.

### 300. GENERAL PROVISIONS

#### 301. STATUS OF CONSULTANT

This Contract calls for the performance of the services of the Consultant as an independent contractor. Consultant will not be considered an employee of the Corporation for any purpose.

#### 302. OWNERSHIP OF MATERIALS AND DOCUMENTS

Excepting such items specifically identified by the Consultant as proprietary trade secrets, any and all sketches, drawings, tracings, field survey notes, computations, detail, and other materials and documents prepared by the Consultant pursuant to this Contract shall be the property of the Corporation from the moment of their preparation, and the Consultant shall deliver such materials and documents to the Corporation whenever requested to do so by the Corporation. However, the Consultant shall have the right to make duplicate copies of such materials and documents for its own file, or for other purposes as may be authorized in writing by the Corporation.

All Corporation data, records, documentation, source code and information ("Corporation Data") processed by or input onto the hardware and/or software systems to which Consultant has access, or otherwise provided to Consultant under this Contract, shall be and remain the property of Corporation, and Corporation shall retain exclusive rights and ownership thereto. Consultant shall not use Corporation Data for any purpose other than as required under this Contract and shall return all Corporation Data to Corporation upon completion of the performance or termination of this Contract. No Corporation Data, or any part thereof, shall be disclosed, sold, assigned, leased or otherwise disposed of to third parties by Consultant or commercially exploited or otherwise used by or on behalf of Consultant.

Unless otherwise provided by the terms and conditions of Exhibit C or provided in a Statement of Work, Corporation shall not be the owner of, and Consultant shall not assign, any software modules, standard routines, development tools, programming techniques or interfaces that are used or developed by Consultant in providing the Services and that are non-specific or non-identifiable in the Services.

#### 303. NON-DISCLOSURE

The Corporation Data, designs, plans, reports, investigations, materials, and documents prepared or acquired by the Consultant pursuant to this Contract (including any duplicate copies kept by the Consultant) shall not be shown or disclosed to any other public or private person or entity directly or indirectly, except as authorized by the Corporation. The Consultant shall not disclose to any other public or private person or entity either directly or indirectly any information regarding the activities of the Corporation except as authorized by the Corporation.

#### 304. CONFLICT OF INTEREST

For the duration of this Contract, the Consultant will not act as a consultant or perform services of any kind for any person or entity which would conflict with the services to be provided herein without the prior written consent of the Corporation.

A conflict occurs when circumstances, known to the Consultant, place the Corporation and Consultant's new client in adverse, hostile, or incompatible positions wherein the interests of the Corporation may be jeopardized. Consultant shall promptly notify the Corporation in the event that such a conflict occurs.

In the event of such a conflict, Consultant shall meet and confer with the Corporation to agree upon modifications of its relationship with said new client or Corporation in order to continue to perform services for said client and/or Corporation without compromising the interests of either. Should no agreement regarding modification be reached, Corporation may terminate this Contract.

When consent has been given, Consultant shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Consultant for Corporation. Under no circumstances may Consultant convey or utilize, or permit to be utilized, confidential information gained through its association with Corporation for the benefit of any other client.

Consultant agrees to alert every client for whom consent is required to the existence of this conflict of interest provision and to include language in its agreement with said client which would enable Consultant to comply fully with its terms. This last paragraph shall not apply to existing clients of the Consultant for which the Consultant has previously received the Corporation's consent.

This Contract may be unilaterally and immediately terminated by the Corporation if Consultant employs an individual who, within the twelve (12) months immediately preceding such employment, in his/her capacity as a Corporation employee, participated in negotiations with or otherwise had an influence on the selection of the Consultant.

#### 305. CONSULTANT'S LIABILITY

The Consultant shall be responsible for all injuries to persons of the Corporation or others caused by or resulting from the negligence of itself, its employees, or its agents during the progress of or connected with the rendition of services hereunder.



Consultant shall indemnify, defend and hold harmless the Corporation, the City of San Diego, and all officers, directors, employees and insurers of the Corporation and the City of San Diego from and against any claim, action, proceeding, liability, loss, damage, cost or expense, including, without limitation, reasonable attorneys' fees:

- a. for damages to real or personal property or personal injury to any third party resulting from the negligence of Consultant, its employees, or its agents; or,
- b. for any breach of any obligations, duties or covenants of Consultant under this Contract or transactions related to it.

Except as expressly set forth to the contrary elsewhere in this Contract, the remedies of Corporation and the liability of Consultant are limited as set forth herein. Consultant's maximum, cumulative liability arising out of or in any way connected with this Contract, or the Services performed hereunder, shall not exceed: 1) the amount of Consultant's insurance policy under Section 306.a of this Agreement for damages for bodily injury (including death) and damage to real property and tangible personal property; and, 2) the monetary amount of any other actual direct damages up to the total amount of compensation received by Consultant hereunder. In no event shall Consultant be liable for any indirect, incidental, punitive or consequential damages whatsoever, including without limitation loss of use or lost profits, whether such liability arises in contract, strict liability, tort or otherwise.

### 306. INSURANCE

Consultant shall not commence performance of services until Consultant has obtained, at its sole cost and expense, all insurance required under this Section and until such insurance has been approved by the Corporation. Consultant shall not allow any approved affiliate or subcontractor to commence work on a subcontract until all similar insurance required of the affiliate or subcontractor has been obtained and approved.

Consultant agrees to purchase and maintain in full force and effect the following insurance policies:

- a. Commercial general liability insurance with limits not less than one million dollars (\$1,000,000) combined single limit for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and products and completed operations coverage, insuring against all liability of Corporation and the Customer arising out of or in connection with Consultant's performance of work under this Contract.
- b. Workers' compensation insurance for Consultant, subcontractors, employees and agents in form and amount acceptable to Corporation during the full term of this Contract.

- c. Commercial automobile liability insurance with limits not less than one million dollars (\$1,000,000) each occurrence combined single limit for bodily injury, death and property damage, including owned and non-owned and hired automobile coverage, as applicable.
- d. Professional liability insurance (errors and omissions insurance) in the minimum amount of \$1,000,000.

To the extent any insurance coverage required under this Contract Section 306 is purchased on a "claims made" basis, such insurance shall cover all prior acts of Consultant during the term of this Contract and such insurance shall be continuously maintained until at least three (3) years beyond the expiration or termination of this Contract, or Consultant shall purchase "tail" coverage, effective upon termination of any such policy or termination of this Contract, to provide coverage for at least one (1) year from the occurrence of either event.

All insurance required to be purchased and maintained by Consultant, excepting Workers' compensation insurance, shall name the Corporation and the Customer as additional insureds.

Consultant agrees to hold harmless and indemnify Corporation for any and all claims arising out of any injury, disability, or death of any of Consultant's employees or agents, and all insurance shall insure the performance of Consultant of the indemnity provisions set forth in Contract Section 305.

The Consultant shall furnish to the Corporation certificates of insurance evidencing the insurance carried in compliance with Contract Section 306, including appropriate evidence that each type of insurance has been properly amended to include coverage for the specific project. Each certificate shall contain a provision that at least thirty (30) calendar days' prior written notice will be given to the Corporation in the event of cancellation, reduction or non-renewal of the insurance.

Consultant shall require all of its subcontractors to carry insurance coverages and limits as agreed to and approved in writing by Corporation.

Consultant waives any right of recovery against Corporation and the Customer or against the officers, directors, employees, agents and representatives of Corporation and the Customer for loss of or damage to Consultant or its property or the property of others under Consultant's control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Consultant shall, upon obtaining the insurance policies required hereunder, give notice to the insurance carriers that the foregoing waiver of subrogation is contained in this Contract.

**307. CORRECTION OF WORK**

The performance of services by the Consultant shall not relieve the Consultant from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the Corporation, when such inaccuracies are due to the negligence of the Consultant, provided such work has not been accepted in writing by an authorized representative of the Corporation.

**308. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION**

During the performance of this Contract, the Consultant agrees as follows:

- a. Consultant will not discriminate against any employee or applicant for employment on any basis prohibited by federal or state law or City of San Diego Municipal Code or Council Policy including, but not limited to, race, gender, religion, sexual orientation, age, marital status, national origin or disability. The Consultant will provide equal opportunity in all employment practices. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, gender, religion, sexual orientation, age, marital status, national origin, or disability. Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The Consultant agrees to post, in conspicuous places available to employees and applicants for employment, notices available from federal, state and municipal agencies setting forth the provisions of this sub-section.
- b. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, gender, religion, sexual orientation, age, marital status, national origin or disability.
- c. Consultant will not discriminate against any subcontractor, vendor, or supplier on any basis prohibited by federal or state law or City of San Diego Municipal Code or Council Policy including, but not limited to, race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability. Consultant will take affirmative action in its solicitation, selection and hiring practices and will provide equal opportunity for subcontractors to participate in subcontracting opportunities.
- d. Consultant will comply with the City of San Diego Nondiscrimination in Contracting Ordinance, (San Diego Municipal Code Sections 22.3501-22.3517). The Consultant will insure that its subcontractors comply with the City of San Diego's Equal Employment Opportunity Outreach Program. (San Diego Municipal Code Sections 22.2701-22.2707).

- e. Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, except that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- f. Consultant understands and agrees that violation of this Contract Section 308 shall be considered a material breach of the Contract and may result in termination of the Contract, debarment, or other sanctions.

### 309. COST RECORDS

If this Contract provides that Corporation reimburse Consultant for its costs of performing services, Consultant shall maintain full and complete financial records prepared in accordance with generally accepted accounting principles. Such records shall be open to the inspection of the Corporation or the appropriate government agencies at all reasonable times.

### 310. SUBCONTRACTING

No service covered by this Contract shall be subcontracted without the prior written consent of the Corporation.

In order to obtain consent, Consultant shall submit to Corporation a list of all potential subcontractors, and a description of the work to be performed by each subcontractor. Once this list has been approved, no changes to the list will be allowed except by prior written consent of Corporation, such consent not to be unreasonably withheld.

Upon request of the Customer, Consultant agrees to provide to the Customer, within sixty (60) calendar days, a truthful and complete list of names of all subcontractors, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total amount paid for each subcontract, service contract, and supply contract.

Consultant further agrees to fully cooperate in any investigation conducted by the Customer pursuant to the City of San Diego's Nondiscrimination in Contracting Ordinance, (Municipal Code Sections 22.3501-22.3517). Consultant understands and agrees that a violation of this Contract Sub-section 310.(d) shall be considered a material breach of the Contract and may result in remedies being ordered against the Consultant for violation of the provisions of the Nondiscrimination in Contracting Ordinance up to and including termination of the Contract, debarment, and other sanctions. Consultant further understands and agrees that the procedures, remedies, and sanctions provided for in the Nondiscrimination in Contracting Ordinance apply only to violations of said Nondiscrimination in Contracting Ordinance.

### 311. ASSIGNABILITY

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the Corporation.

Claims for money due or to become due to the Consultant from the Corporation under this Contract may be assigned to a bank, trust company, or other financial institutions, or to a trustee in bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.

### 312. CHANGES

The Corporation may, from time to time, request changes in Contract Sections 104 and 200 or a Statement of Work executed pursuant to this Contract, including any increase or decrease in the amount of the Consultant's total compensation, which are mutually agreed upon by and between the Corporation and the Consultant, shall be incorporated into this Contract by amendment or into the related Statement of Work by a Change Request.

The Consultant may request changes in the amount of Consultant's compensation under a Statement of Work in the event:

- a. Any part of the Services is delayed solely by Corporation or third parties performing work for the Corporation; or,
- b. Consultant's costs of performing the Services are increased due to any variance in design conditions or other information, if any, provided by Corporation in accordance with this Contract under the applicable Statement of Work.

The parties agree that no additional Services shall be performed until the amount of compensation in connection with any change has been mutually agreed upon and incorporated in a Change Request.

### 313. DISPUTE RESOLUTION

#### 313.1 Intent

The parties shall resolve their disputes informally to the maximum extent possible. The parties shall negotiate all matters of separate and joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. Only disputes within the scope of this Contract are subject to Contract Section 313. However, nothing in Contract Section 313 shall preclude the parties from exercising their termination rights granted under law. All written notifications issued between the parties shall be sent in accordance with Contract Section 107.

### 313.2 Informal Resolution

If a dispute arises under this Contract, then the project managers and procurement representatives of both parties shall confer within three (3) business days after a written request by either party to resolve the dispute. If the dispute remains unresolved after three (3) business days of the initial conference, then the party initiating the dispute shall notify the other party of the unresolved dispute. The Corporation and Consultant shall each designate an individual to informally resolve the dispute. If these individuals cannot resolve the dispute within five (5) business days of the unresolved dispute notice, or either one of them notifies the other that reasonable progress is not being made toward resolution, then the issue shall proceed pursuant to the formal resolution process described in Contract Sub-section 313.3.

### 313.3 Formal Resolution

A fact-finding and dispute resolution panel ("Panel") shall be convened if the process described in Contract Sub-section 313.2 fails to result in resolution of the disputed issue(s) and either of the designated individuals of Corporation and the Consultant notifies the other in writing of a request for formal dispute resolution.

#### 313.3.1 Composition of the Panel

The Panel shall consist of three persons. The Panel shall be convened ad hoc and there shall be no standing or *ex officio* members. Corporation and Consultant shall each, within five (5) business days of receipt by a party to initiate formal resolution, appoint one person to serve on the Panel. The appointees of Corporation and Consultant shall jointly, within five (5) business days, select a third person who possesses legal and/or technical skills and experience relevant to the dispute. If the appointed Panel members fail to agree upon a mutually acceptable third Panel member in the time provided herein, the parties agree that the third Panel member shall be selected from the American Arbitration Association at the sole discretion of the American Arbitration Association, San Diego Regional Administrator.

#### 313.3.2 Description of the Dispute

The designated individuals of Corporation and the Consultant shall provide to the Panel a written description of the dispute, including the particular issues on which the parties seek the Panel's recommendations.

#### 313.3.3 Findings and Recommendations Report

The Panel shall, within thirty (30) calendar days after appointment of the Panel, submit to Corporation and Consultant a written report that includes the Panel's findings of fact and recommendations for resolution.

### 313.4 Dispute Resolution Mandatory

The dispute resolution process provided for in this Contract Section 313 is a prerequisite to the exercise of any juridical remedies available to the parties, except in cases where a party is seeking injunctive or other equitable relief.

### 313.5 Applicability to Disputes with Third-Party Contractors

Consultant agrees that, on Corporation's written request, it will participate in dispute resolution in accordance with this Contract Section 313 with Corporation and Corporation's third party contractors to resolve any disputes between and/or among Corporation and such contractors, including Consultant, as to responsibility by any particular contractor for issues arising from warranty and other information system performance obligations.

## 314. TERMINATION

### 314.1 Termination for Convenience

This Contract may be terminated by Corporation upon thirty (30) calendar days advance written notice to the Consultant, but if any work or service hereunder is in progress but not completed as of the date of termination, then this Contract may be extended upon written approval of Corporation until said work or services are completed and accepted. In the event the Contract is terminated or canceled upon request and for the convenience of Corporation without the required thirty (30) calendar days advance written notice, then Corporation shall pay Consultant the amounts due and payable to the effective date of such termination, together with all charges and disbursements reasonably and properly incurred with respect to or as a result of the said termination. Reasonable efforts will be made by Consultant to minimize all costs incurred.

### 314.2 Termination for Cause

In addition to any other provisions in this Contract allowing a party to terminate this Contract in whole or in part, and without limiting any other remedies available at law, or under this Contract, if either party materially or repeatedly defaults in the performance of any of its duties or obligations under this Contract, and: (1) within thirty (30) calendar days after written notice of the default; or, (2) with respect to those defaults that cannot be reasonably cured within thirty (30) calendar days, if the defaulting party fails to commence curing the default within fifteen (15) calendar days after receipt of the notice of default, and to continue proceeding with due diligence to cure the default, then the party not in default may terminate this Contract by giving written notice of the termination to the defaulting party, which termination shall be effective immediately upon receipt of the notice of termination. If the default is incapable of being cured, then the thirty (30) calendar day cure period shall not apply, and notice of termination may be given directly by the party not in default.

### 314.3 Termination Due to Unavailability of Funds

When funds are not appropriated or otherwise made available by the Customer, or other public agency client of Corporation, to support continuation of performance, the Contract shall be canceled and the Consultant shall be reimbursed for the reasonable value of any nonrecurring cost incurred but not amortized in the price of the supplies or services delivered under the Contract.

### 315. RESERVED

### 316. ATTORNEYS' FEES AND COSTS

In the event that suit is brought upon this Contract to enforce the terms hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

### 317. ENTIRE AGREEMENT

Each party acknowledges that this written Contract and the documents incorporated by reference constitute the complete and exclusive statement of the terms and conditions between the parties, which supercede and merge all prior proposal understandings and all other agreements, oral and written, between the parties relating to this Contract. This Contract may not be modified or altered except by written amendment duly executed by both parties.

### 318. SEVERABILITY

If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

### 319. CONTRACT GOVERNED BY LAW OF STATE OF CALIFORNIA

This Contract and its performance and all suits and special proceedings under this Contract shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceeding that may be brought arising out of, under, or because of this Contract, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which the action or special proceeding may be instituted.

### 320. DRUG-FREE WORKPLACE

The Consultant agrees to comply with the City of San Diego's Drug-Free Workplace requirements set forth in City Council Policy 100-17, adopted by City Council Resolution No. R-277952 and incorporated into this Contract by this reference. Consultant shall certify that it



will provide a drug-free workplace by submitting to Corporation a Consultant Certification for a Drug-Free Workplace form, and shall do each of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace, and specifying the actions that will be taken against employees for violation of the prohibition.
- b. Establish a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace.
  - (2) The policy of maintaining a drug-free workplace.
  - (3) Available drug counseling, rehabilitation and employee assistance programs.
  - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. Post the statement required by Contract Sub-section 320.(a) in a prominent place at Consultant's main office and at any job site large enough to necessitate an on-site office.
- d. Certify that each subcontract entered into by Consultant in the performance of this Contract shall contain language that binds the subcontractor to comply with the provisions of Contract Section 320, as required by Sections 2.A.(1) through (3) of City Council Policy 100-17. Consultant and its subcontractors shall be individually responsible for their own drug-free workplace program.

### **321. ACCESS TO FACILITIES, COMPUTER SYSTEMS AND ELECTRONIC DATA**

Consultant, its employees, agents and subcontractors, will be granted access to Corporation and/or Customer facilities, computer systems and electronic data only in compliance with Corporation's and Customer's standard administrative and security requirements, including processes for registering and wearing identification badges, and only for the purpose of carrying out Consultant's obligations hereunder. Access to such facilities, computer systems and electronic data may be restricted to the hours of 8:00 am to 5:00 pm local time on weekdays. Access to such facilities, computer systems and electronic data outside those standard hours must be approved in advance by Corporation or Customer. Consultant shall have no tenancy, or other property or other rights in such facilities, computer systems and electronic data.

Each of Consultant's regularly assigned personnel will be issued Corporation's standard vendor identification badge that must be worn at all times while performing services at Corporation and/or Customer facilities. All other Consultant personnel and representatives

requiring access to Corporation and/or Customer facilities must register with the main entrance receptionist and will be issued a visitor badge that must be worn while in the facility.

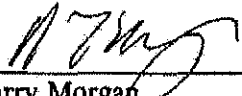
Corporation will, if necessary, provide Consultant a virtual private network ("VPN") that is limited to the computer system(s) requiring remote support, said access to be in accordance with Corporation's access protocol and security requirements, as follows:

- a. Consultant will be granted access into Corporation's network, but only on a VPN connection;
- b. Corporation will create an account for Consultant on the VPN;
- c. Corporation will restrict Consultant's access only to those computer systems containing the software required to perform the remote support services under Section 200 of this Contract;
- d. Consultant shall, while connected to Corporation's network, limit remote access activity to that required to perform the services under Section 200 of this Contract;
- e. The VPN account created for Consultant shall be used solely by Consultant and Consultant's representatives;
- f. Corporation will neither provide nor allow "split tunneling" while Consultant is using the VPN;
- g. Corporation may monitor Consultant's activity while accessing Corporation's computing resources, will report any unacceptable activity to Consultant in accordance with Section 106 of this Contract, and may terminate Consultant's VPN account for such unacceptable activity;
- h. Should Corporation detect that Consultant or any of Consultant's representatives have accessed any servers other than those containing the software required to perform remote support, Corporation will terminate the remote VPN access immediately and without prior notice;
- i. Consultant's computer system that connects to the VPN shall have the latest operating system patches installed and shall be running anti-virus software with up to date virus pattern files;
- j. Corporation will enable account settings that affect the VPN including, but not limited to, limiting the access to a single simultaneous login, requiring a Secureid card for access, and establishing a ninety (90) minute inactivity timeout; and,
- k. Consultant shall be responsible for following industry standard security practices while connected to Corporation's network via the VPN.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on the day and year first above written.

**CORPORATION:**

**SAN DIEGO DATA PROCESSING CORPORATION**  
a public entity organized as a California nonprofit public  
benefit corporation

By:   
Larry Morgan  
Executive Director

Date: November 16 2011

**CONSULTANT:**

**COLUMBIA ULTIMATE BUSINESS SERVICES, INC.**

By:   
[Signature]

CEO  
[Title]

Date: 18 NOV 2011

Approved as to Form:

  
Don O. Del Rio  
Corporate Counsel  
San Diego Data Processing Corporation

## CONTRACT ATTACHMENT NO. 1

### REIMBURSABLE TRAVEL EXPENSE SCHEDULE

Effective Period: Through June 30, 2012.

Beginning on May 1, 2012, and on each successive May 1, Consultant may propose revisions to this Schedule by serving written notice in accordance with Section 107 of the Contract. Mutually agreed revisions will take effect on July 1, 2012, and on each successive July 1. The Effective Period will be extended by one (1) year in the event Consultant does not serve written notice proposing revisions.

As to services performed by Consultant's employees or agents who do not live in San Diego County, Corporation shall reimburse Consultant for the actual cost of travel expenses, including taxes, fees and related charges, subject to the following per employee limitations:

- Hotel:** Base room charge shall not to exceed \$200.00 per day. Additional taxes, fees, hotel parking charges and Contract-related internet access charges are reimbursable. In-room movie and beverage/concession, valet/laundry and security vault charges are not reimbursable.
- Air Transportation:** Base round-trip air fare shall not exceed \$800.00 for domestic flights and \$2,000.00 for international flights. Additional taxes and fees are reimbursable. Consultant shall only be reimbursed for Coach Class air fare, unless Corporation gives prior written approval for another class. Consultant shall make reasonable efforts to obtain the lowest possible air fare.
- Ground Transportation:** Travel may be by commercial carrier, mass transit, rented automobile or personal vehicle, in which case mileage will be reimbursed at the prevailing Internal Revenue Service rate per mile. Tolls, parking, including long-term parking at the airport of origin, and related expenses are reimbursable.
- Rented Automobile:** Base rental fee shall not to exceed \$65.00 per day. Additional taxes and fees are reimbursable. Mileage is not reimbursable unless it is incorporated in the rental contract. Every attempt should be made to fill the fuel tank to capacity prior to rental return. Rental agency refueling charges are reimbursable at fifty percent (50%); fuel costs at service stations are reimbursable at one hundred percent (100%). Auto rental is not reimbursable for Consultant and/or its employees domiciled in San Diego County.
- Meals:** Average per day meal costs, including taxes and gratuities, shall not exceed \$50.00 for each full day and \$40.00 for each partial day employee is temporarily in San Diego County to perform services. Alcoholic beverage costs are not reimbursable.
- Telephone:** Not reimbursable.
- Other Expenses:** Not reimbursable unless authorized by Corporation in writing.

Consultant must obtain Corporation's written authorization for each deviation from the travel expense limitations contained herein. Consultant shall make reasonable efforts to obtain such authorization in advance of making reservations for or otherwise committing to a purchase.

Consultant shall make its best effort to minimize the above-described travel expenses.

Consultant must submit a receipt for each reimbursable expense that exceeds \$25.00. Said receipts must accompany Consultant's invoice. Itemized receipts are preferred in lieu of credit card summary signature receipts.

Ground transportation expenses for Consultant's employees domiciled in San Diego County are reimbursable.

Consultant shall not claim reimbursement for expenses that are already paid for as part of any other work being performed by Consultant in San Diego County.

#56  
10/19/2021

(O-2022-16)

ORDINANCE NUMBER O- 21384 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 29 2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING AMENDMENT NO. 6 TO THE MASTER SERVICES CONTRACT BETWEEN THE CITY OF SAN DIEGO AND COLUMBIA ULTIMATE, INC. TO EXTEND SUCH AGREEMENT BY ONE ADDITIONAL YEAR WITH AN ANNUAL EXPENDITURE AMOUNT UP TO \$250,000.

WHEREAS, the City of San Diego (City) and Columbia Ultimate, Inc. (Columbia) are parties to that certain Master Services Contract (Contract) dated November 15, 2011, whereby Columbia licenses its proprietary debt collection software known as the "Revenue Plus Collector System" and affiliated products and related modules to the City on an as-needed basis; and

WHEREAS, on August 6, 2014, the City entered into Amendment No. 1 to the Contract to allow for enhanced reporting and performance services and skip-tracing capabilities in addition to the debt collection services provided by Columbia; and

WHEREAS, on July 22, 2015, the City entered into Amendment No. 2 to the Contract to discontinue Ultimate Analytics services provided as part of Amendment No. 1 as set forth in the Ultimate Analytics License and Service Subscription Agreement; and

WHEREAS, on January 21, 2016, the City entered into Amendment No. 3 to the Contract to add three additional services and a revised Exhibit C; and

WHEREAS, on June 10, 2016, Ontario Systems acquired Columbia, but Columbia retains its status as a separate legal entity under its parent corporation, Ontario Systems; and

WHEREAS, on February 6, 2017, the City entered into Amendment No. 4 to extend the term of the Contract for up to an additional term of three years and to increase the annual expenditure authorization under the Contract from \$220,000 to \$230,000; and

WHEREAS, on December 3, 2019, the City entered into Amendment No. 5 to extend the term of the Contract for up to an additional two (2) years and increase the annual expenditure authorization under the Contract of up to \$240,000, for a total not-to-exceed amount of \$480,000; and

WHEREAS, the Contract is set to expire on December 31, 2021, and the City, through an Amendment No. 6, is seeking to extend the term of the Contract for one (1) additional year with an annual expenditure amount of up to \$250,000, which will extend the Contract term beyond a total of five (5) years; and

WHEREAS, on August 16, 2021, the Purchasing and Contracting Department Director approved the Request and Certification for Sole Source Procurement for this Amendment No. 6 to the Contract; and

WHEREAS, on September 15, 2021, the Council Committee on Budget and Government Efficiency voted to recommend approval of this Amendment No. 6 to the Contract by the full Council; and

WHEREAS, under San Diego Charter section 99, no contract, agreement or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, or his designee, is authorized to execute, for and on behalf of said City, Amendment No. 6 in order to extend the Contract by one (1) additional year at an annual expenditure amount of up to \$250,000.

Section 2. That the expenditure of an amount not to exceed \$250,000 for the additional one (1) year of the Contract is authorized for the purpose of executing Amendment

No. 6, contingent upon authorization of the respective fiscal year budget and provided that the Chief Financial Officer or his designee certifies that funds are available for such purposes.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bret A. Bartolotta  
Bret A. Bartolotta  
Deputy City Attorney

BAB:jdf  
08/30/21  
Or.Dept: Treasurer  
Doc. No.: 2747917

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 19 2021.

ELIZABETH S. MALAND  
City Clerk

By Concise Patterson  
Deputy City Clerk

Approved: 10/29/21  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on OCT 19 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 29 2021.

AUTHENTICATED BY:

(Seal)

TODD GLORIA  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 05 2021, and on OCT 29 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21384



Passed by the Council of The City of San Diego on October 19, 2021, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, MONTGOMERY STEPPE, VON  
WILPERT, CATE, CAMPILLO, MORENO, & ELO-RIVERA,

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**TODD GLORIA**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of ORDINANCE NO. O-21384 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on October 5, 2021, and on October 29, 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy