

RESOLUTION NO. 072715-4

A RESOLUTION APPROVING A SERVICES AGREEMENT CONTRACT WITH BANYON DATA SYSTEMS, INC. FOR ACCOUNTING AND UTILITY BILLING SOFTWARE

WHEREAS, the City of Abilene desires to enter into an agreement with Banyon Data Systems, Inc., as attached hereto as **Exhibit A**, for the acquisition and installation of accounting and utility billing software for the City of Abilene, Kansas.

NOW, THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, as follows:

SECTION ONE. Agreement. That a Services Agreement Contract for accounting and utility billing software with Banyon Data Systems, Inc. is hereby adopted as attached hereto as **Exhibit A**.

SECTION TWO. Implementation. The Mayor is hereby authorized to execute the aforementioned Agreement, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

SECTION THREE. Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 27th day of July, 2015.



Penny Soukup, CMC
Penny Soukup CMC
City Clerk

CITY OF ABILENE, KANSAS

By: *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor



Services Agreement Contract

This Service Agreement Contract has been agreed upon by The City of Abilene, KS located at 419 North Broadway Street, Abilene, KS 67410. (Owner)

Start date of July 27, 2015 and an estimated Completion Date of August 28, 2015. Support and training may require an ongoing arrangement given the changes in software features and enhancements.

Contracted By Banyon Data Systems, Inc., 350 W Burnsville Parkway, Burnsville MN, (800) 229-1130 (Service Provider) on this 27th Day of July, 2015.

The service activities attached will be provided and completed in accordance with the terms and conditions. Supplemental contractual issues are provided in the attached Addendum 1. Contractual activities are listed in the attached signed proposals.

This agreement shall last for the term of: Continuously so long as the City of Abilene remains on annual support maintenance with Banyon Data Systems, Inc.

The fee for the service provided under this agreement shall be \$ \$37,225.00

Payment shall be made upon the signing of this agreement, the approval of an invoice from Banyon Data Systems, Inc. to the City of Abilene. Additional fees for addition add-on software modules not noted on the attached and supplemental training if necessary shall be discussed and agreed upon before it is performed.

Additional cost(s) incurred for payroll and vendor check forms and utility bill forms will be handled by a third party vendor. Banyon Data recommends Business Forms and Systems as an approved and reliable forms vendor (800) 383-1696. The service provider shall provide additional unscheduled services upon notification of any condition that the service provider believes can adversely affect the operations of the City of Abilene, Kansas.

The undersigned owner acknowledges and agrees that the information above is correct and complete. The owner also agrees to pay all charges under the agreement.

BANYON DATA SYSTEMS, INCORPORATED
Service Provider

JEFF CHRISTENSEN, PRESIDENT
Printed Name

Signature 


Software System Owner / Client

Printed name

Signature

EXHIBIT A

Services Agreement Contract

with

Banyon Data Systems, Inc.

July 27, 2015

Addendum 1

- 1.) **Provisions of Services-** The owner and service provider have agreed that the services are provided on an as needed basis to fulfill the owner's responsibility to operate and maintain the system. The parties acknowledge that regulations can change and there may be an increase in the level of service which was initially agreed upon.
- 2.) **Owner's Obligation for System Maintenance-** The owner must promptly notify the service provider of any known defects, problems, or complaints.
- 3.) **Additional Items Purchased-** The owner will be responsible for paying the service provider for additional services and products.
- 4.) **Access-** The owner will grant the service provider access to the software for training, maintenance and operational endeavors for service included in the agreement and attached.
- 5.) **Natural and Man-Made Events Excluded-** The service provider will have no liability or obligations in connection with any damage resulting from electrical outage, storms, flooding, lightening, earthquakes, or any act of God. The owner will then be responsible for all costs incurred in connection with such events.
- 6.) **Delays-** The service provider shall not be liable for delays in performance or non-performance caused by circumstances beyond control. Such events include but are not limited to storms, flooding, fires, government actions, labor strikes, labor shortage, or the inability to maintain reasonable levels of use for the software applications and databases.
- 7.) **Payment-** The owner shall pay for the services provided in accordance with the payment terms listed on invoices submitted by the service provider.
- 8.) **Additional Unexpected Costs-** The owner is also responsible for paying all attorney fees and expenses, court costs, and any other costs incurred by the service provider to collect any overdue balances and interest.
- 9.) **Termination-** Failure to pay may result in the service provider terminating the agreement without notice and shall have no further obligations if any amount remains unpaid after 90 days from the date of the invoice.
- 10.) **Service Provider Liability-** The service provider's liability under this agreement for any defect or failure is limited to an exchange of the product and/or a return of the amounts paid for the software applications. No claim shall exceed the total paid for the service/materials for which damages are claimed. The service provider is not liable for lost profits or incidental damages.
- 11.) **Non-waiver-** No action or inaction on the part of the service provider shall be deemed a waiver of rights, remedies, breaches, or subsequent defaults by the owner in the performance of or compliance with the terms of this agreement.

- 12.) **Transferability-** This agreement cannot be transferred, delegated, or otherwise assigned to any party without the prior written consent of the service provider.
- 13.) **Severability-** If any term or provision of this agreement is deemed to be invalid or unenforceable, such a determination will not affect any of the remaining terms and provisions. All such remaining terms and provisions will remain in full force and effect.
- 14.) **Required Mediation-** All parties will agree that any disputes, including the construction or application of this agreement, shall be submitted to mediation between the service provider and owner. All items must be fully documented. If the mediation does not result in a mutual settlement within one year from the date submitted, each party has the right to enforce obligations in a court of law. All reasonable attorney fees, court costs, and expenses incurred by the prevailing party are to be paid in full by the other party, as allowed by the applicable law.
- 15.) **Modifications-** The terms of this agreement can only be modified if all involved parties have given a written agreement.



350 West Burnsville Parkway, Burnsville, Minnesota 55337
(952) 882-7730 - (800) 229-1130 - (952) 882-7734 (FAX)

PROPOSAL

Date: 05/28/15
Expires: 07/31/15

For: City of Abilene
Darlene Provance
419 N. Broadway St.
Abilene KS 67410



Phone: 785-263-2550
Fax: (785) 263-2552
Email: adminasst@abilenecityhall.com

Banyon Contact	Title	Email/Phone	Comment	Invoice #
Ed Ragsdale	Sales Rep	edragdale@banyon.com		

Description	Amount
Win Property Management Software	\$5,295.00
Win Property Management Annual Support	\$865.00
Licenses, Permits, Violations & Special Assessment	
Banyon Training 1 Day	\$400.00

For on-site training, please add travel expenses for places 400 miles round trip from Burnsville, MN.

Sub-total	\$6,560.00
Tax	\$0.00
Total	\$6,560.00

Banyon Data Systems, Inc. hereby proposes to provide the above stated product and service in accordance with the above specifications. All Product and service are guaranteed as specified. No returns will be accepted after 90 days from signed proposal date. If returned before 90 days then a restocking fee of 20% will be charged on software only. Training will not be refunded if already completed and annual support will be prorated from date on proposal.

I accept this proposal from Banyon Data Systems: Paul B. Willner

Subject to formal contract approval

Acceptance Date: 7/22/15 Title/Position: City Manager

Banyon Authorized Signature: Ed Ragsdale

Banyon BDS software includes unlimited users. Property Management software includes Violations, Permits, Licenses and Special Assessments.



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Banyon Contact	Title	Email/Phone	Comment	Invoice #
Ed Ragsdale	Sales Rep	edragdale@banyon.com		

Description	Retail	Discount	Amount
Win Fund Accounting Software			\$5,295.00
Billing/Invoicing			\$995.00
Manage Payables			\$595.00
Fixed Assets Tracking			\$995.00
Purchase Order Module			\$595.00
Payroll Software with Retirement/ HR	\$3,695.00	\$3,695.00	\$0.00
Payroll Electronic Timecard Entry			\$1,495.00
Payroll Direct Deposit ACH with Email			\$995.00
Win Utility Billing Software			\$5,295.00
WinUB Deposit Slip Printing			\$295.00
UB Direct Payments/ ACH (Optional)			\$595.00
UB Certification to Taxes			\$595.00
UB Disconnect Notice Door Tags			\$395.00
UB Meter Device Interface Sensus			\$1,295.00
UB PSN Interface pay online/email bills			\$995.00
Point of Sale Software Cash Receipts			\$3,195.00
UB Service Orders			\$395.00

For on-site training, please add travel expenses for places 400 miles round trip from Burnsville, MN.

Sub-total	\$24,020.00
Tax	\$0.00
Total	\$24,020.00

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I accept this proposal from Banyon Data Systems: Paul B. Abilene

Acceptance Date: 7/22/15 Title/Position: City Manager

subject to formal contract approval

Banyon Authorized Signature: Ed Ragsdale

Banyon BDS software includes unlimited users. Please see attached proposal #2 for Property Management software Code Enforcement, Licensing, Permits and Special Assessments.



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For: City of Abilene
 Darlene Provance
 419 N. Broadway St.
 Abilene KS 67410



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 Fax: (785) 263-2552
 Email: adminasst@abilenecityhall.com

Banyon Contact	Title	Email/Phone	Comment	Invoice #
Ed Ragsdale	Sales Rep	edragdale@banyon.com		

Description	Amount
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Banyon Training and Data Conversion Cost

Banyon 4 Day Training	\$1,600.00
Fund Accounting Data Conversion	\$200.00
Payroll Data Conversion	\$200.00
Utility Billing Data Conversion	\$500.00
Banyon Annual Support Cost	
Win Fund Accounting Annual Support	\$795.00
Billing/Invoicing Annual Support	\$195.00
Fixed Assets Module Annual Support	\$195.00
Win Payroll Annual Support	\$795.00
Electronic Timecard Entry Annual Support	\$395.00
Win Utility Billing Annual Support	\$795.00
UB Meter Device Interface Annual Support	\$295.00
UB Service Orders Annual Support	\$195.00
Win Point of Sales Annual Support	\$485.00

For on-site training, please add travel expenses for places 400 miles round trip from Burnsville, MN.

Sub-total	\$6,645.00
Tax	\$0.00
Total	\$6,645.00

Banyon Data Systems, Inc. hereby proposes to provide the above stated product and service in accordance with the above specifications. All Product and service are guaranteed as specified. No returns will be accepted after 90 days from signed proposal date. If returned before 90 days then a restocking fee of 20% will be charged on software only. Training will not be refunded if already completed and annual support will be prorated from date on proposal.

I accept this proposal from Banyon Data Systems: David B. Abilene

subject to formal contract approval

Acceptance Date: 7/22/15 Title/Position: City Manager

Banyon Authorized Signature: Ed Ragsdale

Banyon annual support cost includes software updates, unlimited calls and online help.