

AGREEMENT
UTILIZING CITY OF BATON ROUGE CONTRACT
FOR CITIZEN RECORD MANAGEMENT SOFTWARE SOLUTION

THIS AGREEMENT, entered into as of 7/31/14, 2014 (the "**Effective Date**"), by and between the CITY OF JACKSONVILLE, a municipal corporation existing under the laws of the State of Florida, ("**CITY**") and QSCEND, INC. ("**QScend**"), for a Citizen Record Management Software Solution more particularly described on Exhibits A and B attached hereto (the "**Services**").

WHEREAS, on March 1, 2012, the City of Baton Rouge, Louisiana entered into Contract # 2008 R11-311 (the "**Baton Rouge Contract**") with QScend for the **Services**, a copy of which is attached as Exhibit A; and

WHEREAS, the Baton Rouge Contract (i) is in full force and effect, (ii) was competitively procured and awarded according to law, and (iii) is broad enough to include the **Services** needed by **CITY**; and

WHEREAS, Section 126.211, Jacksonville Procurement Code, authorizes and allows **CITY** to use the Baton Rouge Contract; and

WHEREAS, it is in the parties' best interest to use the Baton Rouge Contract for the **Services** and to add those provisions **CITY** is required to use by ordinance or policy; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration the parties agree as follows:

1. **Incorporation of Recitals.** The above stated recitals are accurate, true and correct and, by this reference, are made a part hereof and are incorporated herein.
2. **Engagement of QScend:** **CITY** hereby engages QScend and QScend hereby accepts said engagement for the purpose of selling to **CITY** the **Services** according to the provisions of this Agreement (including Exhibits A and B attached hereto) and the Baton Rouge Contract, which is incorporated herein by reference. Any conflict between those documents shall be resolved in according to this priority: first the terms of this Agreement, then the terms of Exhibit B, and finally the terms of Exhibit A.
3. **Representation by QScend.** QScend represents and warrants that the pricing and other material terms set forth in Exhibit B do not materially vary from the corresponding terms of the Baton Rouge Contract.
4. **Term.** With respect to the installation, integration and training **Services**, this

Agreement shall commence upon execution and be completed by February 28, 2015, unless canceled or terminated as provided herein. With respect to the hosting, maintenance and support Services, this Agreement shall commence on the date the QAlert/CRM system is installed, integrated and accepted by CITY, and shall continue for one year from that date, subject to annual renewals by CITY and an amendment to this Agreement extending the term and increasing the maximum indebtedness.

5. Coordination with CITY: CITY shall designate a Project Coordinator who will coordinate with QScend on behalf of CITY and administer this Agreement according to the terms and conditions contained herein. It shall be the responsibility of QScend to coordinate all activities related to the Services with the designated Project Coordinator.

6. Payments for Services: CITY will compensate QScend for the Services as set forth in Exhibit B.

7. Maximum Indebtedness. The maximum indebtedness of CITY for all fees, reimbursable items or other costs, services and for the Services sold by QScend pursuant to this Agreement shall not exceed the sum of ONE HUNDRED TWO THOUSAND THREE HUNDRED AND 00/100 DOLLARS (\$102,300.00). In the event it appears that the maximum indebtedness will increase, such increase must be memorialized in this Agreement, by written amendment, signed by the parties hereto.

8. Data Ownership and Security. QScend agrees that all information it receives from CITY ("City Data") is and shall remain the sole and exclusive property of CITY, free and clear of any and all claims of QScend. All City Data shall be immediately delivered to CITY in the format to be mutually agreed upon by the parties upon request by CITY. CITY agrees that nothing in this Agreement shall affect in anyway QScend's right, title and interest in or to any existing system, software, applications, routines, techniques, ideas or formulae which may be used in whole or in part by QScend in performing Servicest or any modifications, enhancements or derivative works thereof, which shall remain solely the property of QScend or its licensors.

In the event of loss of any City Data by QScend, QScend shall be responsible for recreating such lost data in the manner it existed or in a comparable manner reasonably acceptable to the CITY

QScend agrees that it shall comply with the security measures set forth in this Agreement and in its own published Privacy Statement to protect City Data. Any exceptions shall require CITY's prior written consent.

The Parties will cooperate in good faith to protect the confidentiality of any City Data that is customarily considered to be sensitive or confidential (including social security numbers, home addresses and medical information).

9. Notices: Notice to CITY under this Agreement shall be deemed delivered if sent

by certified mail, return receipt requested, or by other delivery with receipt to Usha Mohan, Chief Information Officer, City of Jacksonville, 214 N. Hogan Street, 9th Floor, Jacksonville, Florida, 32202.

10. Laws, Ordinances, Rules and Regulations: As required by Section 126.108(b), Ordinance Code: In any sale or performance hereunder, QScend must comply with any and all applicable federal, state and local laws, rules, regulations and ordinances, as the same exist and may be amended from time to time. Such laws, rules, regulations and ordinances shall include, but are not limited to, Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law), as they apply to the purchase contemplated in this Agreement. If any of the obligations of this Agreement are to be performed by a subcontractor, QScend must ensure that the provisions of this Section shall be incorporated into and become a part of the subcontract.

11. Conflicts of Interest: The parties will follow the provisions of Section 126.110, Ordinance Code with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with CITY, to the extent the parties are aware of the same.

12. Prompt Payment: Because no subcontractors will be used in the performance of this Agreement, the provisions regarding prompt payment to Jacksonville Small Emerging Business Enterprises ("JSEBs") and Minority Business Enterprises ("MBEs") required by Chapter 126, Part 6, Ordinance Code shall not apply.

13. Non Discrimination: As required by Section 126.404, Ordinance Code: QScend represents that it has adopted and will maintain a policy of non discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of this Agreement. QScend agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Jacksonville Human Rights Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Agreement; provided however, that QScend shall not be required to produce, for inspection, records covering periods of time more than one (1) year prior to the day and year first above written. QScend agrees that, if any of the services to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

14. Governing Law/Severability/Venue/Waiver of Jury Trial. The rights, obligations and remedies of the parties as specified under the Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of the Contract be determined by the courts to be illegal, unenforceable or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. Venue for litigation of the Contract shall be exclusively in courts of competent jurisdiction located in Jacksonville, Duval

County, Florida. The parties waive any and all rights to a jury trial with respect to disputes arising under the Contract.

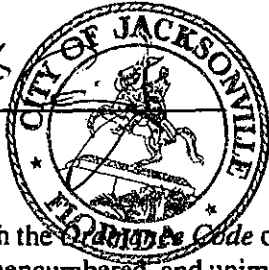
15. Counterparts: The parties agree that for the execution of this Agreement, time is of the essence. Therefore, this Agreement, and all amendments thereto, may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile transmission of all signatures with originals to follow shall constitute and be evidence of an executed Agreement.

[Signature Page Follows]

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

ATTEST:

By: *James R. McCain*
James R. McCain
Corporation Secretary



Karen Bowling
Chief Administrative Officer
City of Jacksonville
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04
By: *Karen Bowling*
Alvin Brown
Mayor

In compliance with the ~~Ordinance~~ Code of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement, and provision has been made for the payment of the monies provided therein to be paid from the following account:

By: _____
Director of Finance

Form Approved:

By: *[Signature]*
Office of General Counsel

WITNESS
By: *[Signature]*
Print Name: Craig Sanders

QScend, Inc.
By: *[Signature]*
Print Name: Keith LeBeau
Title: President

Encumbrance and funding information for internal City use:

Payment(s) by various subsequently issued Purchase Orders

Account Summary..... OPIT 536 - 069509
Total Contract Amount..... \$102,300.⁰⁰

This above stated amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by one (1) or more subsequently issued Purchase Order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Order(s) are issued.

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance[s] shall be made by subsequent purchase order[s], as specified in said Contract.



Director of Finance

City Contract # 10036



Exhibit A

[Insert 4-Page Baton Rouge Contract. The Contract incorporates a 34-page RFP and a 50-page Response, copies of which are on file with CITY Procurement Division.]



Attachment D
Contract - Citizen Record Management Software Solution

CITY OF BATON ROUGE
PARISH OF EAST BATON ROUGE

***** COPY *****
ORIG: 455 BNDL: 12396
3/19/2012 3:08:25 PM

FILED AND RECORDED
EAST BATON ROUGE PARISH, LA
DOMG WELBORN

This Contract, made and entered into at Baton Rouge, Louisiana, effective this 1 day MARCH of 2012 by and between the City of Baton Rouge and Parish of East Baton Rouge, herein referred to as City-Parish and Ascend Technologies, Inc. herein referred to as "Consultant".

Consultant shall provide software, training & maintenance as described herein for a complaint database & work order system as per Solicitation No: 20008 R11- 311 Call Center/CRM Software RFP.

Consultant agrees to proceed, upon written notice of the Director of DPW, with all professional services necessary for the performance, in proper sequence and in the time specified, of the items of work as hereinafter set forth. Services will be subject to review and administration by the office requesting the service unless designated otherwise by the City-Parish. All the services required hereunder will be performed by Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

SCOPE OF SERVICES: The services to be rendered by the Consultant for this project shall be as follows:

Proposer must be actively offering both a hosted and on-premise software solution for the 311 Call Center/Citizen Record Management Software solution being recommended. The City/Parish intends to have the application hosted with the vendor for the duration of installation, build out, testing and initial deployment. The City/Parish on its discretion may bring the application in-house and run the system in their environment. Proposals which do not include one software solution that can be hosted on-site or in the proposers' environment will not be accepted. Proposer shall also include support and maintenance.

CONTRACT MODIFICATIONS: No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.

Changes to the contract include any change in a) compensation; b) beginning/ending date of the contract; c) scope of work; and/or d) contractor change through the assignment of contract process. Any such changes, once approved, will result in the issuance of an amendment to the contract.

GENERAL REQUIREMENTS: With the exception of the services specifically listed to be furnished by the Parish, Consultant shall, for the agreed fees, obtain all data and furnish all services and materials required to provide the contracted services. All items required to accomplish these results, whether or not specifically mentioned in this contract, including attendance by the Consultant or their representatives at conferences and public hearings, are to be furnished at the expense of Consultant.

SERVICES TO BE PERFORMED BY THE CITY-PARISH: The City- Parish will furnish the Consultant without charge all information which it has in its files which may be useful to the Consultant in carrying out this work, as well as assistance in securing data from others to the extent available.

COMPENSATION AND PAYMENT: The City-Parish shall pay and Consultant agrees to accept compensation for the Consulting services to be performed under this contract, at the rates indicated on Schedule A, attached and made a part of this contract.

The Consultant shall be entitled to payment in accordance with the provisions of this paragraph. Consultant shall invoice the City-Parish upon delivery and acceptance of the completed QAlert CRM system. Payments will be due within thirty days of the receipt of the invoice.

CONTRACT TIME: The term of this contract shall begin on or about March 1, 2012 and shall end on March 1, 2015.

COMMENCEMENT OF WORK: No work shall be performed by Proposer and the City-Parish shall not be bound until such time as a Contract is fully executed between the City-Parish and the Consultant and all required approvals are obtained.

OWNERSHIP OF DOCUMENTS: The Consultant shall maintain full and accurate records with respect to all matters covered under this agreement. The City-Parish shall have free access at all proper times to such records, and the right to examine and audit the same and to make transcripts there from, and to inspect all program data, documents, proceedings, and activities. The Consultant shall maintain all records related to this agreement for a period of at least five (5) years after completion of the contract.

TERMINATION OR SUSPENSION: The City-Parish may terminate this contract for cause based upon the failure of the Consultant to comply with the terms and/or conditions of the Agreement, or failure to fulfill its performance obligations pursuant to this Agreement, provided that the City-Parish shall give the Consultant written notice specifying the Consultant's failure. If within 30 days after receipt of such notice, the Consultant shall not have either corrected such failure or, in the case of failure which cannot be corrected in 30 days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the City-Parish may, at its option, place the Consultant in default and the Agreement shall terminate on the date specified in such notice.

The Consultant may exercise any rights available to it under Louisiana Law to terminate for cause upon the failure of the City-Parish to comply with the terms and conditions of this contract; provided that the Consultant shall give the City-Parish written notice specifying the City-Parish failure and a reasonable opportunity for the City-Parish to cure the defect.

The City-Parish may terminate this Agreement at any time by giving 30 days written notice to the Consultant of such termination or negotiating with the Consultant an effective date. The Consultant shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

Should the City-Parish find it necessary to suspend the work for lack of funding or other circumstances beyond its control, that may be done by 30 days notice given by the City-Parish in writing to that effect. The work may be reinstated and resumed in full force and effect upon receipt from the City-Parish of 30 days notice in writing to that effect.

This agreement shall ipso-facto terminate three years after the date of the suspension of the work as provided above if the work has not been reinstated and resumed by notice from the City-Parish during the three year period, and neither party shall have any further obligation to the other party.

TERMINATION FOR LACK OF APPROPRIATED FUNDS: The City-Parish may terminate this agreement for lack of appropriated funds on the date of the beginning of the first fiscal year for which funds are not appropriated. For services funded by grants, the City-Parish shall have the right to terminate the contract or any issued task order for which funding is terminated.

DISPUTES: Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the parties shall be referred to the Director of Purchasing or her duly authorized representative for determination, whose decision in the matter shall be final and conclusive on the parties to this contract. This dispute clause does not foreclose the rights of the parties with respect to questions of law in connection with decisions provided for in the foregoing sentence.

INDEPENDENT CONTRACTOR OBLIGATION: Consultant shall be an independent contractor under this contract and shall assume all of the rights, obligations and liabilities applicable to him as an independent contractor hereunder.

Consultant shall perform all details of the services in a manner consistent with that level of care and skill ordinarily exercised by other professional Consultants under similar circumstances at the time the services are performed, with the City-Parish interested only in the results of the work.

COMPLIANCE WITH APPLICABLE LAWS: Consultant shall procure all permits and licenses applicable to the services to be performed and shall comply with any and all Local, State and Federal laws including those regarding age, citizenship, hours, wages and conditions of employment affecting the service covered by this agreement. Consultant shall pay the contributions measured by wages of his employees required by the Federal Unemployment Tax Act, Federal Insurance Contributions Act, and any other payroll tax as required by law.

INDEMNITY: Consultant agrees to indemnify, defend, and hold harmless the City-Parish from any and all losses, damages, expenses or other liabilities, including but not limited to those connected with any claim for personal injury, death, property damage or other liability that may be asserted against the City-Parish by any party which arises or allegedly arises in performing its obligations under this Agreement.

Consultant, its agents, employees and insurer (s) hereby release the City-Parish its agents and assigns from any and all liability or responsibility including anyone claiming through or under them by way of subrogation or otherwise for any loss or damage which Consultant, its agents or insurers may sustain incidental to or in any way related to Consultant's operations under this Agreement.

PERSONAL INTEREST: Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the above described Study or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Consultant further covenants that in the performance of his contract no person having any such interest shall be employed.

AFFIDAVIT AND CORPORATE RESOLUTION: Consultant shall attest by Affidavit, a sworn statement that this contract was not secured through employment or payment of a solicitor. If Consultant is a corporation, a corporate resolution is furnished as evidence of authority to execute the contract.

CIVIL RIGHTS COMPLIANCE: The Consultant agrees to abide the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended the Vietnam Era of 1975, the Consultant agrees to abide by the requirements of the Americans with Disabilities Act of 1990. Consultant agrees not to discriminate in its employment practices, and will render services under this Agreement and any contract entered into as a result of this Agreement, without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by Consultant, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement and any contract entered into as a result of this agreement.

ADDITIONAL REQUIREMENTS OF FEDERAL GRANT FUNDED PROJECTS: If the project is funded in whole or in part by Federal Grants, Consultant shall comply with the Federal Requirements. Consultant shall also include these Federal Requirements in any sub-contracts.

TAXES: Any taxes, other than state and local sales and use taxes, from which the City-Parish is exempt, shall be assumed to be included within the Consultant's cost.

RIGHT TO AUDIT: The City-Parish or others so designated by the City-Parish, or other lawful entity shall have the option to audit all accounts directly pertaining to the resulting contract for a period of five (5) years after project acceptance or as required by applicable Local, State and Federal law. Records shall be made available during normal working hours for this purpose.

ASSIGNMENT: Assignment of contract, or any payment under the contract, requires the advanced written approval of the City-Parish.

CONFIDENTIALITY: The following provision will apply unless the City-Parish agency statement of work specifically indicates that all information exchanged will be non-confidential:

All financial, statistical, personal, technical and other data and information relating to City-Parish's operations which are designated confidential by the City-Parish and made available to the Consultant in order to carry out this contract, shall be protected by the Consultant from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the City. The identification of all such confidential data and information as well as the City's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the City in writing to the Consultant. If the methods and procedures employed by the Consultant for the protection of the Consultant's data and information are deemed by the City to be adequate for the protection of the City's confidential information, such methods and procedures may be used, with the written consent of the City, to carry out the intent of this paragraph. The Consultant shall not be required under the provisions of the paragraph to keep confidential any data or information, which is or becomes publicly available, is already rightfully in the Consultant's possession, is independently developed by the Consultant outside the scope of the contract, or is rightfully obtained from third parties.

RECORD RETENTION: The Consultant shall maintain all records in relation to this contract for a period of at least five (5) years from close of file.

ORDER OF PRECEDENCE

The Request for Proposals (RFP), dated 7/29/11, and the Consultant's Proposal dated 8/09/11, are attached hereto and, incorporated into this Contract as though fully set forth herein. In the event of an inconsistency between this Contract, the RFP and/or the Consultant's Proposal, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence first to this Contract, then to the RFP and subsequent addenda (if any) and finally, the Consultant's Proposal.

GOVERNING LAW: This Contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this Contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

COMPLETE CONTRACT

This is the complete Contract between the parties with respect to the subject matter and all prior discussions and negotiations are merged into this contract. This contract is entered into with neither party relying on any statement or representation made by the other party not embodied in this contract and there are no other agreements or understanding changing or modifying the terms. This Contract shall become effective upon final approval by both parties.

IN WITNESS WHEREOF, the City-Parish and Consultant have executed this contract effective as of the date first written above.

WITNESSES:

[Signature]

[Signature]

**CITY OF BATON ROUGE AND
PARISH OF EAST BATON ROUGE
City-Parish**

By [Signature]

Title _____

QScend Technologies, Inc

By [Signature]

Title President

APPROVED

[Signature]
PARISH ATTORNEY'S OFFICE

Exhibit B
[Insert 2-Page Price Sheet for City of Jacksonville]

City of Jacksonville

QScend Technologies, Inc. Jessica Chase . 888-878-3006 . Jessica@QScend.com

SOFTWARE DESCRIPTION	LICENSE TYPE	LICENSE FEE	EXTENDED PRICE
QAlert Enterprise Citizen Request Management * <ul style="list-style-type: none"> • Unlimited users • JAX Branded Mobile App 	One-time	\$79,900	\$79,900

PROFESSIONAL SERVICES	START DATE	FEE	EXTENDED PRICE
Professional services to include: Implementation for QAlert/ CRM system <ul style="list-style-type: none"> • Project management kick off meetings • Software Installation • Business Intelligence gathering/ Configuration of service request types • Setup routes and escalations for service requests • Configuration on-board mapping • Configuration citizen data • Setup executive dashboard, schedule reports for email • Submission of app to iTunes and Android marketplace 		\$19,900 (one time)	\$19,900
Training (4 days recommended) <ul style="list-style-type: none"> • Onsite training by QScend Academy • Training manuals and documentation • Subscription to QScend Academy online courseware 			Included

*Annual support/maintenance cost are 20% of the then current list price of the software (based on population size). Optional enterprise application hosting available for \$400 per month (based on population size).

City of Jacksonville

OPTIONAL SOFTWARE DESCRIPTION	LICENSE TYPE	LICENSE FEE
QAlert Mobile for Responders (iPad for responders) (for the first 22 users, unlimited after that)	SaaS	\$74.99/per user/per month

Integration

Historically, bi-direction Integrations with QScends QAlert system have ranged between \$7,500 and \$20,000 per application (one-time fee).*

The hours are dependent upon a variety of factors such as:

- Database Technology
- Web Service Technology
- API availability
- Age of application
- Application support

Professional services for discovery, design and programming are billed at \$125/hour.

*Integration with ESRI Arc GIS is always included with every QAlert installation at no additional fee.