

RESOLUTION 244-22

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT AMENDMENT TO
VISUAL COMPUTER SOLUTIONS INC., FOR POLICE EXTRA DUTY DETAIL
MANAGEMENT SYSTEMS FOR THE CLAYTON POLICE DEPARTMENT IN THE
BOROUGH OF CLAYTON**

WHEREAS, the Borough of Clayton received sealed response to their Request for Proposals (RFP) on September 30, 2020 for Police Extra Duty Detail Management System; and

WHEREAS, the Borough received one (1) response from Visual Computer Solutions, Inc., of Freehold, NJ; and

WHEREAS, Visual Computer Solutions, Inc. has sent a renewal contract, effective January 1, 2023; and

THEREFORE, BE IT RESOLVED that the Mayor and/or Borough Administrator and the Borough Clerk be and hereby are authorized to execute said Contract renewal.

ADOPTED, at a regular meeting of the Mayor and Council of the Borough of Clayton, County of Gloucester and State of New Jersey on Thursday, December 8, 2022

BOROUGH OF CLAYTON



TOM BIANCO, Mayor

ATTEST:



CHRISTINE NEWCOMB, Borough Clerk

CERTIFICATION

I, Christine Newcomb, Borough Clerk of the Borough of Clayton, do hereby certify that the foregoing Resolution was presented and duly adopted by the Borough Council at a meeting of the Borough of Clayton, held on Thursday, December 8, 2022.

CHRISTINE NEWCOMB, Borough Clerk



JOBS4BLUE

PROPRIETARY SERVICES AGREEMENT

Jobs4Blue offers Proprietary Services ("Services") under the following terms and conditions ("Agreement"). This Proprietary Services agreement is entered as of 1/1 day of 2023 (the Effective Date) between Jobs4Blue (hereinafter referred to as the Company) and the Borough of Clayton (NJ) (hereinafter referred to as the Customer). By placing an order for Services, Customer and all outside vendors otherwise referred to as the Customer's vendors agrees to be bound by the Agreement.

Services are governed exclusively by the terms of this Agreement. Subject to the terms and conditions hereof, the Customer hereby engages and appoints the Company to administrate the Customer's off duty services program. Therefore, in consideration of the foregoing, the parties, intending to be legally bound, hereby agree to the following:

1. **TERM** – The term of this engagement shall commence on the Effective Date and continue unless terminated by either party. Either party may terminate this agreement upon thirty (30) days' prior written notice to the other party. If the Company should breach a material obligation under this Agreement, the Customer shall give the Company written notice of such breach and provide the Company with the opportunity to remedy any such breach within thirty (30) days of such notice. Failure to remedy any such breach within this time period will constitute sufficient grounds for termination without any further notice. Material obligations shall include, but are not limited to, the filing of bankruptcy or similar procedure due to insolvency, any unapproved assignment of, or repeated non-performance of Company's obligations under this Agreement; any breach of Company's representations and warranties; or termination or lapse of any insurance coverage or policy obligations.
2. **ENTIRE AGREEMENT** – This Agreement, including any exhibits hereto, represents the entire agreement between the parties hereto and supersedes all prior and contemporaneous written or oral agreements and all other communications between the parties relating to the Services to be rendered. Any additions, deletions or modifications shall not be binding on either party unless accepted or approved in writing by duly authorized representatives of both parties.
3. **SERVICES** – Customer engages Company to administrate the Customer's off duty program to include:



3.1 Engagement with representatives, organizations and institutions desiring off duty assistance via phone, website, and email. The exchange of information includes but is not limited to; discussions regarding program rules and rates, account setup in accordance with customer rules and scheduling expectations, method in which off duty detail requests are received and processed and any and all other pertinent information required for engagement success.

3.2 Management of off duty payment processing in conjunction with Customer existing payroll system if desired. Company will provide payroll files, reports and payments to Customer on a cadence consistent with Customer's existing payroll process.

3.3 Management of escrow and pre-payment accounts as well as invoicing and follow up of all Collection activities as necessary to ensure an effective payment processing system.

3.4 Accept Customer credit risk and finance, at sole cost to Company, all financing float costs associated with invoicing process to Customer.

4. PAYMENT AND INVOICING TERMS - The Customer's Vendor(s) agrees to pay the Company for Off Duty Administrative Services completed in accordance with the terms of this Agreement. In consideration for the rendering of administrative off duty services, the Company shall charge the Customer's Vendor(s) a scheduling fee of 8%. The scheduling fee will be applied to any off- duty revenue including officer pay, vehicle fees, and Customer scheduling fees.

** Any jobs scheduled / invoiced for the Clayton BOE will remain at 7%.*
PAYMENT TO CITY: Company will provide payments to the Customer via ACH bank transactions for officers pay and administrative fees collected on behalf of the Customer. The following data must be provided by the Customer.

- ACH Bank
- Account Type
- Routing #
- Account #

5. PAYMENT TIMELINE - Company will report officer pay and applicable administrative fees in accordance with the current schedule of the Customer's regular overtime payment reporting process. The ACH payroll processing period begins once a job is closed by the employee. At that time, Company requires one (1) business day to validate and verify the respective job. Once verification is complete, the date on which the Customer's next payroll period commences is the date in which payment will be rendered. Any job falling outside of these parameters will result in Company issuing payment at the next or following pay period.



6. SERVICE BENCHMARKS – Company will provide and administer off duty services in accordance with professionally accepted industry standards.

6.1 Company shall have the ability to engage with Customer and Customer's personnel to the extent required with respect to the fulfillment of services covered under this Agreement.

6.2 If Company requires access (either on-site or remotely) to Customer's network or computer systems to perform such Services, Customer shall limit its use to those computer systems, files, software or services reasonably required to perform the Services.

6.3 Company agrees to utilize best reasonable efforts under this Agreement and agrees that completion of the services covered within this Agreement is an essential part of this Agreement.

6.4 Each party will hold the other party's Confidential Information in confidence and will not disclose any such Confidential Information to any third party without first obtaining the disclosing party's written consent. By way of illustration but not limitation, "Confidential Information" includes software, trade secrets, processes, formulas, source and object codes, scripts, data, programs, design, business plans, prices and costs, suppliers and customers and any information regarding the skills and compensation of the employees of the disclosing party.

6.5 Customer agrees to provide and make available off duty officers to Company for assignment to special events and circumstances in response to requests from citizens or businesses that require off duty services. Should Customer be unable to fulfill an off-duty requirement by a vetted citizen or business, Company reserves the right to seek alternate off-duty services in accordance with Customer's existing list of approved departments that would typically handle such services. Alternate services can include but are not limited to; recruitment of off duty officers from neighboring and approved police departments, counties, communities, or sheriff's offices as needed to fulfill said requests.

6.6 Customer will provide reasonable working space and access to Customer facility as may potentially be required for the implementation and training required for the successful completion of said services.

6.7 While at Customer facility or remote work of any kind, Company shall observe and follow all work rules, policies and standards of Customer including but not limited to, handling of intellectual property, security and all Customer facility protocol.

6.8 Company shall provide a primary account manager responsible for understanding and delivering off duty services in accordance with Customer rules and processes.

6.9 Company shall keep and maintain systematic records of all services purchased by Customer. Records can include but are not limited to; job details, payments, expenses, organizational profiles, and any



financial records, procedures or documentation pertaining to Company's performance under the terms of this Agreement.

Company shall preserve and maintain all records according to the longest of the following two periods:

In accordance with the record retention period mandated by any applicable law. In the event of a legal matter that requires preservation of certain records, Company shall suspend destruction of such records as requested by Customer or any authorized governmental body.

During the term of this Agreement, and thereafter, in accordance with applicable record retention, Customer shall have the right to inspect, copy and audit those records identified in this Section during regular business hours. This right shall include, but not be limited to the right to inspect, copy and audit any records that may pertain to invoice records, contracts with third parties and payment relating to said records.

6.10 Company reserves the right to work with only credit worthy vendors/customers and stipulates the option to refuse services to those vendors/customers that are deemed non-credit worthy or those vendors/customers that reflect past due invoices (60) days or older.

7. INDEPENDENT CONTRACTOR - Customer acknowledges that the Company is an independent contractor that is responsible for all taxes and other expenses attributable to the rendering of off duty administrative services to Customer. This Agreement is not intended to and shall not be construed to; create a joint venture, partnership, or employer/employee relationship between said parties. Neither the Company nor its employees or agents shall look to Customer for vacation pay, sick leave, retirement benefits, social security, disability or unemployment insurance benefits, or other employee benefits; nor shall Customer, or their respective employees or agents look to Company for the same. Neither Company nor Customer shall be or become liable or bound by any representation, act, or omission whatsoever of the other made contrary to the provisions of this Agreement.

8. PROPRIETARY MATERIAL – Customer does not under this Agreement acquire any ownership rights in and/or to any software, documentation, tools, techniques, methodologies or other material which has not or is not created as part of the Services to be rendered hereunder which is proprietary to Company.

9. LIMITATION OF LIABILITY – Notwithstanding anything to the contrary of this Agreement, neither party shall be liable to the other for any special, indirect consequential, lost profits or punitive damages.



10. VENDOR FINANCIAL OBLIGATIONS

VENDOR

All credit-worthy Customer's Vendors are offered a maximum of N15 payment terms. Company accepts credit risk on all vendors and finances the financial float associated with such payment terms.

10.1 Company reserves the right to deem any vendor non-credit worthy and require pre-payment from such vendor.

10.2 A vendor designated as non-credit worthy has the option to pre-pay for all off-duty services via check, credit card or escrow account. Company can impose a 4% finance fee for the processing of associated credit card payments.

10.3 Company reserves the right and ability to charge a late fee of 1.5% per month to a vendor on all invoices aged thirty (30) days and over.

11. **INDEMNIFICATION** – Each party (indemnifying party) shall indemnify, defend and hold harmless the other (indemnified party), its agents, servants, employees, officers, directors, attorneys, subsidiaries and assigns from and against any and all third party claims, losses, damages, liabilities and expenses (including but not limited to, reasonable attorney fees and court costs) arising as a result of any negligence, illegality or wrongdoing of any kind related to services provided alleged or actual on the part of the indemnifying party provided such claims, losses, damages and liabilities were not caused in whole or in part, directly or indirectly by any act or omission of the indemnified party. In addition, the indemnified party must promptly notify the indemnifying party in writing of any such claim and the indemnifying party is permitted to control the defense and any settlement of such claim as such defense or settlement shall not include an admission of guilt or financial obligation on the indemnified party. The provisions of this section shall survive any termination, expiration, or cancellation of this agreement.

12. **SEVERABILITY** – The provisions of this Agreement shall be deemed severable, and if any portion of the Agreement shall be held invalid, illegal or unenforceable for any reason, the remainder of the Agreement shall be effective and binding upon both parties, unless to do so would clearly violate the present and legal intention of the parties hereto.

13. **INSURANCE** – Both parties specifically agree to maintain adequate insurance coverage for the off-duty services covered in this Agreement.

13.1 At all times during performance of off-duty Services, Jobs4Blue shall secure and maintain in effect insurance to protect the Company from and against all claims, damages, losses and expenses arising out of or resulting from the performance of this Agreement. Company shall provide and maintain in force insurance in limits no less than stated below, as applicable.



13.2 COMMERCIAL LIABILITY INSURANCE – Prior or during Agreement execution, Company will provide proof of Commercial Liability Insurance to Customer with a minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Three Million Dollars (\$3,000,000.00) general aggregate. The insurance certificate shall clearly state the provider name, coverage amount, policy number and provisions provided. Said policy shall be in effect for the duration of this Agreement. Insurance will be in effect with an insurance agency rated A-VII or higher in Best's Guide.

13.3 PROFESSIONAL AND LIABILITY INSURANCE – Prior or during Agreement execution, Company shall provide proof of Professional Errors and Omissions Liability Insurance with coverage of at least Two Million Dollars (\$2,000,000.00) per occurrence and an annual aggregate limit of at least Three Million Dollars (\$3,000,000.00). The insurance certificate shall clearly state the provider name, coverage amount, policy number and provisions provided. Insurance will be in effect with an insurance agency rated A-VII or higher in Best's Guide.

13.4 Employees of the City and/or Customer will not be covered under the Company's worker compensation insurance.

14. SURVIVAL - All sections inclusive of this Agreement shall survive the expiration or termination of this Agreement in accordance with their terms.

15. NOTICE – Any notice required or permitted to be given under this Agreement shall be in writing and deemed effective if either delivered in person or via overnight courier, facsimile or first-class mail, certified with return receipt requested or email.

Notices to the Customer shall be delivered to:

Borough of Clayton
125 N. Oakes Drive
Clayton, NJ 08312
Attn: Municipal Clerk

Notices to the Company shall be delivered to: Jobs4Blue
4400 US Highway 9
Freehold, NJ 07728
Attn: Jobs4Blue Operations Manager

16. ASSIGNMENT – This Agreement is not assignable or transferable by the Customer. This Agreement is not assignable or transferable by the Company without the written consent of the Customer, which consent shall not be unreasonably withheld or delayed.



17. ENTIRE AGREEMENT – MODIFICATION – This Agreement constitutes the entire and complete understanding between the parties hereto with respect to the subject of the Company's engagement by the Customer, as provided for herein; and supersedes any and all other understandings, negotiations or agreements relating hereto, and no modification to this Agreement, nor any waiver of any rights, shall be effective unless agreed to in writing by the party to be charged.

18. GOVERNING LAW-VENUE – This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Jersey, USA without regards to the principles of conflicts of laws. Any action or proceeding arising from or relating to this Agreement must be brought to a superior court in the State of New Jersey.

19. REVIEW OF AGREEMENT – It is hereby acknowledged that the Customer has had ample opportunity to review and consider the Terms of this Agreement and to review this Agreement with Customer's counsel and has voluntarily agreed to the terms presented, including, without limitation, freely choosing that New Jersey law shall govern this Agreement and all matters dealt with herein, and to waive any other rights it may have, in consideration of the Agreement set forth herein.

20. COUNTERPARTS - Each individual executing this Agreement of a party hereto represents and warrants that such individual is duly and authorized to act on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed in counterparts by original or electronic signature, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

21. FORCE MAJEURE – Neither party shall be responsible for delays or failures (including any delay relative to prosecution of such services) if such delay arises out of causes beyond its control. Such causes can include, but are not limited to; acts of God, acts of terrorism, fires, floods, epidemics, riots, quarantined restrictions, strikes, freight, embargoes, earthquakes, electrical outages, severe weather or any other natural disaster.



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IN WITNESS HEREOF, the parties hereto execute this Agreement as of the date set forth above.

COMPANY – JOBS4BLUE

By: Daniel DiMemmo 

Title: Operations Manager

Date: 11/9/22

CUSTOMER – Borough of Clayton

By: 

Title: Mayor

Date: 12/8/22