



Town of Perdido Beach

Resolution 2014-06


Authorizing the Mayor to Enter into an Agreement with Revenue Discovery Systems (RDS) to Perform Business License Discovery-Recovery

WHEREAS, RDS is equipped to solicit, collect and remit escaped business license fees on behalf of the Town for a fee; and

WHEREAS, the Council believes it is in the best interest of the Town to enter into a three year agreement with RDS to perform business license discovery-recovery services for the Town.


NOW, THEREFORE BE IT RESOLVED, that the Council of the Town of Perdido Beach does hereby authorize the Mayor to enter into an agreement with RDS to perform business license discovery-recovery.

ADOPTED this 13th day of **May, 2014** in regular session assembled.



Patsy W. Parker, Mayor

ATTEST:



Lynn Thompson, Town Clerk

Tax Revenue Enhancement Agreement Business License Discovery/Recovery

This agreement made as of the 13 day of May 2014 by and between PRA Government Services, LLC d/b/a RDS and Town of Perdido Beach, Alabama, an Alabama TOWN ("TOWN").

A. Business License Discovery/Recovery Services

1. Discovery/Recovery Services include:
 - i. Analysis of two or more municipal lists. These lists could include: current business license data, sales tax data, property tax lists and telephone directories at least once a year.
 - ii. Properties/entities that are not in one or all of the databases are presumed unlicensed.
 - iii. RDS will generate a letter requiring payment, proof of payment, or documented response for all properties/entities presumed unlicensed. If no response, RDS may mail additional letters and contact the property/entity via phone call before proceeding with additional collection procedures.
2. Taxpayer Remittance: Taxpayers will remit payments to Town of Perdido Beach, P.O. Box 830725, Birmingham, AL 35283-0725. Upon reasonable notice to TOWN, RDS may change the P.O. Box for Town of Perdido Beach payments. TOWN will be responsible for renewals. RDS will provide a list to TOWN.
3. Deposit Process: Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the TOWN for each type of tax collected, as shown in more detail on **Exhibit A**.
4. Posting Process: Taxpayer accounts are posted with payment information captured in the RDS revenue system. Additional information such as net sales, deductions, credit sales, measure of tax, name change and address change is captured and added to payment data and taxpayer master file (as determined necessary by RDS). Late payments (postmarked by U.S. Postal Service after due date) are invoiced at penalty amounts required by State code. Under-payments are invoiced for remaining tax due plus any required penalties.
5. Changes to **Exhibit A**: TOWN shall notify RDS in writing immediately of all changes in amounts to be deposited into the accounts of designated recipients. An amended **Exhibit A** shall be prepared and executed by the Parties as soon as reasonably possible. In addition, RDS shall provide documentation confirming each change under the preceding sentence with the first monthly report reflecting the applicable change. If the changes reflected in the monthly report do not properly reflect the intended changes of the TOWN, then the TOWN shall immediately notify RDS and, thereafter, RDS shall take the steps necessary to insure that designated recipients receive the amounts intended by TOWN.
6. Notification, Reporting to TOWN: RDS will provide TOWN with timely reports including, but not limited to, payment listings showing all monies received, a detail and summary reconciliation report that corresponds to TOWN'S account numbers and all fees paid to RDS.

B. General Provisions

1. Taxpayer service: RDS will provide a taxpayer assistance number for taxpayer questions.
2. RDS, in collecting any fee, tax, interest, court cost, or penalty shall have no authority to determine the amount of fee, tax, interest, court cost, or penalty owed the state, county, or municipal governing authority.
3. Consideration for Discovery/Recovery Services:
 - i. RDS Fee for Discovery/Recovery Services: RDS will receive fifty percent (50%) of business license revenue collected by RDS.
 - ii. RDS fee for copies of business license applications: RDS will receive an amount equal to \$1.75 per business license application mailed or faxed to the TOWN. RDS will provide at no additional cost a detailed payment listing that includes taxpayer name, address, schedule number, and license year.
4. Company Audit: Once a year RDS will have an auditor prepare an Independent Service Auditor's Report on Controls Placed in Operation and Tests of Operating Effectiveness. This report is commonly called a SOC 1 report and will be made available upon request.
5. Term of the Agreement: This Agreement shall be for a term of three (3) years following the date of execution. Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing ninety (90) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial ninety (90) days notice.
6. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, TOWN shall be obligated to pay RDS for services performed through the effective date of termination for which RDS has not been previously paid. In addition, because the services performed by RDS prior to termination or non-renewal of this Agreement may result in the TOWN's receipt of revenue after termination which are subject to RDS' fee, the TOWN shall remain obligated after termination or non-renewal to provide to RDS such information as is necessary for RDS to calculate compensation due as a result of the receipt of revenue by the TOWN. The TOWN shall remain obligated to pay RDS' invoices therefore in accordance with the terms of this Agreement.
7. Indemnity: To the fullest extent allowed by law, RDS hereby agrees to indemnify and hold TOWN harmless from any claims and against all costs, expenses, damages, claims and liabilities based upon or arising solely out of a breach of this Agreement by RDS. Except as set forth in the preceding sentence, to the full extent allowed by law, TOWN hereby agrees to indemnify and hold RDS harmless from any claims and against all costs, expenses, damages, claims and liabilities relating to sales, use and other taxes of TOWN, including, but not limited to, determination of taxes due from taxpayers, the collection thereof, the Deposit Process, Section A(3), above, and any refunding related thereto.

8. **Limitation of Liability:** To the maximum extent permitted by law, in no event shall RDS, its employees, contractors, directors, affiliates and/ or agents be liable for any special, incidental or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not RDS has been advised of the possibility of any such loss or damage. In addition, RDS' total liability hereunder, including reasonable attorneys fees and costs, shall in no event exceed an amount equal to the fee paid by the TOWN for the affected service to which the claim pertains. The foregoing sets forth the TOWN'S exclusive remedy for claims arising from or out of this Agreement. The provisions of this section allocate the risks between RDS and the TOWN and RDS' pricing reflects the allocation of risk and limitation of liability specified herein.
9. **Equal Opportunity to Draft:** The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party upon a claim that that party drafted the ambiguous language.
10. **Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties, their successors; representatives and assigns. RDS shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of TOWN, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, RDS may assign this Agreement, in whole or in part, without the consent of TOWN to any corporation or entity into which or with which RDS has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of RDS; or any corporation or entity which acquires all or substantially all of the assets of RDS. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
11. **Force Majeure:** RDS shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
12. **Subcontractors:** RDS shall have the right to hire assistants as subcontractors or to use employees to provide the Services required by this Agreement. RDS, in rendering performance under this Agreement shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. RDS shall be solely responsible for and shall hold TOWN harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.
13. **Intellectual Property Rights:** The entire right, title and interest in and to RDS' database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in RDS. The foregoing notwithstanding, in no event shall any TOWN-owned data provided to RDS be deemed included within the Work Product.

14. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written Agreement signed by both parties hereto.
15. Invalidity: If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
16. Effective Date: The effective date for the performance of services under the terms of this agreement shall commence May 13 2014.

IN WITNESS WHEREOF, the parties hereto as of the date first above written have duly executed this Agreement.

PRA GOVERNMENT SERVICES, LLC d/b/a RDS

By: _____
Its: COO and SVP, Operations

TOWN OF PERDIDO BEACH

By: Patsy W. Parker
Its: Mayor

Proposed pricing contained herein valid for 60 days from date of issuance. Issued 5/12/14 (SC)

EXHIBIT A
TOWN DISTRIBUTION

May 12, 2014

Lynn Thompson
Town Clerk
Perdido Beach
9212 Co Rd 97
Perdido Beach, AL 36530

Dear Lynn Thompson:

Funds will be distributed in the following accounts pursuant to this Agreement:

| Agency | Routing # | Account # | Distribution % | Tax Type/Rate Code |
|---------------|-----------|-----------|----------------|--|
| Perdido Beach | Check | Check | 100% | Business License Discovery/Recovery |

If at any time there are any discrepancies between the schedule set out above and your Municipality's records, please notify us in writing immediately.

IT IS YOUR RESPONSIBILITY TO PROVIDE NOTICE TO US OF ANY CHANGES IN TAX RATES OR IN THE DISTRIBUTION OF FUNDS. NOTICE MUST BE IN WRITING AND SENT, VIA CERTIFIED MAIL, TO:

PRA Government Services, LLC (d/b/a RDS)
2317 Third Avenue North, Suite 200
Birmingham, Alabama 35203
ATT: Kennon Walthall, COO and SVP, Operations

Thank you for your assistance. If you have any questions, or if I may be of assistance, please let me know.

Sincerely Yours,
Connie Taylor
Client Relations Manager
RDS
205-423-4144 direct dial
205-423-4097 direct fax

I have reviewed the above distribution and verify that it is correct.

By: *Lynn Thompson*

Name:

Title: *Town Clerk*

RDS COO and SVP, Operations