

PROFESSIONAL SERVICES CONTRACT

Between

WAYNE COUNTY

And

Mad Dog Technology, LLC

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THIS CONTRACT is between the County of Wayne, Michigan, a body corporate and Charter county, acting through its Department of Management and Budget (the "County") and Mad Dog Technology, LLC, a Delaware limited liability company (the "Contractor").

1. PURPOSE

1.01 The County wishes to engage Contractor to provide project management services required for delivery of the replacement enterprise resource system ("ERP").

1.02 The Contractor is experienced and able to perform technical and professional services. The Contractor desires to provide these services for the County.

2. ENGAGEMENT OF CONTRACTOR

2.01 The County engages the Contractor and the Contractor agrees to faithfully and diligently perform the services according to the terms and conditions contained in this Contract and consistent with the standard of practice in the community.

3. SCOPE OF SERVICE

3.01 The Contractor must perform the services described in Appendix A in a satisfactory manner, as determined within the discretion of the County. The Contractor warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is qualified to perform the services in this Contract.

3.02 If there is any dispute between the parties regarding the extent and character of the services to be performed, the interpretation and determination of the County governs.

3.03 The services include all conferences and consultation deemed necessary by the County to properly and fully perform the services.

3.04 All services are subject to review and approval of the County for completeness and fulfillment of the requirements of this Contract. Neither the County's review, approval, or payment for any of the services shall be construed to operate as a waiver of any rights under the Contract, and the Contractor shall be and remain liable in accordance with the applicable law for all damages to the County caused by the Contractor's negligent performance or nonperformance of any of the services furnished under this Contract.

3.05 The Contractor shall comply with section 120-50 of the Wayne County Procurement Ordinance ("section 120-50"). As required by section 120-50, the Contractor shall not commence performance under this Contract or accept payment for services provided under this Contract until:

A. If this is a contract that requires approval of the Wayne County Commission, this Contract is approved by the Wayne County Board of Commissioners and executed by the Chief Executive Officer; or

B. If this is a contract that does not require approval of the Wayne County Commission, this Contract is executed by the Chief Executive Officer or a purchase order is issued.

The Contractor shall not rely on representations of any person who purports to authorize performance or payment contrary to section 120-50. If the Contractor provides performance or accepts payment prior to approval and execution as required by section 120-50, it does so at its own risk, and, to the extent provided by law, the Contractor shall indemnify, defend, and hold harmless the County against any actual damages, costs, expenses and liability of any kind the County may sustain, incur or be required to pay arising out of the Contractor's provision of services or acceptance of payment in violation of section 120-50. In the event the Contractor provides services in violation of section 120-50, then, in addition to any other remedies awarded to the County, the County may retain the funds that would have been owed to the Contractor as compensation for those services but for the provision of those services in violation of section 120-50. In the event the Contractor violates section 120-50, it shall be liable for actual damages, costs, expenses and liability of any kind, which the County may sustain, incur or be required to pay arising out of the Contractor's violation of section 120-50, and may be debarred from further County contracts.

4. TERM OF CONTRACT

4.01 This Contract begins upon approval by the Wayne County Commission and execution by the County Executive, and ends three (3) years later. The Contractor must expediently perform the services to achieve the objectives of this Contract. The parties may, upon written agreement, exercise two 1-year options

to extend the contract.

5. DATA TO BE FURNISHED CONTRACTOR

5.01 Upon the request of the Contractor, without charge, the County must furnish copies of all information, data, reports, records, etc., that the County thinks is necessary to do the services. The Contractor is entitled to visit County offices and key facilities as approved by the County, during regular business hours to obtain the necessary data. The Contractor will schedule conferences at convenient times with key administrative personnel of the County to gather the information.

6. PERSONNEL

6.01 The Contractor represents and warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is duly qualified to perform the services as set forth in the Contract. The execution of this Contract is within the Contractor's authorized powers, and is not in contravention of federal, state, or local law.

6.02 The Contractor warrants that all employees of the Contractor assigned to the performance of the services are qualified and authorized to perform the services under the state and local laws and governing professional association rules where the employee is employed.

6.03 Each employee must devote the time and professional ability as is necessary to most effectively and efficiently perform the services according to professional standards.

6.04 Whenever an employee assigned to this Contract must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform the services without obtaining prior County approval in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.

6.05 Employees' daily working hours may be determined by the Contractor. When the employees are working in or about a County facility, Contractor agrees to adjust its employees' daily working hours to be the same as those worked by County employees working at the facility.

7. ADMINISTRATION

7.01 The Contractor must inform the County as soon as the following types of conditions become known:

- A. Probable delays or adverse conditions which do or may materially prevent the meeting of the objectives of the Contract. The Contractor must accompany this disclosure with a statement of any remedial action taken or contemplated by it; and
- B. Favorable developments or events which enable meeting time schedules or goals sooner than anticipated.

7.02 The Contractor must regularly inform the County of its activities in connection with its duties and must keep the County informed of the status of any program. The Contractor is not required to perform in a manner materially in conflict with requirements imposed by any applicable law including any statute, county charter, ordinance, resolution or executive order.

7.03 The Contractor shall have no authority in the name of the County to borrow money, commence or defend litigation, spend money, or enter into contracts except as otherwise provided in this Contract.

8. COMPENSATION

8.01 The County agrees to pay the Contractor at the rates and terms in Appendix B, attached hereto. The compensation includes all remuneration to which the Contractor may be entitled. The County will not pay the Contractor for overtime, holiday or other premium charges or other benefits in addition to those stated in Appendix B. Maximum compensation shall not exceed SEVEN HUNDRED FIFTY THOUSAND DOLLARS (U.S. \$750,000.00) over the initial contract term.

8.02 The Contractor must, upon reasonable notice, be available to participate in any proceeding, whether legal, administrative or otherwise, or in any internal County preparatory meetings for the proceeding, in order to assist the County in any matter relating to the purpose or outcome of this Contract. The County will compensate the Contractor under a separately negotiated agreement for any services rendered pursuant to

this section.

9. METHOD OF PAYMENT

9.01 The County will pay for the proper performance of the services, commensurate with the progress of the work as evidenced by the timely performance of the services, and after it receives an invoice for payment. The invoice must certify the total cost of the services rendered to the project to date and the cost of all services for that billing period; and must describe the services rendered. If the invoice also requests reimbursement or payment for reimbursable expenses, the appropriate receipts must be attached. The Contractor must sign the invoice and send it to the County for each calendar month. This section is limited by the provisions of Article 8 with regard to the amounts payable for performance.

9.02 The Contractor must direct invoices to the attention of the individual specified in the Notice provisions outlined in Article 19.

9.03 The Contractor must submit as part of the invoices, monthly progress reports indicating the Contractor's activities during the month and being signed by an authorized officer of the Contractor.

10. RECORDS - ACCESS

10.01 The Contractor must maintain complete books, ledgers, journals, accounts, or records in which it keeps all entries reflecting its operation pursuant to this Contract. The Contractor must keep the records according to generally accepted accounting practices and for a minimum of seven (7) years after the Contract's termination and completion. The Contractor must also maintain copies of all records, correspondence and documents, including electronically stored information, prepared in anticipation of this Contract, and for this Contract, for a period of seven (7) years after the Contract's termination and completion.

10.02 Upon reasonable notice to Contractor and during normal business hours of the Contractor, the County and the Legislative Auditor General, at their sole expense, have the right to examine and audit all books, records, documents and other supporting data as they deem necessary of the Contractor, or any subcontractors, or agents rendering services under this Contract, whether direct or indirect, which will permit adequate evaluation of the services or the cost or pricing data submitted by the Contractor. The Contractor must include a similar covenant allowing for audit by the County and the Legislative Auditor General in any contract it has with a consultant or agent whose services will be charged directly or indirectly to the County. The County may delay payment to the Contractor pending the results of any such audit without penalty or interest.

10.03 The Contractor agrees that representatives of the County are entitled to make periodic inspections to ascertain that the Contractor is properly performing the services. The inspections may be made at any time during normal business hours of the Contractor. If, in the course of the inspections, the representatives of the County should note any deficiencies in the performance of the services of the Contractor, or any other mutually agreed upon performance deficiencies, the alleged deficiencies must be reported promptly to the Contractor, in writing. The Contractor agrees to promptly remedy and correct any reported deficiencies within ten (10) days of notification by the County.

10.04 If, as a result of any audit conducted by or for a County, State of Michigan or Federal, agency relating to the Contractor's performance under this Contract, a discrepancy should arise as to the amount of compensation due the Contractor, the County may retain the amount of compensation in question from any funds allocated to the Contractor but not yet disbursed under the Contract. Should a deficiency still exist, the County may offset such a deficiency against the compensation to be paid the Contractor in any successive or future Contracts between the parties.

11. RELATIONSHIP OF PARTIES

11.01 The relationship of the Contractor to the County is and will continue to be that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights, or insurance rights, arising out of, or related to a contract for hire or employer/employee relationship, accrues to either party or either party's agent, subcontractor or employee as a result of this Contract. No relationship, other than that of independent contractor will be implied between the parties, or either party's agent, employee, or subcontractor. The Contractor agrees to hold the County harmless from any claims, and any related costs or expenses directly arising out of Contractor's breach of this Section 11.01.

11.02 For all purposes, County employees will remain employees of the County and the Contractor's

employees will remain employees of the Contractor. The Contractor is being retained by the County as an independent contractor to provide services to the County, and is not being retained in any capacity as a joint enterprise or venturer with the County. The Contractor also covenants that none of its employees are or will be, during the period of this Contract, employees of the County.

12. INSURANCE

12.01 Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services by the Contractor, its agents, representatives, or employees.

12.02 Contractor shall maintain at least the following minimum coverage:

- A. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Contract or the general aggregate limit shall be twice the required occurrence limit.
- B. Umbrella or Excess Liability Policy in an amount not less than \$3,000,000. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to its automobile liability insurance and shall be written on an occurrence basis. The County, officials, employees and others as may be specified in any "Special Conditions" shall be named as an additional insured under this policy.
- C. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- D. Workers' Compensation insurance as required by the State of Michigan, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
- E. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limits no less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate.

If the Contractor maintains higher limits than the minimum insurance coverage required in Section 12.02, the Contractor shall maintain the coverage for the higher insurance limits for the duration of the Contract.

12.03 Additional Insured Status. The County, its officers, officials, employees, volunteers, and others as may be specified in any "Special Conditions" shall be additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

12.04 Primary Coverage. For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

12.05 Notice of Cancellation. Each insurance policy shall state that coverage shall not be canceled, except with notice to the County.

12.06 Waiver of Subrogation. Contractor grants to the County a waiver of any right to subrogation which any insurer of the Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

12.07 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

12.08 All insurance must be effected under valid and enforceable policies, issued by recognized,

responsible insurers qualified to conduct business in Michigan which are well-rated by national rating organizations. All companies providing the coverage required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a policyholder's service rating no lower than A:VII as listed in A.M. Best's Key Rating guide, current edition or interim report.

12.09 Claims-made Policies. If any of the required policies provide coverage on a claims-made basis:

- A. The Retroactive Date must be shown and must be before the date of the Contract or the date the Contractor starts to perform the services.
- B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract.
- C. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.

12.10 Verification of Coverage. Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Article. The County shall receive and approve all certificates and endorsements before the Contractor begins providing services. Failure to obtain the required documents prior to commencement of services shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by the Article, at any time.

12.11 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance satisfying all the stated requirements, and Contractor shall ensure that the County is an additional insured on insurance required from subcontractors.

12.12 Special Risks or Circumstances. The County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

12.13 The Contractor must submit certificates evidencing the insurance to the Risk Management Division at the time the Contractor executes the Contract, and at least fifteen (15) days prior to the expiration dates of expiring policies.

13. INDEMNIFICATION

13.01 The Contractor agrees to indemnify, defend and save harmless the County against, and from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including, without limitation, fees and reasonable expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the County because of any of the following occurring during the term of this Contract:

- A. Any negligent or tortious act, error, or omission held in a court of competent jurisdiction to be attributable, in whole or in part to the Contractor, or any of its personnel, employees, consultants, agents, or any entities associated, affiliated, (directly or indirectly) or subsidiary to the Contractor now existing, or to be created, their agents and employees for whose acts any of them might be liable.
- B. Any failure by the Contractor, or any of its employees to perform its obligations either implied or expressed under this Contract.

The Contractor's indemnification shall be limited to the extent that the negligent or tortious act, error or omission is attributable to the Contractor.

13.02 The Contractor agrees that it is its responsibility and not the responsibility of the County to safeguard the property and materials that the employees of the Contractor use in performing this Contract. The Contractor must hold the County harmless for costs and expenses resulting from any loss of the property and materials used by its employees pursuant to the performance of the Contractor under this Contract.

13.03 Nothing in this article shall be deemed to relieve the Contractor of its duty to defend the County, as specified, pending a determination of the respective liabilities of the Contractor and the County, by legal proceeding or agreement. The County shall cooperate with the Contractor in the defense against the suit. In no event shall the Contractor make any admission of guilt or liability on behalf of the County without the County's prior, written consent.

13.04 For purposes of these provisions, the term "County" includes the County of Wayne and all other associated, affiliated, or subsidiary departments or divisions now existing or to be created, their agents and employees.

13.05 This indemnity applies without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity survives delivery and acceptance of services.

13.06 This indemnity must not be construed as a waiver of any governmental immunity the County, its agencies, or employees, has as provided by statute or modified by court decisions.

14. LIQUIDATED DAMAGES

14.01 The Contractor shall perform the services according to the schedule contained in Appendix A. The Contractor shall be responsible for any loss or damage which results from failure to timely perform the services. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the County would sustain, the Contractor shall pay liquidated damages as indicated. If Contractor does not have the services completed according to the scheduled date, then Contractor shall provide a revised Delivery Date. Contractor shall pay to the County as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified Delivery Date and the date that Contractor actually completes the services, an amount of \$1,000.00 per day. The liquidated damages shall first be set off against the unpaid portion of the Contract price.

15. NOTICE OF MATERIAL CHANGES

15.01 The Contractor must immediately inform the County of material changes in its operation, ownership or financial condition. Material changes include, but are not limited to:

- A. Reduction or change in staffing assigned to the Contract.
- B. Decrease in, or cancellation of, insurance coverage.
- C. Delinquent payment, or nonpayment, of tax obligations.
- D. Delinquent payment, or nonpayment, of payroll obligations.
- E. Delinquent funding, or nonfunding, of pension or profit sharing plans.
- F. Delinquent payment, or nonpayment, of subcontractors.
- G. Termination of, or changes in, subcontracts.
- H. Transfer, sell, assignment or delegation to an entity other than the Contractor, of ownership or administrative services.

16. TERMINATION

16.01 The County may terminate this Contract without cause at any time, without incurring any further liability, other than as stated in this Article by giving written notice to the Contractor of the termination. The notice must specify the effective date, at least thirty (30) days prior to the effective date of the termination, and this Contract will terminate as if the date were the date originally given for the expiration of this Contract. If the Contract is terminated, the County will pay the Contractor for the services rendered prior to termination, as soon as can be authorized but in no event later than sixty (60) days after the effective date of the termination. The County will compute the amount of the payment on the basis of the services rendered, and other means which, in the judgment of the County represents a fair value of the services provided, less the amount of any previous payments made. The final payment constitutes full payment. If the Contractor accepts the payment, the Contract is satisfied. The parties agree that no payments under this section will exceed the amount payable under Article 8.

16.02 The County may terminate this Contract if the Contractor is in default of any of its obligations under the Contract, or has failed to comply with any of the material terms and conditions of this Contract, by giving written notice to the Contractor. Before the County exercises its right to declare the Contractor in default, the County must give the Contractor Notice of its default status and the reasons for such status. If the Contractor does not cure the default within five (5) working days, the Contract is deemed terminated twenty-five (25) days after the date of the Notice. If after Notice, the County determines that the Contractor was not in default, the rights and obligations of the parties are the same as if the Notice had not been issued. Upon terminating the Contract, County shall not incur any further liability to Contractor, except as provided in this Article, which sets forth Contractor's exclusive remedies. The County may procure, upon such terms and in

such manner as the County may deem appropriate, services similar to those terminated, and the Contractor shall be liable to the County for any costs to obtain and transition similar services, provided the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Article. In addition to any legal remedies otherwise available to the County by law or equity, the Contractor shall be responsible for all additional costs, charges, and damages incurred by the County in connection with the completion of the Contract. Such expenses shall be deducted from any monies due or which may become due the Contractor under the Contract. If such expense exceeds the sum which would have been payable under the Contract, then the Contractor shall pay, on demand, such excess amount to the County. Should a deficiency exist, the County may offset such a deficiency against the compensation to be paid the Contractor in any concurrent, successive or future contracts between the parties. All excess procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise. The rights and remedies of the County are not exclusive and are in addition to any other rights and remedies provided by law, including the collection of liquidated damages. The Contractor shall be liable to the County for any damages the County sustains by virtue of the Contractor's breach or any reasonable costs the County might incur in enforcing or attempting to enforce this Contract. Such costs shall include costs to secure the deliverables from another contractor, reasonable fees and expenses for attorneys, expert witnesses and other consultants.

16.03 After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor must:

- A. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
- B. Obligate no additional contract funds for payroll costs and other costs beyond the date as the County specifies.
- C. As of the date the termination is effective, present all Contract records and submit to the County the records, data, notes, reports, discs, and documents ("Records") as the County specifies, all pertinent keys to files, and carry out such directives as the County may issue concerning the safeguarding or disposition of files and property.
- D. Submit within thirty (30) days a final report of receipts and expenditures of funds relating to this Contract.
- E. Place no further orders on subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Contract as is not terminated;
- F. Terminate all orders and subcontracts to the extent that they relate to the portion of work so terminated;
- G. Submit within thirty (30) days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Contract.

16.04 Upon termination of this Contract, all Records prepared by the Contractor under this Contract or in anticipation of this Contract must, at the option of the County, become its exclusive property, whether or not in the possession of the Contractor. The Records are free from any claim or retention of rights on the part of the Contractor except as specifically provided. The County must return all the properties of the Contractor to it.

16.05 Any intentional failure or delay by the Contractor to deliver the Records to the County will cause irreparable injury to the County not adequately compensable in damages and for which the County has no adequate remedy at law. The Contractor will pay the County five hundred dollars (\$500) per day as damages, and not as a penalty, until it delivers the Records to the County. The County may seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Records which the Contractor consents to as well as all applicable damages and costs. The County has unrestricted use of the Records for the purpose of completing the services.

16.06 Access to the Records prior to delivery must be restricted to authorized representatives of the County and the Contractor. The Contractor has no right to disclose or use any information gathered in the course of its work without obtaining the written concurrence of the County. All the information must be confidential and handled in such a manner at all times as to preserve confidentiality. The Records as well as any related products and materials are proprietary to the County, having been developed for the County for its own and sole use.

16.07 In addition, each party will assist the other party in the orderly termination of this Contract and

the transfer of all aspects, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

17. ETHICS IN CONTRACTING

17.01 The Contractor must comply with Article 12 of Chapter 120 of the Wayne County Code governing "Ethics in Public Contracting."

17.02 Contractor's material misrepresentation or delinquency in the disclosures required by section 120-225 of the Wayne County Code constitutes a material breach of this Contract, sufficient to warrant immediate termination and the imposition of liquidated damages (not a penalty) of fifteen percent (15%) of the consideration made or due under the Contract as of the date of termination.

17.03 If the County determines that the Contractor has made a material misrepresentation or is willfully delinquent or knowingly evasive in the disclosures required by section 120-225, the Contractor and any other business which has substantially the same principal beneficiaries (as defined in section 120-238 of the Wayne County Code), may be debarred by the Purchasing Director, pursuant to Article 6 of Chapter 120 of the Wayne County Code, from competing for any further County contracts for up to three (3) years.

17.04 If the contract price is in excess of twenty thousand dollars (\$20,000), or the terms thereof require the approval of the Wayne County Commission, and the Contractor knowingly collaborate in or induces a violation of any of the ethical standards that are set forth in sections 120-225, 120-228, 120-229, 120-230 or 120-233 of the Wayne County Code, the County has the right to impose any one or more of the following sanctions:

- A. Immediately terminate the Contract and require the Contractor to pay the County liquidated damages, and not a penalty of fifteen percent (15%) of the total Contract compensation;
- B. Debar or suspend the Contractor from consideration from competing for further County contracts; or
- C. Recover the value transferred or received in breach of the ethical standards by a County employee or other person.

17.05 Upon a showing that a subcontractor has paid a surcharge to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount of the surcharge was included in the price of the subcontract or order and ultimately borne by the County and that the County shall have the right to recover the amount of the surcharge from the Contractor. The County may also recover the amount of the surcharge from the subcontractor that paid or is paying the surcharge. Recovery by the County of the surcharge from one offending party shall not preclude recovery from other offending parties. The Wayne County Prosecuting Attorney may initiate and prosecute any civil action needed to enforce this article, if the Wayne County Corporation Counsel declines to do so.

18. NON-DISCRIMINATION PRACTICES

18.01 The Contractor and its subcontractors must comply with:

- A. Titles VI and VII of the Civil Rights Act (42 U.S.C. §2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to those Titles.
- B. The Age Discrimination Act of 1985 (42 U.S.C. §6101-07).
- C. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).
- D. The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and its associated regulations.
- E. The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976 No. 220).
- F. Article XI of Chapter 120 of the Wayne County Code governing Equal Contracting Opportunity.
- G. Any other appropriate affirmative action provisions as may be required from time to time by the Director of Human Relations of the County. County shall promptly give notice of any such provisions to Contractor during the term of the Contract.

18.02 The Contractor and its subcontractors must not:

- A. Refuse to recruit, hire, employ, promote or to bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status,

- handicap, sex, religion, familial status, height or weight.
- B. Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height or weight.
 - C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the Contractor indicating a preference, limitation, specification, or discrimination based upon race, color, creed, national origin, age, marital status, handicap, religion, familial status, height or weight.
 - D. Except as permitted by rules and regulations promulgated pursuant to Article 11 of the Wayne County Code, headed "Equal Contracting Opportunity," or applicable state or federal law.
 - (i) Make or use a written or oral inquiry or form of application that solicits or attempts to elicit information concerning the race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height, or weight of prospective employees;
 - (ii) Make or keep a record of that information or disclose that information;
 - (iii) Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on race, color, creed, national origin, age, marital status, handicap, sex, religion, familial status, height, weight, or prior criminal conviction or convictions; or
 - (iv) Make, before or during the initial application process, background checks or oral or written inquiries as to prior criminal conviction or convictions.
 - E. Absolutely bar or otherwise preclude possible employment based on prior criminal conviction or convictions, provided that the prior criminal conviction or convictions is or are not directly related to the position being sought.

18.03 The Contractor and its subcontractors must not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of this Contract, with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, familial status, marital status, creed, prior criminal convictions(s) or handicap. This Section does not apply if it is determined by the Division of Human Relations that the requirements are bona fide occupational qualifications reasonably necessary to perform the duties required for employment. The burden of proof that the occupational qualifications are bona fide is upon the Contractor.

18.04 The Contractor agrees that its subcontractors shall be subject to and shall not violate the nondiscrimination provisions of section 120-192(a) of the Wayne County Procurement Ordinance in performing work on County contracts. The Contractor shall notify its subcontractors that they shall be subject to said nondiscrimination provisions, and shall include said nondiscrimination provisions in its subcontracts. The Contractor shall provide the County with a complete copy of any subcontractor agreement when requested.

18.05 If the Contract price is in excess of twenty thousand dollars (\$20,000), the Contractor shall comply with the slavery era disclosure requirements of section 120-192(f) of the Wayne County Procurement Ordinance, as implemented by the Wayne County Slavery Era Disclosure Affidavit the Contractor will complete as part of the contract approval process. If it is subsequently determined by the Division of Human Relations that the Contractor has not made a full disclosure in its affidavit of the information required by section 120-192, that failure shall constitute a substantial breach of the terms of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages as set forth in Section 18.07, and debarment from any further business with the County.

18.06 Breach of any section 120-192 of the Wayne County Procurement Ordinance or of the covenants in this Article may be regarded as a material breach of this Contract.

18.07 If the Contractor does not comply with the non-discrimination and affirmative action provisions of this Contract, the County may impose sanctions, as it determines to be appropriate, including but not limited to:

- A. Withholding of payments to the Contractor under this Contract until the Contractor attains compliance;
- B. Cancellation, termination or suspension of this Contract, in whole or in part;
- C. Disqualification from bidding on future contractors for a period of no more than three (3) years;
- D. Referral to Corporation Counsel for consideration of injunction, liquidated damages or other remedies; and/or
- E. Because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the County would sustain, the imposition of liquidated damages (not a penalty) in the amount of five hundred dollars (\$500) per day, for each day that the Contractor shall fail to comply with said requirements, as determined by the Purchasing Director, in consultation with the Director of Human Relations and Corporation Counsel. The liquidated damages shall first be setoff against the unpaid portion of the Contract price, and the balance to be paid by the Contractor.

18.08 If the Contract is funded, in whole or in part, by federal funds and if the County has been authorized by the funding source to require an affirmative action commitment from contractors who are to be paid from those funds, Contractor must establish and implement a good faith plan and goal to eliminate the continuing effects of past discrimination, which is determined by the Division of Human Relations to be appropriate for that purpose.

18.09 In the event that this Contract is or becomes subject to federal or state law which conflicts with the requirements of section Article XI of the Wayne County Code, the provisions of the federal or state law shall apply and the Contract shall be interpreted and enforced accordingly.

19. NOTICES

19.01 All notices, consents, approvals, requests and other communications ("Notices") required or permitted under this Contract must be given in writing and mailed by first-class mail and addressed as follows:

If to the Contractor:

Jeffrey Sanscrainte
Vice President Sales and Delivery
MadDog Technology
233 Pierce St.
Birmingham, MI 48009
Phone: (248) 686-0900
E-mail: jsanscrainte@maddogtechnology.com

With a copy to:

Justin Vandeputte
Legal Counsel
MadDog Technology
233 Pierce St.
Birmingham, MI 48009
Phone: (248) 686-0900
E-mail: jvandeputte@maddogtechnology.com

If to the County:

Mathieu Dube, Deputy CFO
Wayne County
Department of Management and Budget
500 Griswold St., 14th Fl.
Detroit, MI 48226

Phone: (313) 224-5219
E-mail: MDube@waynecounty.com

19.02 All notices are deemed given on the day of mailing. Either party to this Contract may change its address for the receipt of notices at any time by giving notice to the other as provided. Any notice given by a party must be signed by an authorized representative of such party.

19.03 Termination notices, change of address notices, and other notices of a legal nature, are an exception and must be sent by registered or certified mail, postage prepaid, return receipt requested.

20. JURISDICTION AND LAW

20.01 This Contract, and all actions arising from it, must be governed by, subject to, and construed according to the law of the State of Michigan without regard to its principles of conflicts of laws. The Contractor consents to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action arising out of this Contract. Service of process at the address and in the manner specified in this Contract will be sufficient to put the Contractor on notice. The Contractor will not commence any action against the County because of any matter arising out of or relating to the validity, construction, interpretation and enforcement of this Contract, in any courts other than those in the County of Wayne, State of Michigan unless original jurisdiction is in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court or the Michigan Court of Appeals.

21. CONFIDENTIAL INFORMATION

21.01 If the County discloses confidential information to the Contractor's employees pertaining to the County's past, present and future activities, the Contractor must instruct its employees to regard all information gained by each person as a result of the services to be performed as information which is confidential and not to be disclosed to any organization or individual without the prior written consent of the County.

21.02 The Contractor agrees to take appropriate action with respect to its employees to insure that the obligations of nonuse and non-disclosure of confidential information concerning this Contract can be fully satisfied.

22. COMPLIANCE WITH LAWS

22.01 The Contractor must comply with and must require its employees to comply with all applicable laws and regulations.

22.02 The Contractor must hold the County harmless with respect to any damages arising from any violations of this Article by it or its employees.

23. SUBCONTRACTING AND ASSIGNMENT

23.01 The Contractor may subcontract with the companies listed in Appendix C, List of Subcontractors. Appendix C shall identify each such subcontract by stating the name and address of the subcontractor, describing in a general manner the services that will be subcontracted, and stating the percentage of this Contract, by dollar value, that will be subcontracted. The Contractor shall not terminate any subcontractor, without the County's prior written approval. Such approval shall not in any way relieve the Contractor of full responsibility for the performance of the Contract. The Contractor shall provide the County with immediate notice when a Wayne County-based subcontractor is terminated or substantially displaced by a subcontractor who is not so qualified. The Contractor must also direct notices to the attention of the individual specified in the Notice provisions, Article 19. The Contractor must not assign this Contract, nor any part, or subcontract any of the work or services to be performed without the County's prior written approval. Any unauthorized assignment or transfer will be considered a breach of this Contract and result in the termination of the Contract at the County's discretion. If the Contract is not terminated, the assignment shall be deemed null and void.

24. DEBARMENT AND SUSPENSION

24.01 The Contractor certifies to the best of its knowledge and belief, that:

- A. The Contractor and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal agency;
- B. The Contractor and its principals have not, within a three (3) year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. The Contractor and its principals are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 24.01 b above; and;
- D. The Contractor and its principals have not, within a three (3) year period preceding this Contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

24.02 The certification in this clause is a material representation of fact upon which reliance was placed. When the County determines that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the County, the County may terminate this Contract for cause or default.

24.03 The Contractor shall provide immediate written notice to the County if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

24.04 The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "Grantee", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

24.05 The Contractor agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the County.

24.06 The Contractor further agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", provided by the County, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

24.07 A Contractor may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Contractor may decide the method and frequency by which it determines the eligibility of its principals. Each Contractor may, but is not required to, check the Non-procurement List (of excluded parties).

24.08 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

24.09 If a Contractor is in a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the County, the County may terminate this transaction for cause or default.

25. PROMPT PAYMENT

25.01 If the Contractor should subcontract a part of the obligations under this Contract to a business which has been certified by the County's Division of Human Relations as a small or disadvantaged business enterprise, the Contractor shall make prompt payments to each such subcontractor as the subcontract is performed which are at least equal to the prompt payments which are due to the Contractor under the provisions of this Contract. Unless alternate terms which have a similar purpose and effect are otherwise agreed upon in writing, the Contractor shall make payment within forty-five (45) days after delivery or satisfaction of the subcontract, or receipt of a complete invoice therefore, whichever is later. If an invoice is

filled out incorrectly or contains a defect or impropriety, the Contractor shall notify the subcontractor of that fact within ten (10) days after receipt of the invoice. The 45 day period shall be extended by each day over five (5) days which the subcontractor takes to make a correction. If a payment is past due, the Contractor shall pay to the subcontractor an additional amount to be calculated on a daily basis which is equal to an annual rate of interest of nine percent (9%) (amount overdue X number of days overdue X .000246575). Interest shall not be due if payment is delayed because of a good faith disagreement between the Contractor and the subcontractor regarding contract performance and the dispute is resolved in favor of the Contractor. This provision is expressly intended to create a third-party right which is legally enforceable by a subcontractor. This provision does not, however, create a duty on the part of the County to seek enforcement of a default of this provision or to make payment to the subcontractor on behalf of the Contractor.

26. BANKRUPTCY OR INSOLVENCY

26.01 If the Contractor is adjudicated bankrupt or insolvent, or if a trustee is appointed over the Contractor or any of its property, whether it is a third party or Contractor as debtor-in-possession (referred to as "Contractor" in this Article unless the context clearly requires otherwise) the following rights, obligations and limitations control:

- A. Contractor or any trustee must not assign any or all of its rights, title or interest, in or to this Contract, as this Contract is for the delivery of professional services and related services, as to which the County is entitled to insist upon performance solely by the Contractor.
- B. Contractor or any trustee may only assume this Contract if it provides adequate assurance of future performance. Adequate assurance of future performance means proof reasonably satisfactory to the County of the following:
 - (i) adequate financial capacity to employ or contract with sufficient personnel to perform the services assigned to the Contractor as provided in this Contract, and to pay for all services contracted for by the Contractor;
 - (ii) adequate financial capacity to own, operate, lease or obtain sufficient facilities and supplies to perform the services assigned to the Contractor as provided for in this Contract; and
 - (iii) adequate financial and professional capacity to maintain the professional standard provided in this Contract. The reasonable determination of the County as to the adequate professional capacity of the Contractor is determinative.
- C. Because of the unique nature of the services this Contract requires the Contractor to provide, the Contractor agrees that any requests by the County that the trustee or it as debtor-in-possession assume or reject this Contract in a shorter time than provided for in 11 U.S.C. §365 is reasonable so long as the trustee or Contractor receives no less than five (5) business days' notice.
- D. If this Contract is terminated during bankruptcy proceedings or if the trustee or debtor-in-possession successfully and properly obtains a court order rejecting this Contract, the Contractor as debtor-in-possession or its trustee must cooperate with the County in arranging for the orderly transfer of responsibilities to persons or entities as the County may designate. The rejection is not effective until the orderly transfer of responsibilities, consistent with sound professional practice, has been completed.

26.02 Although neither party has the right to terminate the Contract merely because the other is adjudicated bankrupt or insolvent or a trustee or a debtor-in-possession is appointed over any parties' property, each party retains all of the other termination rights set forth elsewhere in this Contract during the period of any proceedings under the Bankruptcy Code.

27. MISCELLANEOUS

27.01 The Contractor covenants that it is not, and will not become, in arrears to the County upon any contract, debt, or any other obligation to the County, including real property and personal property taxes.

27.02 Articles 12, 13, 19, and 21 survive termination of the Contract.

27.03 All the provisions of this Contract are "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions are used in each provision.

27.04 If any Affiliate of the Contractor takes any action which, if done by the Contractor, would constitute a breach of this Contract, the action is deemed a breach by the Contractor. "Affiliate" is a "parent", subsidiary or other company controlling, controlled by or in common control with the Contractor.

27.05 Neither party is responsible for force majeure events. If there is a dispute between the parties with regard to what constitutes a force majeure event, the County's reasonable determination is controlling.

27.06 Unless the context otherwise requires, the words, "herein", "hereof" and "hereunder", and other words of similar import, refer to this Contract as a whole and not to any particular article, section, or other subdivision.

27.07 The headings of the articles in this Contract are for convenience only and must not be used to construe or interpret the scope or intent of this Contract or in any way affect the Contract.

27.08 As used, the singular includes the plural, the plural includes the singular, and the use of any gender is applicable to all genders.

27.09 The Contractor warrants that any products sold or processes used in the performance of this Contract do not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary rights of any third party. If a third party makes a claim against the County, the County must promptly notify the Contractor. The Contractor must defend the claim in the name of the County, at the Contractor's expense. The Contractor must indemnify the County against any loss, cost, expense or liability arising out of the claim, whether or not the claim is successful.

27.10 No failure by a party to insist upon the strict performance of any term of this Contract or to exercise any term after a breach, constitutes a waiver of any breach of term. No waiver of any breach affects or alters this Contract, but every term of this Contract remains effective with respect to any other then existing or subsequent breach.

27.11 The Contractor shall secure all permits necessary to perform the services and shall comply with all statutes, ordinance, and laws.

27.12 If any provision of this Contract or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Contract, or the application of the provision to persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable.

27.13 This document, including the Appendices, contains the entire agreement between the parties and all prior negotiations and agreements are merged in this document. Neither party has made any representations except those expressly set forth. No rights or remedies are, or will be acquired by either party by implication or otherwise unless set forth.

27.14 The County or the Contractor may contract with other firms providing the same or similar services so long as the Contractor's obligations to the County contained in this Contract will not be affected in any manner.

27.15 If the division of Human Relations determines that the Contractor has not made a full disclosure in its affidavit regarding its investments in, support or profit in some manner from the institution of slavery, that failure shall constitute a substantial breach of this Contract, sufficient to warrant rescission of the Contract, the institution of liquidated damages, and debarment from any further business with the County.

27.16 No change to this Contract is effective unless it is in writing, references this Contract, and is signed and acknowledged by duly authorized representatives of both parties.

28. AUTHORIZATION AND CAPABILITY

28.01 The Contractor warrants to the County that it has taken all corporate actions necessary for the authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

28.02 This Contract is effective only upon review and approval by the Wayne County Commission.

29. SIGNATURE

29.01 The County and the Contractor, by their authorized officers and representatives have executed this Contract.

CONTRACTOR

By: Laura Fournier
LAURA FOURNIER
Its: MEMBER AND AUTHORIZED SIGNATORY

COUNTY OF WAYNE

By: Warren C. Evans
WARREN C. EVANS
Its: COUNTY EXECUTIVE

APPROVED AS TO FORM

By: _____
DEPT OF CORPORATION COUNSEL

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APPENDIX A

SCOPE OF SERVICES

1. Desired Services

Contractor will assign Loretta Rountree to be the ERP Core Project Director subject to Article 6, "Personnel" of this Contract. The ERP Core Project Director's (the "PD's") responsibility is to provide long term leadership, direction, planning and oversight capability to lead Wayne County and the Project Management Office (PMO) in managing the County's ERP project. The scope of work is ONLY the ERP Project. In the event that there is additional requirements/deliverables are added, a separate Project Change Request or will be required to approve the additional work.

Additional project management services / consulting may be provided by Project Change Request to address project management work that is only required during specific times in the lifecycle of the project. These resources shall only be utilized when they are needed for specific tasks.

As part of the project the County's views the SDLC as having 9 phases (see definition of terms section for more details).

1.1 Work Hours

Business Hours Support: The PD shall support core business hours (8:30 AM to 5:00 PM), Monday through Friday except for County holidays, observed by the Wayne County.

Vacation Hours: Requests for leave shall be submitted County Leadership as far in advance as possible. There will be a freeze on time off during specific times within the project and the PD is expected to abide by those restricted leaves as well as enforcing the restriction on other vendors and staff.

2. ERP Core Project Director (PD) Services

2.1 Management and Oversight

The PD will be responsible for the management and oversight of the Core ERP PMO Team. This includes but is not limited to the following requirements which apply to all phases (SDLC Phases 2 – 8) of the project:

- 1) Work collaboratively with the Core ERP PMO Team to provide guidance and direction to all project team members of the Core ERP PMO Team (both core and additional services staff provided by SOW's, PCR's, Contracts) to ensure that they have proper direction and guidance in the execution of their duties.
- 2) Work collaboratively to oversee the execution of all project management processes documented in the PMP to ensure that all project management processes are effectively managed in accordance with the SDLC and PMBOK best practices. The PD shall institute changes in project management processes (and associated documentation) as necessary to ensure that the project is executed within scope, budget and schedule and at an acceptable level of risk.

Specific knowledge areas related to five (5) project management processes include:

- a. Project Integration
- b. Scope Management
- c. Schedule Management
- d. Cost Management
- e. Quality Management
- f. Human Resource Management

- g. Communications Management
 - h. Risk Management
 - i. Procurement Management
 - j. Stakeholders Management (Change Management)
- 3) In conjunction with the Core ERP PMO, serve as the primary focal point for communications between County leadership, Executive Sponsorship, Project Sponsors, project stakeholders and members of the project team including both PMO and implementation personnel (County and contractors).
 - 4) In conjunction with the Core ERP PMO, serve as an advisor to the Executive Sponsor and the Project Sponsor(s) to ensure that the project is managed as effectively as possible.
 - 5) In conjunction with the Core ERP PMO, in all cases where artifacts are created by PCRs, SOWs, etc. and accepted by the County, it shall be the responsibility of the PD to make sure all necessary changes and corrections to documents during future phases of the project are made.
 - 6) The use of the SDLC phases is for both the overall project but also for each module or functional system roll out. The PD is responsible to coordination and understanding of the different components and the timing and sequence of module or functional system implementation.
 - 7) Performance Evaluation – the performance of the PD will be provided by County leadership.
 - 8) Vendor Performance Evaluation – the PD will periodically review the performance of the vendors and provide written evaluations to County Leadership
 - 9) Project Team Performance Evaluation - the PD will periodically review the performance of the County project team members and provide written evaluations to County Leadership
 - 10) Performance Issue Mitigation – In the event that County Leadership believes a performance issue exists with the PD a written evaluation will be provided to the PD and an "unsatisfactory" rating is expected to be cured by the PD.
 - 11) Vendor Performance Issue Mitigation - At any time during the Contract period of performance, should the performance of a vendor assigned to the project be rated "unsatisfactory", Wayne County will pursue the following mitigation procedures.
 - a. The PD shall document performance issues and give written notice to the vendor's management, clearly describing problems and delineating remediation requirement(s).
 - b. The vendor's management shall respond with a written remediation plan within **three (3)** business days and implement the plan immediately upon written acceptance by the PD.
 - c. Should performance issues persist, the PD may give written notice or request the immediate removal of person(s) whose performance is at issue, and determine whether a substitution is required.
 - 12) Deliverable Submission
 - a. The PD will design an Agency Receipt of Deliverable form.

- b. For every deliverable, the PD shall confirm receipt of that deliverable with an Agency Receipt of Deliverable form with the deliverable. The PD will acknowledge receipt of the deliverable via email using the provided form.
- c. The PD will design the Deliverable Product Acceptance Form (the "DPAF") that vendors will use to submit deliverables.
- d. The PD shall review the DPAF and review the deliverable for acceptability.
- e. The PD will use a standard deliverable review cycle process.
- f. Prior to receiving a deliverable, the PD may request a draft version of the deliverable.

13) Deliverable Acceptance

- a. A final deliverable shall satisfy the scope and requirements of project for that deliverable, including the quality and acceptance criteria for a final deliverable.
- b. The PD shall review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable.
 - i. The PD is responsible for coordinating comments and input from various team members and stakeholders.
 - ii. The PD is responsible for providing clear guidance and direction to the vendor(s) in the event of divergent feedback from various team members.
- c. The PD will issue to the vendor(s) a notice of acceptance or rejection of the deliverable in the DPAF.
- d. In the event of rejection of a deliverable, the PD will formally communicate in writing any deliverable deficiencies or non-conformities to the vendor(s), describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Selected Contractor to address the deficiencies.
- e. The PD will subsequently review the deliverable previously containing deficiencies and either approve or reject the deliverable

14) Minimum Deliverable Quality

- a. Each deliverable shall meet the following minimum acceptance criteria:
 - i. Be presented in a format appropriate for the subject matter and depth of discussion.
 - ii. Be organized in a manner that presents a logical flow of the deliverable's content.
 - iii. Represent factual information reasonably expected to have been known at the time of submittal.
 - iv. In each section of the deliverable, include only information relevant to that section of the deliverable.
 - v. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.
 - vi. Meets the acceptance criteria applicable to that deliverable, including any County policies, functional or non-functional requirements, or industry standards.
 - vii. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.
- b. A draft written deliverable may contain limited structural errors such as incorrect punctuation, and shall represent a significant level of completeness toward the associated final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

2.2 General Responsibilities

- 1) **Communication:** Provide communications as to the ERP project to stakeholders
 - a. Communications plan
 - i. Analyze communication needs of the project
 - ii. Design a communications plan for various stakeholders
 - iii. Implement the communications plan
 - iv. Gather feedback on communications and adjust plan accordingly
 - b. Review and approve communications
 - c. Manage communication channels (web, email, informational meetings, etc)
- 2) **Meeting Coordination:** Provide at a minimum, the following support for meetings related to the project:
 - a. Conduct a Kick Off meeting
 - b. Schedule and hold a weekly status meeting for the ERP project team members and stakeholders
 - c. Coordinate and schedule any other meetings required in the execution of the project
 - d. Manage the recording and archiving of minutes for all project related meetings
- 3) **Project Reporting:** for the duration of the project, provide at a minimum, the following reporting services:
 - a. Weekly status reports by business segments
 - b. Weekly status reports for the overall project
 - c. Bi-weekly or as required Executive dashboard reporting
 - d. For the duration of the project, provide monthly Financial Reports utilizing the standard financial reporting spreadsheet (as an approved project template)
 - e. Ad hoc reporting needed to satisfy external or management information requests
 - f. Other reporting requirements as requested by the Executive Sponsor or Project Sponsor

2.3 Project Management Planning Phase

- 1) Identify and coordinate SMEs for needed functions of this phase and determine for position backfill, OT, and project resources
- 2) Services to create project planning documents are the Foundation of the ERP project (SDLC Phase 2)
 - a. Documentation Delivery Schedule This document is a schedule for completing the remainder of the documents in this section. When the Integrated Master Schedule is completed and approved, it shall replace this schedule
 - i. Project Charter (including Stakeholders registry)
 - ii. Project Organization Chart for entire project
 - iii. Project Scope Statement (PSS)
 - iv. Project Management Office physical space requirements
 - v. Responsible Assignment Matrix (RAM)
 - vi. Project staff assignments and resource calendars
 - vii. Project budget and funding leveling
 - viii. Work Breakdown Structure (WBS)
 - ix. Project Management Plan (PMP) including all sub plans (Scope, Schedule, Cost, Human Resources, Quality, Communication, Risk, Procurement, Stakeholders)

- x. Integrated Master Schedule (IMS)
 - xi. Test Management Plan (TMP)
- b. Review and authorize all templates prior to use by the Core ERP PMO and County personnel

Note: In coordination with the Core ERP PMO, the PD is responsible for maintaining and updating the documents described in this section for the remainder of the ERP project.

- 3) Collaboration Support Tool Setup and Management Services - Wayne County intends to use several software tools including potentially SharePoint (or another Document Retention tool) to provide collaboration among the stakeholders and members of the project team to more effectively manage the project and communicate effectively with business stakeholders. Services may be needed to configure, support and administer these tools during the project lifecycle.
- 4) Document Imaging Requirements Services - The ability to integrate a document imaging system with the ERP is a critical requirement for Wayne County. Document retention is a core component of the implementation and is considered part of the overall implementation.
- 5) Back up / Disaster Recovery - Provide to the County's DoIT organization a fully documented and approved Backup / Disaster Recovery Plan.
- 6) Requirements for Hardware, Software, and Materials - Office space, telephone, network access, computers with access to existing County systems will be provided for the Core ERP PMO Team by Wayne County to provide an environment for them to work in close proximity to the Wayne County project sponsor and executive sponsor and other County personnel who are working on or assigned directly to the project.

2.4 Requirements Development Phase

The Requirements Development Management Phase (SDLC Phase 3) begins when all project initiation and planning documentation is complete and approved by County Leadership through the pre-defined Project Phase Gate review - thus finishing SDLC Phase 3.

- 1) Identify and coordinate SMEs for needed functions of this phase and determine for position backfill, OT, and project resources
- 2) The PD, in conjunction with the Core ERP PMO Team, will notify the change over from SDLC 2 to SDLC 3 through a broad stakeholder communication effort
- 3) Continue to provide Foundation PMO Services as described in Section 2.3 including management, maintenance and updating of planning documents
- 4) Project Administration
 - a. Design the administrative processes for the project in conjunction with the Core ERP PMO Team including;
 - i. Change Request process and form(s)
 - ii. Mandated System Gap process and form(s) – various Departments and Offices of Elected Officials have legal or regulatory required processes
 - iii. Best Practices Gap process and form(s) – Departments and Offices of Elected Officials who believe that their current is a best practice but is not supported by new ERP
 - iv. Training request process and form(s)
 - v. Change in Documentation request process and form(s)

- vi. Training attendance process and form(s)
 - vii. Overtime of County employee process and form(s)
 - viii. Any other processes and/or form(s) needed to administer the project
 - b. Provide direction and oversight to manage the requirements identification and documentation work which is staffed by a separate Service Request or Purchase Order
 - c. Provide direction and oversight to support the RFP, Contract, PO creation process for all purchases required to execute the implementation phases of the ERP project
 - d. Provide direction and oversight for manage any additional PCR's / PO's established during this phase of the project
- 5) **Requirements Management:** Requirements Management includes the following activities:
- a. With the Core ERP PMO Team, overseeing and managing the process for identifying and documenting **current** state processes, policies / procedures and ordinances impacting
 - b. With the Core ERP PMO Team, overseeing and managing the process for identifying and documenting **future** state processes, policies / procedures and ordinances
 - c. With the Core ERP PMO Team, overseeing and managing the process of identifying and documenting system requirements by creation of functional and non-functional requirement documents, "as-is" and "to-be" cross-functional flow diagrams and the Requirements Traceability Matrix
 - d. With the Core ERP PMO Team, ensuring that requirements are implemented in the development of procurement and/or design documents and recorded in the Requirements Traceability Matrix (RTM)
 - e. With the Core ERP PMO, ensuring that the testing process correctly tests system functionality based on documented requirements.
 - f. With the Core ERP PMO, ensure that all requirements documentation is updated and modified as necessary over the course of the project
 - g. Requirements management will need to be coordinated with each Department and Office of Elected Official
 - i. Management & Budget (M&B)
 - ii. Wayne County Sheriff Office (WCSO)
 - iii. Office of the County Clerk (OCC or Clerk)
 - iv. Personnel/Human Resources (P/HR)
 - v. Wayne County Prosecutor's Office (WCPO)
 - vi. 3rd Circuit Court (3rd CC)
 - vii. Probate Court (Probate)
 - viii. Wayne County Retirement Office
 - ix. Wayne County Treasurer's Office (WCTO)
 - x. Department of Information Technology (DoIT)
 - xi. Department Public Services (DPS)
 - xii. Health Veterans and Community Wellness (HVCW)
 - xiii. Corporation Counsel (CC or Corp Counsel)
 - xiv. Homeland Security (Homeland)
 - xv. Senior Services (Seniors)
 - xvi. Wayne County Commission (Commission or Board)
 - xvii. Register of Deeds (ROD)

2.5 Implementation Management Phase

During the implementation phase of the project (SDLC Phase 4), the Core ERP PMO Team shall be responsible for continuing to provide Foundation PMO Services as described in Section 2.3 as well as providing oversight over the activities of other Implementation contractor(s) and Wayne County personnel working on the project, serving as the eyes and ears of the Executive and Project sponsors and stakeholders. This includes, but is not limited to, the following activities:

- 1) Identify and coordinate SMEs for needed functions of this phase and determine for position backfill, OT, and project resources
- 2) The PD, in conjunction with the Core ERP PMO Team, will notify the change over from SDLC 2 to SDLC 3 through a broad stakeholder communication effort
- 3) In conjunction with the Core ERP PMO Team, ensuring that all Wayne County and contractor(s) personnel tasks are represented in the IMS and that contractor(s) are following the IMS, completing tasks on schedule
- 4) In conjunction with the Core ERP PMO Team, maintaining all the deliverables, tasks – schedule, based on inputs from the implementation contractor(s) and Wayne County personnel
- 5) In conjunction with the Core ERP PMO Team, providing quality management services to ensure that implementation contractor(s)' deliverables meet contract and project requirements and are meeting quality standards (includes, but is not limited to, quality assurance activities outlined in the Quality Management Plan)
- 6) In conjunction with the Core ERP PMO Team, tracking all contractor(s) costs to ensure that costs are staying within budget estimates.
- 7) Update budget for
 - a. Actual vs budget
 - b. Projected fiscal year budget
 - c. Projected project budget
- 8) In conjunction with the Core ERP PMO Team, ensuring that issues and risks affecting other stakeholders are identified, analyzed, communicated, and addressed as necessary
- 9) Provide ERP business and technical requirements gathering and prioritization
 - a. Provide requirements documentation including:
 - i. Documenting business requirements to meet business needs
 - ii. Documenting technical requirements to select a modern state of the art, "best fit" and sustainable ERP system for the County
 - iii. Documenting business and technical requirements at a detailed level, specifically by ERP module and by sub-module process (feature and/or functionality) for both business and technical requirements
 - iv. Providing specifications rating criteria to be a natural outcome of the specifications criteria. Self-documenting rubric (from requirements to evaluation rating) and an accompanying methodology
 - v. Developing an ERP Fit-Gap Analysis document (a required ERP Project SDLC document) so that Wayne County business departments, ERP Working Group, and Executive

Steering Committee can easily see selected specification/criteria and the relevant rating and strength of element for each ERP vendor.

- b. Provide business analysis services to create:
 - i. Functional Requirements Document (FRD) - This document is a formal statement of the system's functional requirements including, but not limited to functional process requirements, data requirements, system interface requirements and non-functional or operational requirements
 - ii. Requirements Traceability Matrix - This table links requirements to their origin and traces them throughout the project lifecycle. This table provides requirements traceability from requirements definition, through product selection and customization to testing. The RTM shall be created at the beginning of the requirements analysis process and updated as additional requirements are identified and documented. This document shall be constantly updated as the project moves into the implementation phases to provide the desired requirements traceability to design, configuration and testing documentation.
 - iii. ERP Fit Gap Analysis - Identifies in detail the extent to the ERP solution meets each of the validated requirements and how all gaps shall be addressed in the new system. This document shall be used as a part of the RFP for the production system
 - iv. As-Is and To-Be cross functional flow diagrams to illustrate current and new business processes
 - v. Business Process Change Management Plan - documents the specific plans to implement agreed-upon changes to the end user's business processes to achieve Wayne County goals and to successfully utilize the ERP system
 - vi. Procurement Plan – County Procurement Ordinance and Procurement Division compliant plan for needed procurements of goods and/or services
 - vii. Procurement Coordination:
 - 1. Lead business and technical specifications/requirements gathering and prioritization efforts
 - 2. Cooperatively work with the County to author SOWs, RFPs, RFQs, etc.
 - 3. Cooperatively work with the County to author and/or review contracts with prospective vendors
 - 4. Participate in the selection of vendors as an advisor to selection committees for goods or services related to the project
 - viii. Business Process Reengineering – the County's current processes are outdated, some are paper processes and some are work-around for limitations of our current systems and provide both high level and detailed business process review (this includes specific Departmental and Office of Elected Official processes)
 - 1. Provide analysis support to determine the best approach to conform to expected business practice to system capabilities
 - 2. Provide business process change strategies and support to assist the organization in planning and executing process changes to adapt to the new system
 - 3. Provide resource(s) with business analysis experience to review and document business processes
 - 4. Participate in business process review sessions
 - 5. Updating the current business process documentation or, if there isn't any, create
 - 6. Adding or creating new processes to the Business Process Review
 - 7. Update with any significant updates or additions made
 - 8. Ensure that the final business process documents include:

- a. Revisions
- b. Eliminations
- c. Commission review / interpretation
- d. Conflicts (system process not aligned with Statute, Charter, Ordinance, Policy, or procedure)

2.6 Testing Management Phase

During the testing phase of the project (SDLC Phase 5) the Core ERP PMO Team shall be responsible for continuing to provide services as described in Section 2.3, 2.4 and 2.5 as needed as well as providing oversight over the activities of other Implementation contractor(s) and Wayne County personnel working on the project, serving as the eyes and ears of the Executive and Project sponsors and stakeholders. This includes, but is not limited to, the following activities

- 1) Identify and coordinate SMEs for needed functions of this phase and determine for position backfill, OT, and project resources
- 2) Develop detailed test plans
- 3) Develop test scripts and test cases with a special emphasis on required outcomes
- 4) Provide testing services
- 5) Coordinate and document User Acceptance Testing
- 6) Training is considered part of the testing process as testing results lead directly to documentable and accepted processes
 - a. Identify County personnel who can provide high quality training
 - b. Ensure that there are sufficient trained trainers to support system testing and ultimately deployment
 - c. Coordinate process documentation with training material development so that final materials apply to our configurations and processes including any work-around processes
 - d. Document a training materials update process for new system versions, procedures, processes, roles, responsibilities, etc to ensure that as system updates occur or County processes change, that there is a documented process for training materials updates
- 7) Coordinate training personnel to make sure that the correct trainers are available for each training session
- 8) Evaluate trainers as to skill and suggest appropriate additional training needed
- 9) Throughout the testing phase identify any County personnel or contract personnel, who have aptitude for training, system maintenance, process documentation, etc.

2.7 Deployment Management Phase

During the deployment phase of the project (SDLC Phase 6) the Core ERP PMO Team shall be responsible for continuing to provide services as described in Section 2.3, 2.4, 2.5, and 2.6 as needed as well as providing oversight over the activities of other Implementation contractor(s) and Wayne County personnel working on the project, serving as the eyes and ears of the Executive and Project sponsors and stakeholders. This includes, but is not limited to, the following activities:

- 1) Develop an operational support plan
 - a. Integration of system support within County departments (DoIT, M&B, and/or P/HR)
 - i. Document system operational support needs
 - ii. Identify support personnel
 - iii. Defining roles and responsibilities
 - iv. SLAs with any outside support vendors
- 2) Legacy system retirement plan
 - a. JD Edward
 - b. RESIQ2
 - c. PeopleSoft
 - d. Any other legacy systems being retired
- 3) Deployment plan
 - a. Change management assessment and plan update
 - i. Identify any training gaps between the training phase and final deployment
 1. Trainers no longer with County
 2. Trained personnel no longer with County
 3. New personnel hired but untrained
 4. Trained personnel not yet capable of handling new system or processes
 - ii. Communications with all affected staff on roll out progress
 - iii. Monitor push back to identify potential challenges
- 4) Conduct an operational readiness review (ORR)
 - a. ORR requirements and inputs
 - b. Create an ORR checklist
 - c. Create an ORR checklist for each functional area lead

APPENDIX B COMPENSATION

Upon receipt of purchase order, invoice will be sent to Wayne County monthly, and charges shall not exceed forty (40) hours per week, at the rate of \$120.00 per hour. All payments must be made by County in United States Dollars and are due within forty-five (45) days after County's receipt of the applicable invoice and are not subject to discount or setoff.

Maximum compensation shall not exceed \$750,000 for the initial 3-year term of the Contract.

APPENDIX C
SUBCONTRACTOR

No Subcontractors.