

RESOLUTION 21-213

**A RESOLUTION AUTHORIZING THE A CONTRACT FOR UTILITY BILL
PRINTING AND MAILING SERVICES**

WHEREAS, the City of Spring Hill had an agreement with Pinnacle Data Systems for utility bill printing and mailing services since 2011; and

WHEREAS, Pinnacle Data Systems was sold and is no longer available to print and mail the utility bills; and

WHEREAS, the city has a temporary agreement with Flex Digital until the RFP could be issued and proposals received.

NOW, THEREFORE BE IT RESOLVED, by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee authorizes a contract with Flex Digital for printing and mailing of utility bills and past-due notices, at a cost of \$.59 per bill totaling an average of approximately \$11,500.00 per month for a term of 3 years with the option to renew yearly for an additional 2 years.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee, this 6th day of December, 2021.


Jim Hagaman, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Patrick Carter, City Attorney



REQUEST: *Approval of Resolution 21-213*
SUBMITTED BY: April Goad, City Recorder; Pam Caskie, City Administrator
DATE: December 1, 2021
RE: Authorization of Contract for Utility Bill Printing and Mailing
ATTACHMENTS: Proposal from Flex Digital; Memo

PURPOSE:

The purpose of this request is to authorize a contract for printing and mailing service.

BACKGROUND:

The city was using Pinnacle Data Systems since October of 2011 for printing and mailing utility bills. Pinnacle Data Systems recently sold to a company that is not currently equipped to process our utility bills. Our utility billing software company recommended Flex Digital and the BOMA approved a temporary agreement until the RFP could be completed and a permanent solution obtained. The RFP was issued and we received 11 proposals.

Flex Digital submitted a quote of .1569 for production and .426 for postage for a total cost of \$.59 per bill. We currently have just under 16,000 bills, 2,500 late notices monthly and increasing.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 21-213, to authorize the contract for printing and mailing services for utility bills with Flex Digital at an average cost of approximately \$11,500.00 per month.

SPRING HILL VENDOR SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement") is made by and between THE CITY OF SPRING HILL, TENNESSEE (the "City") and Flex Digital ("Vendor") (collectively as "Parties"), and is entered into on January 1, 2022, and is effective as of the Effective Date set forth herein.

RECITALS:

WHEREAS, the City requires Utility Bill Printing, Inserting and Mailing Services it cannot provide itself and desires to contract with a third-party independent contractor to provide said services for the City's benefit; and

WHEREAS, pursuant to state law, the City issued published a Request for Proposals (RFP) and Vendor submitted a bid; and

WHEREAS, the City has selected Vendor to provide the services it desires.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, the Parties do hereby agree to the following:

1. **EFFECTIVE DATE.** The Effective Date of this Agreement shall be January 1, 2022.
2. **TERM.** The term of this Agreement shall be from the Effective Date herein for three years through December 31, 2025. Thereafter, the City may, at their option and in agreement with the vendor, renew for two successive 12-month periods.
3. **INSURANCE.** Vendor shall maintain in full force and effect, during the entire term of this Agreement, liability insurance, along with commercial general liability, workers' compensation and automobile insurance, in the minimum limits set forth below, naming City as an additional insured, and shall provide to the City certificates of insurance upon reasonable request.
 - a. Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000), combined single limit, per occurrence;
 - b. Workers' compensation insurance as required by the State of Tennessee. The Provider agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Provider for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
 - c. Employers Liability, including bodily injury coverage with a policy limit of not less than One Million Dollars (\$1,000,000).
 - d. Cyber Liability and Breach Response Services with a policy limit of not less than One Million Dollars (\$1,000,000).
4. **VENDOR RESPONSIBILITIES.**

- a. Receiving and formatting billing data to print, insert, sort and mail water, sewer, stormwater, garbage and recycling bills. This process is to include the inserting of the monthly statement(s) in a double window envelope with a security tinted return envelope.
- b. The City's bills currently contain a remittance stub with OCR Scanline which is used by a 3rd party lockbox provider to collect/process payments and submit a payment file to the City for posting. Selected provider must be capable of producing bills with a detachable remittance stub and printed scanline based on the specification requirements of lockbox provider. Specifications will be provided to the selected vendor and test remittance stubs will be submitted to lockbox provider to confirm acceptance prior to issuance of the first billing.
- c. Service Provider will notify the City in writing, and receive approval from the City, of any required changes to forms or envelopes prior to implementation.
- d. The City will provide Service Provider with content for any additional inserts to be included with the bills. The City will work with the Service Provider to design the inserts to conform to the specifications required for successful insertion by the equipment used by the Service Provider.
- e. Service Provider will print, insert and mail all water bills within 24 hours after proof approval by the City.
- f. Upon award of contract, the successful Service Provider must be ready to accept the first production data/print file within six (6) weeks from date of receipt of all required information from the City.
- g. The Request for Proposals will be included as Appendix A to this agreement.

5. CITY'S RESPONSIBILITIES.

- a. The City will transmit one (1) data/print file to the Service Provider each month for utility bills and one (1) file for past-due notices. The City uses Tyler Technologies utility billing software.
- b. The City will provide related content for any additional inserts to be included with the bills.

6. INDEPENDENT CONTRACTOR. It is expressly agreed and understood that Vendor is an independent contractor and shall not represent itself, its agents or employees as agents or employees of the City. Nothing herein is to be construed as to create any employer-employee relationship between Vendor and the City; and neither Vendor nor any of its employees shall be deemed to be employees or agents of the City. At all times material to this Agreement, any subcontractors or agents employed by Vendor shall be considered acting under the supervision, direction and control of City.

7. AMENDMENT AND TERMINATION. This Agreement may be terminated without cause at any time by either Party through the issuance of a ninety (90) day written notice pursuant to this Agreement. Termination with cause shall not require advance notice.

9. NO CONFLICT OF INTEREST. No City official, employee or member of the governing body of the City shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. Likewise, no officer, employee, or member of the governing body of Vendor or who exercises any function or responsibilities in connection with the carrying out of the project to which this Agreement pertains shall have any private interest, direct or indirect, in this Agreement.

10. **ASSIGNMENT; SUBCONTRACTING.** This Agreement may not be assigned by either Party. The Vendor shall not subcontract its responsibility pursuant to this Agreement to a third party.

11. **MODIFICATION.** This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Vendor and the City.

12. **NONDISCRIMINATION.** Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, the Vendor agrees that harassment or discrimination directed toward a permit applicant, a City employee, or a citizen by the Vendor or Vendor's employee or subconsultant on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, sex, age, or sexual orientation will not be tolerated. The Vendor agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

13. **EXECUTION IN COUNTERPARTS.** This Agreement may not be amended, changed, modified, altered or terminated except by instrument in writing signed by the Parties. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14. **TIME.** The Contractor shall finish within the agreed upon time frame.

15. **VENUE AND JURISDICTION.** The venue and jurisdiction for any disputes arising pursuant to this Agreement shall be in the Circuit Court for Maury County, Tennessee.

16. **INDEMNITY.** Vendor shall provide a defense, indemnify and hold the City harmless from and against any and all claims arising from Vendor or from the conduct of its business or from any activity, work, or things, including all damages, costs, attorney's fees, expenses and liabilities incurred in the defense of any claim or action arising there from.

17. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

18. **FORCE MAJEURE.** The Parties shall not be liable to each other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond their respective reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, pandemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by the parties, and unusually severe weather. The Parties agree to notify each other of the existence and nature of any delay.

19. **BINDING EFFECT.** This Agreement shall inure to the benefit of and shall be binding upon City and Vendor and their respective heirs, administrators, successors and assigns.

20. **SEVERABILITY.** In the event any provision of this Agreement or any instrument delivered in connection herewith shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof or thereof.

21. **NOTICES.** All notices or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by hand-delivery or mailed by first class, postage prepaid, registered or certified mail and addressed as follows:

If to Vendor: Flexdigital
Micah Thompson
5330 Technology Ln
Birmingham, AL 35217

If to City: Mayor Jim Hagaman
199 Town Center Parkway
P.O. Box 789
Spring Hill, TN 37174

Copy to: Patrick M. Carter, Esq.
Middle Tennessee Law Group, PLLC
d/b/a Wolaver, Carter & Heffington
809 South Main Street, Suite 100
Columbia, TN 38401

City and Vendor may, by notice given hereunder, designate from time to time any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

22. **CAPTIONS.** The paragraph headings in this Agreement are for convenience only, and they form no part of this Agreement and shall not affect its interpretation.

23. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement between Vendor and the City and supersedes all prior negotiations, representations and agreements either written or oral, unless otherwise expressly stated herein.

24. **PAYMENT OF EXPENSES; BREACH.** Each of the Parties to this Agreement shall pay his/her/its own expenses, costs and attorney's fees associated with the negotiation, preparation, execution and delivery of this Agreement and the documents related thereto and the consummation of the transactions contemplated herein. In the event of a breach in the performance of any of the provisions of this Agreement or any of the documents related thereto, the breaching party shall pay the reasonable attorney's fees and court costs of the non-breaching party associated with the enforcement of any of the provisions of any such document or this Agreement.

IN WITNESS WHEREOF, Vendor and the City have caused their duly authorized representatives to execute and deliver this Agreement, all as of the day and year first written above.

CITY OF SPRING HILL, a Tennessee municipality

By: 
JIM HAGAMAN
Mayor of Spring Hill

Date of Execution: January 1, 2022

By: 
VENDOR REPRESENTATIVE *Micah Thompson*
Strategic Business Analyst

Date of Execution: January 5, 2022

April Goad

From: Micah Thompson <micah.thompson@flexdigital.com>
Sent: Monday, December 20, 2021 2:21 PM
To: April Goad
Cc: Fred Krischke
Subject: [External] RE: Vendor Services Agreement

****External Email****

Hi, April,

Here are the two questions about the Vendor Agreement:

1. In our RFP, we pledged to get the Utility Bills in the mail within 24 hours of proof approval. This is Standard Operating Procedure (SOP) for our business. We are open from 8am-5pm, 5 days a week. If data from a client is sent on a weekend or after business hours, we attend to those data files the next business day. Based on our extensive experience in the mailing industry, we believe this SOP is in the best interest of the City. We will provide the City with digital proofs of utility bills for review prior to printing. In the event that either Flex or the City identifies any issue with the client data or the digital proof, we will coordinate with the City to promptly address the issue. Once we receive approval from the City for the digital proofs, we will then proceed with printing and mailing the utility bills, which will be accomplished within the next 24 hours. This SOP helps us ensure the quality of your printed mail pieces while still meeting our Service Level Agreement (SLA) with the City. In the City of Spring Hill vendor agreement, under Section 4 Vendor Responsibilities, Term e., it states that we will print and mail all water bills "within 24 hours after successful receipt of customer data/print file". We simply wish to amend this term of the Vendor Agreement to match what we pledged in our RFP response, which is as follows: "Service Provider will print, insert and mail all water bills within 24 hours after proof approval by the City."

2. In our RFP, we provided the COI with the City as the policyholder for the major insurance coverages required by the City, which include sufficient amounts of the following coverages: Commercial General Liability, Worker's Comp, and Employer's Liability. We also maintain sufficient Cyber Liability coverage to meet the City's requirements. However, in our RFP response, the COI we provided did not include Professional Liability coverage, as Flex does not maintain this coverage for any current clients. We wish to amend this term of the Vendor Agreement to simply exclude Professional Liability coverage.

As your interim vendor, we trust these amendments to the Vendor Services Agreement will appear reasonable and will be acceptable to the City of Spring Hill. Please contact me at your earliest convenience if you wish to discuss these matters further. We wish to reach a mutual understanding with the City as soon as possible so we can move forward with executing this Vendor Agreement.

Kind regards,

MICAH THOMPSON
STRATEGIC BUSINESS ANALYST | COMPLIANCE OFFICER



FLEX
5330 TECHNOLOGY LANE
BIRMINGHAM, AL 35217
(205) 841-7678 EXT. 219
FLEXDIGITAL.COM

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From: April Goad <agoad@springhilltn.org>
Sent: Monday, December 20, 2021 1:39 PM
To: Micah Thompson <micah.thompson@flexdigital.com>
Subject: RE: Vendor Services Agreement

My morning is covered up. How about 2:00 p.m.?
And/or you can email me your question(s).



April Goad
City Recorder/Treasurer
Finance Department

P.O. Box 789
Spring Hill, TN 37174

Phone (931)486-2252, ext. 206
Cell (931)698-1089
agoad@springhilltn.org

From: Micah Thompson <micah.thompson@flexdigital.com>
Sent: Monday, December 20, 2021 1:22 PM
To: April Goad <agoad@springhilltn.org>
Subject: [External] RE: Vendor Services Agreement

****External Email****

Great, April!

When would be a good time to connect?

I have a meeting from 9am-10am CST, but outside of that, I am free!

Also, please let me know the best number to call to reach you!

MICAH THOMPSON
STRATEGIC BUSINESS ANALYST | COMPLIANCE OFFICER



FLEX
5330 TECHNOLOGY LANE
BIRMINGHAM, AL 35217

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From: April Goad <agoad@springhilltn.org>
Sent: Monday, December 20, 2021 12:24 PM
To: Micah Thompson <micah.thompson@flexdigital.com>
Subject: RE: Vendor Services Agreement

Tomorrow would be good.



April Goad
City Recorder/Treasurer
Finance Department

P.O. Box 789
Spring Hill, TN 37174

Phone (931)486-2252, ext. 206
Cell (931)698-1089
agoad@springhilltn.org

From: Micah Thompson <micah.thompson@flexdigital.com>
Sent: Monday, December 20, 2021 10:41 AM
To: April Goad <agoad@springhilltn.org>
Subject: [External] RE: Vendor Services Agreement

****External Email****

Good morning, April,

We are very excited about this opportunity!

I have reviewed the Vendor Services Agreement and have just a couple of questions.

Would you be available for a brief phone call today or tomorrow to discuss?

Thank you!

MICAH THOMPSON

STRATEGIC BUSINESS ANALYST | COMPLIANCE OFFICER



FLEX
5330 TECHNOLOGY LANE
BIRMINGHAM, AL 35217
(205) 841-7678 EXT. 219
FLEXDIGITAL.COM

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From: April Goad <agoad@springhilltn.org>
Sent: Tuesday, December 14, 2021 3:47 PM
To: Micah Thompson <micah.thompson@flexdigital.com>
Subject: Vendor Services Agreement

Good Afternoon,
Attached is the contract for services.
Can you please sign and return to me as soon as possible?
Thanks,



April Goad
City Recorder/Treasurer
Finance Department

P.O. Box 789
Spring Hill, TN 37174

Phone (931)486-2252, ext. 206
Cell (931)698-1089
agoad@springhilltn.org

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April Goad

From: Debra Dutcher
Sent: Monday, December 20, 2021 3:04 PM
To: April Goad; Donna Younger
Subject: RE: Vendor Services Agreement

Hi:

I think item 1 is fine because that will give them 24 hours once they receive approval.

Number 2, professional liability insurance, on the other hand, is something I'm sure we require from all of our vendors which would cover us for any losses associated with problems on their end - work mistakes and oversights, negligence, undelivered services, and missed deadlines. They were not the cheapest option and our previous vendor provided this coverage so I think we should still require this coverage.

Debra A. Dutcher, CPA, MSA

Finance Director

CITY OF SPRING HILL
199 Town Center Pkwy
P.O. Box 789
Spring Hill, TN 37174
City Hall: (931) 486-2252, Ext 263

Direct Line: (931) 499-7210
Cell: (931) 922-8126
Fax: (931) 486-0516

Email: ddutcher@springhilltn.org



From: April Goad <agoad@springhilltn.org>
Sent: Monday, December 20, 2021 2:31 PM
To: Donna Younger <dyounger@springhilltn.org>; Debra Dutcher <ddutcher@springhilltn.org>
Subject: FW: Vendor Services Agreement

Please look at the attached email below. Flex Digital is asking for clarification of the two items in the Vendor Services Agreement.

Let me know what your thoughts are.



April Goad
City Recorder/Treasurer
Finance Department

P.O. Box 789
Spring Hill, TN 37174

Phone (931)486-2252, ext. 206
Cell (931)698-1089
agoad@springhilltn.org

From: Micah Thompson <micah.thompson@flexdigital.com>
Sent: Monday, December 20, 2021 2:21 PM
To: April Goad <agoad@springhilltn.org>
Cc: Fred Kruschke <Fred.K@flexdigital.com>
Subject: [External] RE: Vendor Services Agreement

****External Email****

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Kind regards,

April Goad

From: Patrick Carter <pcarter@mtlawgroup.net>
Sent: Tuesday, December 21, 2021 10:36 AM
To: April Goad; Pam Caskie
Subject: [External] RE: Vendor Services Agreement

Follow Up Flag: Follow up
Flag Status: Flagged

****External Email****

This is a call Pam needs to make. I am obviously not an insurance expert however it would seem to me that if the general commercial is sufficiently broad (does it include E&O?) we should be okay without professional liability coverage.

Patrick

*Pam agreed w/ Patrick
Verbally 12-21-2021
11:08am*

From: April Goad <agoad@springhilltn.org>
Sent: Tuesday, December 21, 2021 9:10 AM
To: Patrick Carter <pcarter@mtlawgroup.net>
Subject: Fwd: Vendor Services Agreement

AG

The second question is the one we need your help with.
Thanks.

Begin forwarded message:

From: April Goad <agoad@springhilltn.org>
Date: December 20, 2021 at 2:32:00 PM CST
To: Donna Younger <dyounger@springhilltn.org>, Debra Dutcher <ddutcher@springhilltn.org>
Subject: FW: Vendor Services Agreement

Please look at the attached email below. Flex Digital is asking for clarification of the two items in the Vendor Services Agreement.
Let me know what your thoughts are.



April Goad
City Recorder/Treasurer
Finance Department