



## Legislation Text

File #: 16-0639, Version: 2

**Dept/ Agency:** Finance

**Action:**  Ratifying  Authorizing  Amending

**Type of Service:** Exception to Public Bidding - specific exception

**Purpose:** To provide support and maintenance of proprietary software and hardware

**Entity Name:** H & L Systems, Inc.

**Entity Address:** 327 Barcelona Avenue, Toms River, New Jersey 08753

**Contract Amount:** Amount not to exceed \$300,000.00 (\$12,500.00 per month)

**Funding Source:**

**Contract Period:** January 1, 2016 through December 31, 2017

**Contract Basis:**  Bid  State Vendor  Prof. Ser.  EUS

Fair & Open  No Reportable Contributions  RFP  RFQ

Private Sale  Grant  Sub-recipient  n/a

**Additional Information:**

Exception to Public Bidding N.J.S.A. 40A:11-5(1) (dd)

**WHEREAS**, the Department of Finance and the Tax Collector's Office is committed to providing a comprehensive and integrated municipal revenue collection software; and

**WHEREAS**, the Director of Finance and the Municipal Tax Collector desire to enter into a contract with H & L Systems, Inc. (hereinafter "H & L Systems, Inc."), 327 Barcelona Avenue, Toms River, New Jersey 08753, for the provision of support, maintenance services and upgrades of the integrated municipal revenue collection software (including real estate and special taxes), which is a proprietary software program, in order to maintain the proprietary software's overall operational health, for an amount not to exceed \$300,000.00, for the period commencing on January 1, 2016 and terminating on December 31, 2017; and

**WHEREAS**, this support, maintenance and upgrade agreement is essential for the Department of Finance and the agencies within the Department to continue to provide a comprehensive, fully integrated municipal collection software for municipal revenues for use by the Department of Finance and the agencies within the Department; and

**WHEREAS**, H & L Systems, Inc., owns the rights to a municipal revenue collections system consisting of proprietary software components and is engaged in the business of providing various "goods and services" ("...including any work, labor, commodities, equipment, materials or supplies of any tangible or intangible nature..." *N.J.S.A 40A:11-2 (24)*) of the proprietary hardware and software; and

**WHEREAS**, H & L Systems, Inc., has represented that they are qualified by their training and experience to provide the required services and that they have the exclusive right to make and sell these goods and services, which the Finance Director certifies is essential and necessary for the conduct of its affairs, *N.J.S.A. 40A:11-2(39)*; and

**WHEREAS**, pursuant to the Local Public Contracts Law *N.J.S.A. 40A:11-5(1)(dd)* such a contract for proprietary computer system may be awarded as an exception to public bidding because the provision or performance of goods or services is for the support and/or maintenance of proprietary computer hardware and/or software; and

**WHEREAS**, the Director of Finance has determined and certified in writing that the value of this contract will not exceed \$300,000.00; and

**WHEREAS**, this contract is being awarded pursuant to a “Non-Fair and Open” process pursuant to State Pay-to-Play Law *N.J.S.A.19:44A-20.5* and the Contractor Pay-to-Play Reform Ordinance, 2:4-22C; and

**WHEREAS**, H & L Systems, Inc., has completed and submitted a Business Entity Disclosure Certification which certifies that H & L Systems, Inc., has not made any reportable contributions to a political or candidate committee in the City of Newark in the previous (1) one year, and this contract will prohibit H & L Systems, Inc., from making any reportable contributions through the term of the contract; and

**WHEREAS**, on August 1, 2012, the Newark Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance, 2:4-22C, which forbids, inter alia, the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to: (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the City of Newark or a holder of public office having ultimate responsibility for the award of a contract; or (ii) to any City of Newark or County of Essex political committee or political party committee; or (iii) to any continuing political committee or political action committee that regularly engages in the support of City of Newark municipal or County of Essex elections and/or City of Newark municipal or County of Essex candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in Subsection (g) within one (1) calendar year immediately preceding the date of the contract or agreement; and

**WHEREAS**, the Business Entity and any of its subcontractors, if any, have certified that it is in compliance with the aforementioned Contractor Pay-to-Play Reform Ordinance, 2:4-22C; and

**WHEREAS**, this contract has been determined and certified in writing to have a value in excess of \$17,500.00 and is being awarded as a Non-Fair and Open Contract pursuant to *N.J.S.A. 19:44A-20.5 et, seq.*

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designees, the Director of the Finance, and or the Municipal Tax Collector, are hereby authorized to enter into and execute a contract with H & L Systems, Inc. (hereinafter “H & L Systems, Inc.”), 327 Barcelona Avenue, Toms River, New Jersey 08753, for the provision of support, maintenance services and upgrades of the integrated municipal revenue collection software (including Real Estate and Special Taxes),”Tax Office for Windows” which is a proprietary software program, in order to maintain the software’s overall operational health, for an

amount not to exceed \$300,000.00, for the period commencing on January 1, 2016 and terminating on December 31, 2017.

2. This contract is hereby ratified from January 1, 2016 to the date of adoption of this authorizing resolution.

3. Attached is a Certification of Funds from the Municipal Comptroller which states that there are available legally appropriated funds for the purpose set forth hereinabove.

4. This contract is being awarded pursuant to and in compliance with the Non-Fair and Open Procedures of the Pay-to-Play Law, *N.J.S.A 19:44A-20.5 et seq.* and the City of Newark Contractor-Pay-to-Play Ordinance, 2:4-22C, and as an exception to the Local Public Contracts Law, *N.J.S.A. 40A:11-5 (dd)* because these goods and services are for the support or maintenance of proprietary software and associated services.

5. H & L Systems, Inc. has represented that they are qualified by their training and experience to provide the required services and that they have the exclusive right to make and sell these services, which the City Clerk certifies is essential and necessary for the conduct of its affairs (*N.J.S.A. 40A:11-2(39)*).

6. There shall be no advance payments made against this contract in accordance with *N.J.S.A.40A:5-16*.

7. The Business Entity Disclosure Certification and the Determination of Value are attached in support of this Resolution and shall be placed on file with the Office of the City Clerk by the Director of Finance.

8. A copy of the contract is attached hereto. A duly executed copy of the aforesaid contract shall be filed in the Office of the City Clerk by the Director of Finance and shall be made available for public inspection.

9. The contract will contain language prohibiting any contributions in violation of any State or local law.

10. Notice of this action shall be published in the newspaper authorized to publish legal advertisements and as required by law within ten (10) days of the date of adoption.

11. A copy of the executed contract herein authorized shall be filed in the Office of the City Clerk.

### **STATEMENT**

This resolution ratifies and authorizes the Mayor and/or his designee, and/or his designees, the Director of the Finance Department, and or the Municipal Tax Collector, to enter into and execute a contract with H & L Systems, Inc., 327 Barcelona Avenue, Toms River, New Jersey 08753, for the provision of support, maintenance services and upgrades of the integrated municipal revenue collection software (including Real Estate and Special Taxes), "Tax Office for Windows" which is a proprietary software program, in order to maintain the software's overall operational health, for an

amount not to exceed \$300,000.00, for the period commencing on January 1, 2016 and terminating on December 31, 2017.