

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

ADDENDUM TO FIDLAR TECHNOLOGIES, INC.'S AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Williamson County, ("County"), a body corporate and politic under the laws of the State of Texas, and Fidlar Technologies, Inc., ("Fidlar"), a company authorized to conduct business in the State of Texas (hereinafter each referred to as a "party" or collectively as the "parties").

WHEREAS, subject to the changes herein, the parties have executed and accepted Fidlar's Property Fraud Alert Service Agreement (the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase of specified fraud alert services (the "Services"); and

WHEREAS, County desires that Fidlar provide Services as will be more specifically described in this Agreement; and

WHEREAS, the following changes are incorporated as if a part of the Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

1. **Term.** The term of the Agreement is effective as of the date of the last party's execution below and shall continue for a one (1) year term ("Initial Term"). At the end of the Initial Term, the parties, upon mutual agreement, shall have the option to renew this Agreement for three (3) additional one-year terms, with the terms and conditions remaining the same. The total period of the Agreement, including all terms, shall not exceed four (4) years.

Exercise of the renewal option is at the County's sole discretion and shall be conditioned, at a minimum, on Fidlar's performance of this Agreement and subject to the availability of funds. The County, if it desires to exercise its renewal option, will provide notice to Fidlar of its election to renew. This Agreement shall not automatically renew. The renewal term shall be considered separate and shall require exercise of the renewal option should the County choose to renew this Agreement. The County and Fidlar agree that termination shall be Fidlar's sole remedy if the County choose not to extend this Agreement for an additional one (1) year term.

2. **Scope of Services.** Subject to this Addendum, Fidlar will render Services to County as in Exhibit A.
3. **Consideration; Compensation; Taxes.** The parties acknowledge and agree that Services were

and will be supported by good and valuable consideration during the term of this Agreement, the sufficiency of which is acknowledged by the parties.

Fidlar will be compensated based on a fixed sum for the Services herein as set out in Exhibit A. Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date the County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by the County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of the County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

The County is a political subdivision under the laws of the State of Texas and claims exemption for sales and use taxes. The County agrees to provide exemption certificates upon request.

4. **Limit of Appropriation.** Fidlar clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Two Thousand, One Hundred Fifty and 00/100 dollars (\$2,150.00), specifically allocated to fully discharge any and all liabilities County may incur. Fidlar does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Fidlar may become entitled to and the total maximum sum that County may become liable to pay to Fidlar shall not under any conditions, circumstances, or interpretations thereof exceed Two Thousand, One Hundred Fifty and 00/100 dollars (\$2,150.00). In no event will the amount paid by the County for all Services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
5. **Public Information Act.** Fidlar expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. § 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Fidlar shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or

saving harmless Fidler for any reason are hereby deleted. Fidler shall indemnify and defend County against all losses, liabilities, claims, causes of action, and other expenses, including reasonable attorney's fees, arising from activities of Fidler, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of Fidler or any of Fidler's agents, servants or employees.

7. **Applicable; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement, the parties hereto acknowledge that venue is proper in Williamson County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Fidler in any way associated with the Agreement.
8. **Foreign Terrorist Organizations.** Fidler represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
9. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.
10. **Human Trafficking.** By acceptance of this Contract, Fidler acknowledges that Williamson County is opposed to human trafficking and that no County funds will be used in support of services or activities that violate human trafficking laws.
11. **Product Assurance.** Fidler represents and warrants that its hardware, software and any related systems and/or services related to its software and/or hardware (collectively, the "Product") furnished by Fidler to County will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. Fidler will, at its expense, defend any suit brought against County and will indemnify County against an award of damages and costs (including reasonable attorney fees, court costs and appeals), made against County by settlement or final judgment of a court that is based on a claim that the use of Fidler's Product infringes an intellectual property right of a third party. Such defense and indemnity shall survive termination or expiration of the Agreement and Fidler's liability for the above is not limited by any limitation of liability clauses that may appear in any document executed by the parties.
12. **Performance Warranty.** Fidler warrants to County that Fidler has the skill and knowledge

ordinarily possessed by well-informed members of its trade or profession practicing in the greater Austin metropolitan area and Fidler will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.

Fidler warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

13. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls to the extent of the conflict.
14. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.
15. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
16. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
17. **Assignment and Delegation.**
 - a. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.
 - b. Neither party may delegate any performance under this Agreement.
 - c. Any purported assignment of rights or delegation of performance in violation of this Section is void.
 - d. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.
11. **Successor and Assigns.** County and Fidler bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.
18. **Compliance with Laws.** Fidler shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without

limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Fidler shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

19. Confidential Information.

- a. Fidler acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Fidler or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Fidler shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Fidler) publicly known or is contained in a publicly available document; (b) is rightfully in Fidler's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Fidler who can be shown to have had no access to the Confidential Information.
- b. Fidler agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Fidler uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Fidler shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Fidler shall advise County immediately in the event Fidler learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Fidler will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Fidler against any such person. Fidler agrees that, except as directed by County, Fidler will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Fidler will promptly turn over to County all documents, papers, and other matter in Fidler's possession which embody Confidential Information.
- c. Fidler in providing all Services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

20. Termination.

- a. Termination for Convenience. County may terminate this Agreement at any time upon thirty (30) days written notice.
 - b. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
 - 1. If Fidler fails to timely perform Services pursuant to this Agreement or any extension thereof granted by the County in writing;
 - 2. If Fidler materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
 - c. If, after termination, it is determined for any reason whatsoever that Fidler was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with § 20(a) above.
 - d. Upon termination of this Agreement, County shall compensate Fidler in accordance with §3, above for those Services which were provided under this Agreement prior to its termination, and which have not been previously invoiced to County. Fidler's final invoice for said Services will be presented to and paid by County in the same manner set forth in §3 above.
 - e. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Fidler.
 - f. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.
 - g. Upon termination of this Agreement for any reason, if Fidler has any property in its possession belonging to County, Fidler will account for the same, and dispose of it in the manner the County directs.
21. **Independent Contractor.** In the performance of work or services hereunder, Fidler shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Fidler or, where permitted, of its subcontractors. Fidler and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.
22. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

23. **Notices.**

- a. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).
- b. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Williamson County Clerk
Attn: County Clerk
PO Box 647
Jarrell, Texas 76537-0647

With a copy to: Williamson County
Attn: County Judge
710 S. Main Street, Suite 101
Georgetown, Texas 78626

Contractor: Fidlar Technologies, Inc.
350 Research Parkway
Davenport, Iowa 52806

- c. A Notice is effective only if the party giving or making the Notice has complied with subsections 23(a) and 23(b) and if the addressee has received the Notice. A Notice is deemed received as follows:
 - 1. If the Notice is delivered in person, or sent by registered, or certified mail, or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
 - 2. If the addressee rejects, or otherwise refuses to accept the Notice, or is the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

24. **No Agency Relationship.** It is understood and agreed that Fidlar shall not in any sense be considered a partner or joint venturer with the County, nor shall Fidlar hold itself out as an agent or official representative of the County.

25. **Right to Audit.** Fidlar agrees that the County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Fidlar which are directly pertinent to the services to be performed under this Contract for the purposes

of making audits, examinations, excerpts, and transcriptions. Fidlar agrees that the County shall have access during normal working hours to all necessary Fidlar facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The County shall give Fidlar reasonable advance notice of intended audits.

26. **Media Releases.** Fidlar shall not use County's name, logo, or other likeness in any press release, marketing materials, or other announcement without the County's prior written approval.

WITNESS that this Contract shall be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:

Bill Gravell

Bill Gravell (Apr 25, 2023 15:09 CDT)

Authorized Signature

Judge Bill Gravell, Jr.,
County Judge

SERVICE PROVIDER:

Fidlar Technologies, Inc.

Name of Service Provider

Alex Rigger

Authorized Signature

Alex Rigger

Printed Name

Date: Apr 25, 2023, 2023

Date: April 4th, 2023

EXHIBIT A

Property Fraud Alert Service Agreement

Williamson County, TX
County Clerk's Office

Property Fraud Alert Description:

Fidlar Technologies (Fidlar) Property Fraud Alert (PFA) service is designed to monitor, identify and notify individuals whose name has been indexed from a document recorded in the Williamson County Clerk's Office. Williamson County Clerk (Client) PFA allows subscribers the ability to have their personal/business name monitored within the CLIENT's office in order to track possible fraudulent activity. PFA allows for free subscriptions via the PFA website and is accessed by the potential subscriber. Subscribers will be notified only when the name they have submitted is used in any recording activities within the CLIENT's office. The alert notification methods provided as options to the subscriber (and selected at the time of subscription) are either email or phone.

The attached Addendum A is a listing of the unique features provided by PFA and must be accepted at the time of the signing of this agreement.

Property Fraud Alert Service Terms and Conditions:

CLIENT agrees to participate in the PFA Service by providing the index data required (at no cost to Fidlar) and permitting the use of this information in order to monitor and identify (via the PFA Service) individuals' identity only for the purpose of possible fraudulent activity. CLIENT understands that PFA is a service provided by Fidlar in order to offer individual alerts to all participating users. CLIENT will post index data via a data format mutually agreed upon by Fidlar and the CLIENT to a FTP site, at interval timings under full discretion of the CLIENT. The data once received by the FTP site will then be processed by the PFA system service which is running on a secured system server behind firewall technology. Fidlar reserves the right to make changes to the PFA service as deemed necessary.

Fidlar agrees NOT to retain subscriber's information beyond time period needed to perform PFA services unless required under another agreement.

Fidlar agrees that it may NOT use or share CLIENT's data in any other way other than the method outlined above for the PFA service, without the express written consent of the CLIENT.

Fidlar agrees to provide needed hardware, technology and software in order to perform needed search and notification to subscribers.

PFA Termination:

The license granted under this agreement, with regard to the Software, may be terminated by Fidlar for material failure of CLIENT to comply with terms and conditions of this Agreement. Within thirty (30) days after CLIENT has discontinued the use of the License program, or within ten (10) days after FIDLAR has terminated any license. The term of this agreement is three-year (3 year.) With no written communication from either side requesting cancellation, this agreement shall continue.

PFA Service Fees:

One-Time charge - PFA licensing, set-up and collateral: N/A - Renewal

Marketing Release Kit: Included (Qty. 2) PFA Banners, (Qty. 1,000) PFA Customized flyers, (Qty. 25) PFA Campaign Buttons. Fidlar will customize, print and ship. Press Release Template Kit One (1) DVD containing print-ready files of customized printed materials.

Annual Maintenance and Support:

2023 - \$2,150.00 2024 - \$2,344.00

2025 - \$2,344.00 2026 - \$2,344.00

Annual support includes the PFA services described herein and in Addendum A. Annual fee is subject to change based on mutually agreed upon changes/additions/deletions to the PFA service as described in the agreement. Changes/additions/deletions are not guaranteed, but if considered, may result in a proposal for changes in the fee amount.

Addendum A

PFA Value Provided to the Williamson County Clerk's Office

- Automatic notification system: Registered constituents receive an email or personal phone call (from Fidar) each time a document is recorded in their name. The county does not have to worry about cards to mail or address lists to maintain.
- Flexible sign-up processes: Constituents can sign up via the PFA website or for those not comfortable doing so online or for those who do not have access to a computer; sign-up is available by calling the dedicated PFA toll-free number staffed by Fidar.
- Notifications are sent out upon the recording of any document. Deeds are not the only damaging document that can be fraudulently filed or recorded. Powers of Attorney, satisfactions, etc., can also lead to fraudulent activity. PFA notifies the subscriber any time any document is recorded in the name registered with Fidar.
- PFA is an opt-in notification system. Once subscribed, the constituent does not have to check in on a website for notification status. Email notifications are sent within 24 hours of the document being made available to Fidar or the next business day, should the 24-hour period fall upon a weekend or holiday. Phone notifications are attempted within 48 regular business hours of the document being made available to Fidar. When calling a subscriber with an alert notification, Fidar will attempt the call twice (in consecutive days) and leave voicemails. If a return call is not received, Fidar will make a third attempt one week after the first call was made. If no return call is made after the third attempt, the call will be closed.
- A customized PFA website has been created for the Clerk's office. The Clerk's office will have the right to select up to five (5) graphics to be used on the customized homepage.
- PFA requires no changes to existing recording workflow.
- No training required for county employees.
- PFA provides for customization of the email notification verbiage.
- The custom PFA website for the Clerk's will be managed by Fidar.
- PFA provides an online administration tool for use within the Clerk's office for the purpose of monitoring subscription levels. Also available via the administration tool is the ability to access the current list of subscribers contact information as well as a list of notification alerts that have been sent.
- The call-center that provides live follow-up to PFA subscribers is fully maintained and staffed by Fidar. This call-center is staffed from 7:00am - 8:00pm CST and is housed at our corporate office in Davenport, IA. This call center will handle the following calls
 - Incoming calls from constituents who wish to sign-up but are either hesitant to do so over the Internet or don't have a computer. Typically, this represents a more elderly demographic.
 - Incoming calls from subscribers who have received alerts and have questions. Historically, our attendants are able to answer incoming questions to the subscriber's satisfaction. However, in the event that a question remains that goes beyond our capabilities, it will be forwarded to the county office.
 - Outgoing calls providing alerts. Subscribers have the ability to receive alerts via email or phone. Those that opt to receive alerts via phone receive a call from one of our call center attendants. We will make three outgoing calls (and leave a personal message, if needed) to insure that we have ample opportunity to connect with the subscriber.









Agenda Item #19, CC 4.25.23 Approval of 2023177 Property Fraud Alert Fidler Technologies, Inc - County Clerk (Stephanie)

Final Audit Report

2023-04-25

Created:	2023-04-25
By:	Kim Chappius (kim.chappius@wilco.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAzJEU7MMqLtPJcZY5mmMklACgXofSv530

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