



THE CHARTER COUNTY OF WAYNE, MICHIGAN

REQUEST FOR PROPOSAL FOR INVENTORY BARCODING SOLUTION

CONTROL NO. 37-21-038

RFP TIMETABLE

ACTION	DATE	TIME
RFP Issue Date	6/30/2021	
Proposer's Questions Due	7/12/2021	3:00 P.M. EDT
Responses to Proposer's Questions	7/16/2021	
Proposals Due	7/30/2021	3:00 P.M. EDT

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Description: The County of Wayne is requesting proposals for an inventory barcoding solution to integrate with the forthcoming Inventory Management and Assets modules of Oracle Cloud Fusion. Utilizing barcode scanning will enable the County to more accurately reconcile inventory and assets. The desire is to enable the County to use mobile devices (potentially smart phones, tablets, or handheld scanners) to track physical inventory and assets and reconcile those results in the Oracle Cloud Fusion Inventory and Assets modules. The County is seeking a Provider to provide services and hardware, ideally with previous experience working with the Oracle Cloud Fusion Inventory and Assets module's physical inventory functionality and scanning/barcoding process.

A copy of this RFP may be obtained from the BidNet Direct website (formerly MITN.info) at <https://www.bidnetdirect.com>, until the deadline date and time noted above.



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PART 1 – REQUEST FOR PROPOSAL (RFP)

SECTION 1.0 – INTRODUCTION & INSTRUCTIONS

1.1 Introduction/Background

INTRODUCTION: Through this Request for Proposal (RFP), the Charter County of Wayne (County) hereby invites businesses who meet the qualifications and specifications set forth herein to submit proposals for an inventory barcoding solution to integrate with the forthcoming Inventory Management and Assets modules of Oracle Cloud Fusion. Utilizing barcode scanning will enable the County to more accurately reconcile inventory and assets. The desire is to enable the County to use mobile devices (potentially smart phones, tablets, or handheld scanners) to track physical inventory and assets and reconcile those results in the Oracle Cloud Fusion Inventory and Assets modules. The County is seeking a Provider to provide services and hardware, ideally with previous experience working with the Oracle Cloud Fusion Inventory and Assets module's physical inventory functionality and scanning/barcoding process. The combined solution will enable Wayne County departments to manage their inventory and assets more effectively as well as quickly check-in/check-out orders and supplies and assets as well as easily print and apply barcodes to new items.

GENERAL WAYNE COUNTY INFORMATION: Situated in the heart of the Great Lakes region along the beautiful Detroit River, Wayne County is the 19th most populous county in the United States. With 43 distinct communities including the automotive capital of the world - Detroit, Wayne County is rich in history, culture, arts, and world-class amenities. We take pride in being one of the most diverse counties in the United States; a place where different cultures come together to offer a truly cosmopolitan experience.

Wayne County offers a first-class business environment, a top-rated international airport, diverse residential areas, expansive parks, and a multitude of recreational and cultural activities. We are home to several major universities including Wayne State, the University of Michigan-Dearborn, and the University of Detroit-Mercy. We have several award-winning secondary and primary schools, as well as numerous community colleges and vocational schools. We are also home to the Detroit Symphony Orchestra, Michigan Opera Theater, Detroit Institute of Arts, the Henry Ford, and dozens of theaters, art galleries and concert halls. With hundreds of musical and cultural events every year, Wayne County is Michigan's cultural epicenter.

1.2 Objective

The general objectives of this solicitation are the following:

- competitively award a contract
- ensure there is a fair process at every step of the procurement process
- to fulfill the purchase request in a timely manner
- ensure that taxpayers dollars are spent wisely

1.3 Overview of Solicitation (RFP) Document

The solicitation is composed of the following 2 parts:



PART 1: REQUEST FOR PROPOSAL

- Section 1.0: INTRODUCTION, OVERVIEW, INSTRUCTIONS: Specifies the information regarding the requirements of the solicitation process.
- Section 2.0: MINIMUM QUALIFICATIONS: Specifies the requirements a proposer must meet in order to be considered for evaluation.
- Section 3.0: SCOPE OF WORK: Sets forth a description of the required barcoding solution.
- Section 4.0: PROPOSAL EVALUATION, SELECTION & AWARD PROCESS: Includes information on how proposals will be evaluated, selected and awarded.

PART 2: SUPPLIER SUBMITTAL REQUIREMENTS (CHECKLIST)

- Section 5.0: REQUIRED DOCUMENTATION AND FORMS: Proposer will submit the required documentation and complete the requisite forms that will be utilized in determining whether the Proposer is a responsive and responsible Proposer that has the capacity and capability to deliver and provide products under this agreement.

1.4 Contact with Wayne County Personnel

In order to create a more competitive and unbiased procurement process, the County has designated a single point of contact for the duration of this solicitation. From the issue date of this proposal, until a Successful Proposer is selected, all requests for clarification or additional information regarding this RFP, or contact with County personnel concerning this RFP or the evaluation process must be solely to the contact person listed on the cover page of this RFP.

If it is discovered that a Proposer contacted and received information regarding this Solicitation from any Wayne County personnel other than the person specified above, the Wayne County Procurement Director, in his/her sole discretion may disqualify its proposal from further consideration. Only those communications made by the Procurement Department contact in writing will be binding with respect to this RFP.

If it is later discovered that a violation in regard to this section has occurred, the County may reject any proposal or terminate any contract awarded pursuant to this RFP.

1.5 Wayne County Rights & Responsibilities

Wayne County has the right to amend this RFP by one or more written addenda. Wayne County is responsible only for that which is expressly stated in the solicitation document and any authorized written addenda.

Should any such addenda require additional information not previously requested, Proposer's failure to address the requirements of such addenda may result in the Proposal not being considered, as determined in the sole discretion of Wayne County. Wayne County is not responsible for and shall not be bound by any



representations otherwise made by any individual acting or purporting to act on its behalf, other than the Procurement Director, Procurement Director's designee, and/or stated contact for the solicitation.

It is the Proposer's responsibility to periodically check the source of the RFP until the posted Proposal Deadline to obtain any issued addenda. However, Wayne County will make reasonable efforts to inform all Proposers of any clarifications, modifications, or amendments.

When, either before or after receipt of proposals, Wayne County changes its requirements or terms and conditions, the Procurement Director, or their designee, shall amend the solicitation.

The Procurement Director will have the discretion to extend the RFP deadline date if he/she determines that it is in the best interest of the County. Furthermore, the Procurement Director may also cancel the original solicitation and issue a new solicitation if it is in the best interest of the County or if the Amendment is so substantial in nature as to exceed what prospective offerors reasonably could have anticipated, so that additional sources likely would have submitted offers had the substance of the amendment been known to them.

1.6 Subcontractors

In an effort to promote supplier diversity, Wayne County encourages Proposers to identify and include qualified disadvantaged businesses as subcontractors when proposing to provide products and services to the County.

If the Proposer's team is composed of a Prime Contractor with subcontractors, the subcontractors must remain exclusive to the Prime described in the proposal until the end of the specific proposal period and may not partner with more than one prime for the purposes of the responsive proposal. The total exclusive time will be 180 days from the proposal due date.

Subcontractors (or their assignments), as it pertains to the Scope of Work, may not be changed without prior written approval by the County. The Contract will not be assignable to any other business entity without the County's approval. Proposers are encouraged to consider a joint venture.

1.7 Disqualification of Respondents

Any one or more of the following causes may be considered sufficient for the disqualification of a Proposer and the rejection of the Proposal:

- a. Evidence of collusion among proposers
- b. Lack of competency as revealed by either financial, experience, or equipment statements
- c. Lack of responsibility as shown by past work
- d. Uncompleted work under other contracts which, in the judgment of the County, might hinder or prevent the prompt completion of additional work if awarded
- e. Being in arrears on existing contracts, in litigation with the County, or having defaulted on previous contracts

1.8 Freedom of Information Act (FOIA)



Proposal responses, resultant contract(s) and all information submitted to Wayne County by Proposers and Contractors is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq.

1.9 Disclosure of Contents

All information provided in the proposal shall be held in confidence and shall not be revealed or discussed with competitors, until after award of the contract except as provided by law or court decision. All material submitted with the proposal becomes the property of the County and may be returned only at the County's option.

Proposers must make no other distribution of their proposals other than authorized by this RFP. A Proposer who shares cost information contained in its proposal with other County personnel or competing Proposer personnel shall be subject to disqualification.

1.10 County-Based Enterprise (and other) Advantage Programs

Wayne County administers a procurement program that gives pricing advantages (equalization credits) to businesses located within Wayne County and to businesses located within the 10 Targeted Growth Communities within Wayne County (Detroit, Ecorse, Hamtramck, Highland Park, Inkster, Melvindale, River Rouge, Romulus, Sumpter Township, and Taylor). The County shall apply equalization credits up to 7% to the price for proposals submitted by certified County Based Enterprises (CBE) and 2% for Targeted Growth Community Enterprise (TGCE).

County Based Enterprise / Targeted Growth Community Enterprise Equalization Allowance Table

Contract Amount	Equalization Percentage
Up to \$50,000 (CBE)	7%
\$50,000 to \$200,000 (CBE)	5%
\$200,000.01 and over (CBE)	2%
Targeted Growth Community Enterprise (TGCE)	2%

This program also includes five additional certifications that provide businesses with equalization credits. The five additional certifications are: Small Business Enterprise (SBE), Expanding Business Enterprise (EBE), Joint Venture (JV), Mentor Venture (MV) and Veteran Enterprise (VE). These equalization credits for qualifying certified suppliers have maximum allowable credits that cannot exceed 10% of the price. All suppliers and their first tier subcontractors*, who wish to receive credits for their proposals, **must be certified by the Human Relations Division at the time of Proposal and must submit a copy of their current certification in the proposal.**



Certification Eligible for Equalization Credits	Equalization Percentage
Small Business Enterprise (SBE)	2%
Expanding Business Enterprise (EBE)	2%
Joint Venture (JV)	2%
Mentor Venture (MV)	2%
Veteran Enterprise (VE)	2%

Equalization Allowance table for SBE, EBE, JV, MV, VE

If you have questions regarding certification or to apply for certification please visit Human Relations website at <https://www.waynecounty.com/departments/corpcounsel/certification-program.aspx> or call the office (313) 224-5021.

Most federal and state funded projects will not include the application of geographic advantages such as the CBE and TGCE in accordance with funding requirements as well as other advantage categories; in these cases, equalization credits will not apply.

*Additional equalization credits will be awarded to first tier CBE and TGCE subcontractors of the proposer. (See section 4.10.5)

1.11 Final Agreement Award Determination

The County reserves the right to withdraw the RFP, to award to one proposer, to any combination of Proposers, by item, group of items, or total proposal. The County may waive informalities. The Proposer to whom the award is made will be notified at the earliest possible date. Tentative acceptance of the proposal, intent to recommend award of a contract and actual award of the contract will be provided by written notice sent to the proposer at the address designated in the proposal. If, for any reason, a contract is not executed with the selected proposer within a reasonable amount of time, as determined by Wayne County, after notice of recommended award, then the County may recommend the next most responsive and responsible proposer. Award of this proposal is contingent upon the availability of funds for this project, within the sole discretion of the County. Acceptance of the proposer's proposal does not constitute a binding contract.

There is no contract until the agreement is approved by the Wayne County Commission (if such approval is required by the Procurement Ordinance) and executed by the County Executive.

The County is not liable for performance costs until the successful Proposer has been given a fully executed contract. Failure to accept the terms and conditions of the County's Standard Contract may deem the proposer non-responsive.



1.12 Conflict of Interest

No Wayne County employee or agent whose position in Wayne County enables him/her to influence the selection of a Supplier for this RFP, or any competing RFP, nor any spouse or economic dependent of such employees, shall be employed in any capacity by a proposer or have any other direct or indirect financial interest in the selection of a supplier.

1.13 Gratuities

It is prohibited for any Wayne County officer, employee or agent to accept a gratuity for themselves or for a relative, except as permitted by the County's Procurement Ordinance.

A proposer shall not offer or give either directly or through an intermediary, consideration, in any form, to a Wayne County officer, employee or agent for the purpose of securing favorable treatment with respect to the award of the Contract.

1.14 Compliance with Laws

The Proposer must comply with all federal, state, and local laws and policies including, but not limited to:

- A. The provisions of the Wayne County Procurement Ordinance governing "Ethics in Public Contracting", as applicable to contractors, being Article 12 of Chapter 120, and Contractor agrees to provide all required disclosures;
- B. The Michigan Civil Rights Act;
- C. The Persons With Disabilities Act;
- D. The Age Discrimination Act;
- E. Section 504 of the Rehabilitation Act;
- F. The Slavery Era Disclosure Ordinance;
- G. The Fair Employment Practices of the Equal Contracting Opportunities Ordinances.

1.15 Cooperative Contract (Optional)

Wayne County, as the Lead Public Agency has partnered with Michigan Association of Counties ("MAC") to make the resultant Contract, from this solicitation available to other Wayne County municipalities and counties across the state, including school districts and local governmental entities, and agencies for the public benefit ("Public Agencies"), through the Collaborative Procurement Plus ("CoPro+") program. Wayne County is acting as the contracting agency for any other Participating Public Agency that elects to utilize the Contract. Use of the Contract by any Public Agency is preceded by their registration as a Participating Public Agency in Collaborative Procurement Plus ("CoPro+") program.

As it applies to cooperative agreements, participation in the cooperative program is not a mandatory component or requirement in this solicitation in order for a Proposer to receive an award. Proposers have the option to be considered for a County agreement only or for both a County and cooperative agreement.

Purpose of Cooperative Contract



1. Provide governmental agencies opportunities for greater efficiency in procuring goods and services
2. Take advantage of state-of-the-art purchasing procedures to insure the most competitive contracts
3. Provide competitive price and bulk purchasing for multiple government agencies that yields economic benefits unobtainable by the individual entity
4. Provide quick and efficient delivery of goods and services
5. Equalize purchasing power for smaller agencies that are unable to command the best contracts for themselves

Administrative Fees

An administrative fee of 1.5% will be collected on a quarterly basis. The fee will be calculated against the quarterly sales volume for all purchases made under this agreement. A request for Quarterly Sales Reports will be sent out from M.A.C. (Michigan Associations of Counties). M.A.C. is the CoPro+ consortium administrator.

All administrative fees collected under the CoPro+ consortium will be distributed between M.A.C., Wayne County and CoPro+ members that place a sales order against the Master Agreement.

1.16 Proposal Guarantee

Not applicable.

1.17 Pre-Proposal Meeting and Site Visit

Not applicable.

1.18 Definitions (Optional)

Not applicable.



SECTION 2.0 – MINIMUM QUALIFICATIONS

2.1 Adherence to Minimum Qualifications (Pass/Fail)

Interested and qualified proposers that can demonstrate their ability to successfully provide the services/products outlined in the Scope of Work/Specifications section of this RFP are invited to submit proposal(s), provided they meet the following minimum qualifications:

- a) The Proposer must have 5 years' experience providing inventory barcoding solutions.
- b) The Proposer must have worked on at least three comparable projects.
- c) The Proposer must demonstrate prior experience in the development and support of inventory barcoding solutions in federal, state, or local government, ideally with distributed warehouses stocking varying types of consumables and assets related to public safety, public works, and community health, and specifically integrating Proposer's solution with Oracle Cloud Fusion.

Failure of the Proposer to meet with the minimum qualifications will eliminate its proposal from any further consideration.

2.2 Preferred Qualifications (Optional)

Following the determination of meeting the minimum qualifications, the Proposer may be scored higher during evaluation if they meet the following preferred qualifications:

- a) The Proposer has specific experience integrating with the Supply Chain Execution module of Oracle Cloud Fusion.
- b) The Proposer has previous experience collaborating with CherryRoad Technologies, the implementer of the Oracle Cloud Fusion for Wayne County.



SECTION 3.0 – SCOPE OF WORK/SPECIFICATIONS

3.1 Contracted Scope of Services/Statement of Work:

Wayne County is seeking an inventory barcoding solution to integrate with the forthcoming Inventory Management and Assets modules of Oracle Cloud Fusion. Utilizing barcode scanning will enable the County to more accurately reconcile inventory and assets. The desire is to enable the County to use mobile devices (potentially smart phones, tablets, or handheld scanners) to track physical inventory and assets and reconcile those results in the Oracle Cloud Fusion Inventory and Assets modules. The County is seeking a Provider to provide services and hardware, ideally with previous experience working with the Oracle Cloud Fusion Inventory and Assets module's physical inventory functionality and scanning/barcoding process. The combined solution will enable Wayne County departments to manage their inventory and assets more effectively as well as quickly check-in/check-out orders and supplies and assets as well as easily print and apply barcodes to new items.

The Proposed solution should be compatible with barcode and quick response (QR) code scanning, have ability to attach files or pictures, and the ability to create new user defined fields (text, date, numeric, drop down, etc).

Offeror should be prepared to give demonstrations on how the barcode scanning works on various supported hand-held devices. Additionally, the Offeror must provide end user training manuals, and documentation needed to maintain the solution, and live demonstrations(s) on how to reconcile the scanned equipment results [and any changes in Oracle Fusion].

CONTRACTOR RESPONSIBILITIES

- (A) Lead Wayne County Subject Matter Experts and other Key Personnel through Inventory Barcoding requirements gathering
- (B) Produce written, detailed requirements for an Inventory Barcoding solution for review/approval by Wayne County
- (C) Once requirements are approved, work closely with the Wayne County ERP PMO, the Oracle implementer, CherryRoad Technologies, and the impacted Wayne County departments and Stakeholders to achieve a schedule that aligns with the Wayne County Oracle Fusion Inventory Module implementation dates.
- (D) Provide the necessary tools, technologies, hardware, staff, and materials necessary to implement the proposed barcoding solution.
- (E) Work directly with CherryRoad Technologies on the development, configuration, and testing of interface(s) with Oracle Cloud Fusion.



- (F) Provide the necessary training, documentation, reference, and support materials for Wayne County to successfully implement and use the proposed barcoding solution.
- (g) Provide a warranty for the hardware and the software to ensure proper functioning for a specified period of time.
- (h) Provide product support for the hardware and software to ensure that the County is able to use the solution properly and get assistance when needed.



3.2 Specifications:

Table of Department-specific requirements:

Requirements	DPS	Sheriff's Office	HHVS Health Dept.	Buildings
# of Locations	1	1	1	2-3
Location considerations?	1	1	1	HQ, First Street Garage and CJC
Physical Security?	Stockroom	Jail Stockroom	Stockroom	Locked Crib setup at HQ
# of Scanners	6	5	3	2-3
scanner-specific req's	6	5	3	No
# of Printers		5	1 - 2	
# of End Users	8-10	5	3	52
# of SKUs	6,000			
# transactions/annually	50,000-100,00	75,000	No	4500-5000
Unique Jail Req's	N/A		No	
Pandemic response?	N/A	N/A	Yes	
Network Security?	Required	Required	Required	Required
OS / Compatibility?	Current is Win10 on WS and 2012 or newer on Servers	Current is Win10 on WS and 2012 or newer on Servers	Current is Win10 on WS and 2012 or newer on Servers	Current is Win10 on WS and 2012 or newer on Servers
Corded/Cordless?	Cordless	Cordless	Cordless	Cordless

1. Solution must interface, in real-time, with Oracle Cloud Fusion Inventory Management and Assets modules. Contractor must collaborate with CherryRoad Technologies to specify, build, configure, and test necessary inbound/outbound interface(s).
2. Solution must adhere to network security specified by Wayne County DoIT and/or WCSO IT. – As we are already working with Oracle in the HCM project, most security requirements for connectivity should already be met. However, the vendor providing the solution should be aware of our security measures for devices and equipment that are located on premise at these locations. Within the Sheriff department, additional requirements may be necessary. This may include CJIS considerations and potential FIPS compliant or FIPS certification.
3. Proposed training materials (Printed? Digital? Cloud?) and training options (Live? Classes? Video? Quantity, TTT?, number of sessions?).



3.3 Contract Term:

The term of the resultant contract shall be for a period of three (3) years from the date of award, with two (2) additional 1-year extension options, which may be exercised at the discretion of Wayne County.

3.4 Additional Specifications:

3.4.1 Service Work Schedules:

When the Contractor is onsite at County facilities the Contractor will observe the general operating hours of the facility, each facility may have different operating hours. If the Contractor and the County contact at a facility agree to access outside of general operating hours those agreements are between the Contractor and the County contact and not with the County.

3.4.2 Service Security of Building and Property Requirements:

County facilities are secured and Contractor will provide notification of its need to access County facilities timely so as to allow the County to notify security and to provide timely access to the Contractor.

3.4.3 Service Equipment Requirements:

The Contractor is responsible for providing its own computer equipment and information technology systems, unless specified otherwise under this RFP.

3.4.4 Service Consumable Supplies Requirements:

Not applicable.

3.4.5 Service Inspection and Correction of Deficiencies Requirements:

The County may inspect the part of the plant, place of business, or work site of a Contractor or Sub-Contractor at any tier, which is pertinent to the performance of any contract awarded or to be awarded by the County.

Repeated failure to correct deficiencies will result in cancellation of the contract by the Wayne County Chief Executive Officer.

3.4.6 Service Capabilities

The Contractor will provide professionals who are current with professional development and will provide such documentation as necessary to show compliance.

3.4.7 Ordering of Services

Refer to Section 3.2 Specifications.



3.4.8 Customer Service

Contractor provided professionals assigned to the engagement will reply to email or phone calls timely.

3.4.9 Roles and Responsibilities

The Contractor will not subcontract the responsibilities outlined in this RFP without prior written approval (excluding subcontractor(s) disclosed in the response to this RFP).

3.4.10 Delivery Acceptance Criteria

The designated Wayne County representative shall provide the final review and approval of the required services/productions outlined in this RFP.

3.4.11 Service Level Agreements

Refer to Section 3.2 Specifications.

3.4.12 Milestones

The Contractor, as part of the response to this RFP, shall provide a timeline with milestones identified for timely implementation of services/delivery of products. The proposed timeline and milestones should preferably be presented in a Gantt chart format.

3.4.13 Training

The Contractor shall provide training, as outlined in the Scope of Work/Specifications section of this RFP.

3.4.14 Success Criteria

Not applicable.



SECTION 4.0 – BIDDING, EVALUATION, SELECTION & AWARD PROCESS

This section contains key information as well as instructions to proposers on how to prepare and submit their proposal:

4.1 Wayne County Responsibility

Wayne County is not responsible for representations made by any of its officers or employees prior to the execution of the Contract unless such understanding or representation is included in the Contract.

4.2 Truth and Accuracy of Representations

The Wayne County Procurement Director or designee may reject any proposal that is evaluated and determined to include false, misleading, incomplete, or deceptively unresponsive statements.

4.3 Proposer Q&A

Proposers may submit written questions regarding this RFP, by the questions deadline date, to the individual identified on the cover page. All questions, without identifying the submitting company, will be compiled with the appropriate answers and issued as an addendum to the RFP.

When submitting questions please specify the RFP section and paragraph number, and quote the language that prompted the question. This will ensure that the issue can be quickly found in the RFP. Wayne County reserves the right to group similar questions when providing answers.

Wayne County may modify the RFP at any time during the proposal process. All changes to the RFP will be posted as an addendum under the proposal number and each posting officially revises the RFP.

4.4 Preparation of the Proposal

Each Proposer must submit a complete proposal in response to this RFP. The proposal must remain valid for at least 180 days from the due date for responses to this RFP.

There is no contract until the agreement is approved by the Wayne County Commission (if such approval is required by the Procurement Ordinance) and executed by the County Executive.

The Proposer will be responsible for completing all documents and forms listed under Part 2, Section 5, of this RFP, which is titled Supplier Submittal Requirements. If not provided, proposer will be required to download the forms. Complete the forms, including signature, and then upload the forms. These documents and forms are as follows:



- Documents demonstrating minimum qualifications – It is expected that a Proposer will include completed forms to demonstrate minimum qualification requirements are met, which include:
 - References
 - Business Information Questionnaire (included in the Ethics in Contracting Form)
 - Resumes for key personnel
 - Licenses/Certificates
 - Security Posture Questionnaire Form [Appendix C]
- Signed Proposal Form – The Proposer **must** sign the Proposal Form. Each signature represents binding commitment upon the Proposer to provide the goods and/or services offered to the County if the Proposer is determined to be the most responsive and responsible Proposer.
- Pricing Sheet – The Proposer **must** use the Pricing Sheet that accompanies this RFP. Any other pricing format submittal may result in disqualification.
- Response to Scope of Work Requirements Form - The Proposer shall include a detailed response to the outlined requirements.
- Terms & Conditions Form – Proposer will review terms and conditions. Any exceptions to the terms and conditions need to be identified in the proposal otherwise it will be determined that the terms and conditions are acceptable to the Proposer.
- First Tier Subcontractor Designation Form – This form is required to be completed by all prime contractors for contracts greater than \$50,000.
- Ethics in Contracting Vendor Form – This form is required to disclose any relationships between the principal/managing members of the proposing company and Wayne County employees for all contracts greater than \$10,000.
- W-9 Form – This form is required to verify the proposer's federal tax identification (EIN) number and legal business name.
- Fair Employment Practices (FEP) Certificate – A current FEP certificate is required of all companies that do business with Wayne County. If the proposer does not have this certification, an on-line application shall be submitted to the Human Relations Department at the time of proposal submission for all contracts greater than \$50,000. Print a hard copy of your company's on-line application and submit with the proposal.
- Certificate of Insurance (COI) – A current COI is required, which lists, at minimum, commercial general liability limits and as applicable other insurance that may be required. The requirements for the resultant contract are listed in the Contract/Terms and Conditions attachment.
- Evaluation Criteria – Proposer is to include any additional materials or documentation, which supports its ability to meet or exceed the Evaluation Criteria outlined in Section 4.10 of this RFP.



There are no unique formatting requirements. Information provided shall be organized and in a readable format.

4.5 Proposal Submission Requirements

To be considered, the proposal must be prepared in the manner and detail specified in this RFP.

- 1) Proposals, all attachments, and any modifications or withdrawals, must be submitted electronically through the BidNet Direct (MITN) Bid System (<https://www.bidnetdirect.com/>). Proposers should provide the documents in a modifiable form (e.g., Microsoft Word or Excel), but have the option to also provide copies of any documents in a non-modifiable form (e.g. PDF) with the sole exception of any pricing which must be provided in Excel format, when an Excel Pricing Sheet is provided. Proposer's failure to submit a proposal as required may result in disqualification of such proposal. The proposal and attachments must be fully uploaded and submitted prior to the due date and time identified above.

Proposals received after the deadline will not be accepted.

Do not wait until the last minute to submit the proposal, as the BidNet system requires the creation of an account and entry of certain information, in addition to uploading and submitting the materials. The BidNet system will not allow a proposal to be submitted after the due date and time identified on the cover page.

- 2) The opening/downloading of a proposal does not constitute the County's acceptance of the Proposer as a responsive and responsible Proposer.
- 3) Submission of a proposal establishes a conclusive presumption that the Proposer is thoroughly familiar with the RFP, specifications and terms of the Form of Contract, and the County's Procurement Ordinance, and that the Proposer understands and agrees to abide by each and all of the stipulations and requirements contained therein.
- 4) Proposals sent by facsimile, telegraph, or email will not be considered.
- 5) All costs incurred in the preparation and presentations of the proposal, as well as any resulting contract, are the Proposer's sole responsibility; no such costs will be reimbursed to any Proposer. All documentation submitted with the proposal will become the property of the County.

4.6 Duplicate Proposals

No more than one (1) proposal from any Proposer, including its subsidiaries, affiliated companies and franchisees will be considered by the County. In the event multiple proposals are submitted in violation of this provision, the County will have the right to determine which proposal will be considered, or at its sole option, reject all such multiple proposals.

4.7 Withdrawal

Proposals may be withdrawn through the BidNet Direct System prior to the proposal deadline indicated on the cover page of this RFP. No proposal may be withdrawn after the deadline for submission.



4.8 Evaluation Process

All Proposals will be reviewed for compliance with the mandatory minimum requirements stated within this RFP. Proposals not in compliance with the mandatory minimum requirements will be eliminated from further consideration.

- A. Wayne County may contact the Proposer for clarification of the Proposer's proposal.
- B. Wayne County may require the Proposer to submit additional and/or supporting materials
- C. Responsive proposals will be evaluated on the factors identified in this RFP. The Proposer(s) whose proposal is advantageous to the County, taking into consideration the evaluation factors, will be recommended for award approval.

4.9 Evaluations and the Proposal Evaluation Committee

Wayne County reserves the right to judge the contents of the proposals submitted pursuant to this RFP and to review, evaluate and select the successful proposal(s).

All requests for proposals shall be reviewed and evaluated by an Evaluation Committee approved by the Procurement Director. Evaluation Committees are usually comprised of at least three voting members, but they can be any size. Voting membership on the Evaluation Committee shall be limited to County employees; however, the Procurement Director, Procurement Officer, public officials and/or consultants under contract with Wayne County may sit as non-voting consulting members. (Bid Evaluator's Guide)

All proposals will be evaluated based on Section 4.10 below. All proposals will be scored and ranked in numerical sequence as outlined in the Bid Evaluator's Guide. Wayne County may also, at its option, invite proposers being evaluated to make an oral presentation or conduct site visits, if appropriate.

After a prospective supplier/contractor has been selected, Wayne County and the prospective supplier(s)/contractor(s) will negotiate a contract.

Each proposal that is timely received will be evaluated on its merit and completeness of all requested information. In preparing proposals, proposers are advised to rely only upon the contents of this RFP and accompanying documents and any written clarifications or addenda issued by the County. If a Proposer finds a discrepancy, error, or omission in the proposal package, or requires any written addendum thereto, the Proposer is requested to notify the Purchasing Contact noted on the cover page of this RFP, so that written clarification may be sent to all prospective proposers. The County is not responsible for oral representations. All questions must be submitted in writing to the Procurement Contact only before the Question Deadline indicated on the cover page of this document. All answers will be issued in the form of a written addendum.

Proposers shall not be provided any information about other proposals or prices or where the Proposer stands in relation to others at any time during the evaluation process. Any request for such information by a Proposer, its subcontractor or an affiliated party may be viewed as a compromise to the evaluation process and the requesting Proposer may be eliminated from further consideration.

4.10 Evaluation Criteria



4.10.1 Experience & Qualifications (30 points)

- (a) Describe how you meet or exceed the minimum qualifications in the Scope of Work in this document.
- (b) Describe how you meet or exceed the preferred qualifications in the Scope of Work in this document.
- (c) Describe the experience (including years of experience) of the Proposer in providing similar services.
- (d) Provide at least three (3) references for similar projects, including name of establishment, address, dates of service, contact name and telephone number. Clearly indicate for the projects which, if any, of the proposed key personnel worked on each.
- (e) Describe the experience and qualifications of key personnel. Include detailed resumes.

4.10.2 Work Plan and Timeline (20 points)

- (a) Submit a detailed work plan.
- (b) Submit a proposed timeline, preferably in Gantt format.

4.10.3 Technical Solution (20 points)

- (a) Describe how the proposed system can meet or exceed all of the minimum system requirements as listed in Section 3 – Specifications and Scope of Work.
- (b) Attach screen prints showing how user friendly the system is.
- (c) Include images and specifications for any hardware, including optional items and upgraded or enhanced options, along with item costs, volume discounts, etc.

4.10.4 Project Cost (30 points)

- (a) Complete the enclosed price sheet.
- (b) Provide a detail of how you arrived at this figure. Be sure to include breakdowns by position and hours, as well as detail of anticipated reimbursable expenses.

4.10.5 Evaluation Credits

Provide a County Based Enterprise, Targeted Growth Community Enterprise, or other Wayne County Advantage program certificate (See Section 1.10) if applicable; otherwise, evaluation credits will not be considered.

4.11 Optional Tools to Enhance the Evaluation Process

Wayne County, during the evaluation of proposals may find it necessary to utilize one or multiple tools, as listed below, to facilitate their understanding of the proposal(s) in order to select the best offering to Wayne County.

4.11.1 Clarifications



Wayne County may issue a clarification request, in writing, to one or all Proposers. A clarification request does not allow a Proposer to change its proposal. The clarification response may include additional information to address any ambiguities or deficiencies in the proposal.

4.11.2 Oral Presentation

Wayne County may require an oral presentation of the Proposer's proposal. This presentation provides an opportunity for the Proposer to clarify its proposal.

4.11.3 Site Visit

Wayne County may conduct a site visit to tour and inspect the Proposer's facilities.

4.11.4 Best and Final Offer (BAFO)

Wayne County may request a Best and Final Offer (BAFO) from each Proposer determined to be in the competitive range.

4.12 Negotiations

After a prospective Contractor(s) has been selected, Wayne County and the prospective Supplier(s) will negotiate a Contract. If a satisfactory Contract cannot be negotiated within a reasonable amount of time, as determined by the County, Wayne County may, at its sole discretion, begin negotiations with the next qualified Proposer who submitted a proposal.

4.13 Wayne County Option to Reject Proposals

The County reserves the right to reject any or all proposals, or to accept or reject any proposal in part, and to waive any minor informality or irregularity in proposals received, if it is determined by the Procurement Director or designee that the best interest of the County will be served by doing so. The County may reject any proposal from any person, firm or corporation in arrears or in default to the County on any contract, debt, or other obligation, or if the Proposer is debarred by the County from consideration for a contract award, or if Proposer has committed a violation of the ethics or anti-kickback provisions of the County's Procurement Ordinance which resulted in a termination of a contract or other penalty within the two (2) years immediately preceding the date of issuance of this document.



PART 2 – SUPPLIER SUBMITTAL REQUIREMENTS

SECTION 5.0 – REQUIRED DOCUMENTATION AND FORMS

(Mandatory Minimum Requirements Checklist)

<input checked="" type="checkbox"/>	DOCUMENTATION AND FORMS
	<p>5.1 Demonstrate that the Proposer OR Proposer or its subcontractor OR Proposer or its key personnel meet the minimum qualifications outlined in Section 2.0, which may be accomplished by submitting the following:</p> <ul style="list-style-type: none"> • Completed References Form • Completed Business Information Questionnaire portion of the Ethics in Contracting Form • Resumes for key personnel • Licenses/Certificates
	5.2 Signed Proposal Form
	5.3 Pricing Sheet [Appendix A]
	OTHER FORMS (Download*, complete and include with your proposal)
	5.5 Response to Scope of Work Requirements Form
	5.6 Terms and Conditions Form
	First Tier Subcontractor Designation Form
	Ethics in Contracting Vendor Form
	W-9 Form
	<p>Fair Employment Practices (FEP) Certificate. Complete the on-line application and print (PDF) a hard copy of your company's application and include with your proposal. Apply on-line at: https://www.waynecounty.com/departments/corpcounsel/certification-program.aspx</p>
	Certificate of Insurance listing current coverages
	Security Posture Questionnaire Form [Appendix C]
	EVALUATION CRITERIA
	<p>Include any additional documentation that demonstrates how your company meets or exceeds the Evaluation Criteria outlined in Section 4.10.</p>

* Download Forms that are not included at:

<https://www.waynecounty.com/departments/mb/procurement/procurement-forms.aspx>



5.1 REFERENCES THAT DEMONSTRATE MINIMUM QUALIFICATIONS

(Outlined in Section 2.0)

Complete the following information for a minimum of three (3) customer references for products/services of similar scope dating within the past five (5) years.

Reference 1:

Entity Name:	Contact Name and Title:
City:	State:
Phone Number:	Email Address:
Years Serviced/Date of Project:	Annual Volume/Contract Amount:
Description of Project or Services:	

Reference 2:

Entity Name:	Contact Name and Title:
City:	State:
Phone Number:	Email Address:
Years Serviced/Date of Project:	Annual Volume/Contract Amount:
Description of Project or Services:	

Reference 3:

Entity Name:	Contact Name and Title:
City:	State:
Phone Number:	Email Address:
Years Serviced/Date of Project:	Annual Volume/Contract Amount:
Description of Project or Services:	



5.2 PROPOSAL FORM

PROPOSAL FORM

Failure to complete this form shall result in your Proposal being deemed non-responsive and rejected without further evaluation

The Undersigned hereby offers and, if the contract is executed by the County Executive, agrees to furnish the goods and/or services in compliance with all terms, scope of work, conditions, specifications, and addenda in the Request for Proposals. The Undersigned further agrees to accept, via email or other electronic means, any and all notifications and contractual documents including, but not limited to, notifications, insurance verification requests, and purchase orders.

ADDENDA:

The undersigned has read, understands and is fully cognizant of the Information to Proposers, including the Form of Contract, all Exhibits thereto, together with any written addendum issued in connection with any of the above. The undersigned hereby acknowledges receipt of the following addendum(s): _____, _____, _____, _____ (write "none" if none). In addition, the undersigned has completely and appropriately filled out all required forms.

OBLIGATION:

The undersigned, by submission of this Offer, agrees to be obligated, if recommended for award of the contract and if the contract is executed by the County Executive, to provide the stated goods and/or services to the County for the term as stated in this RFP, and to enter into a contract with the County, in accordance with the conditions, scope and terms, as well as the Form of Contract, together with any written addenda as specified above.

COMPLIANCE:

The undersigned hereby accepts all administrative requirements of the RFP and will be in compliance with such requirements. By submitting this Proposal Form, the Proposer represents that: 1) the Proposer is in compliance with any applicable ethics or anti-kickback provisions of the County's Procurement Ordinance, and 2) if awarded a contract to operate the Concession or provide the Services required in the RFP, the Proposer will comply with the ethics and anti-kickback provisions of the Procurement Ordinance.

NONCOLLUSION:

The undersigned, by submission of this Proposal Form, hereby declares that this Proposal is made without collusion with any other business making any other Proposal, or which otherwise would make a Proposal.

PERFORMANCE GUARANTEE:

The undersigned further agrees that if awarded the Agreement, it will submit to the County any required performance guarantee (i.e. bid bond).

SUBMITTAL REQUIREMENTS:

The undersigned certifies it has attached a complete response to each of the submittal requirements listed in the Evaluation Criteria and Submittal Requirements section of this RFP.



No proposal shall be accepted which has not been signed in the appropriate space below.	
I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder:	
For clarification of this offer, contact:	
Company Name:	Name:
Address:	Title:
City: State: Zip:	Phone:
*Signature of Authorized Person	Fax:
Printed Name	Email:

*Proposal Form **must** be signed by an authorized representative.



5.3 PRICING SHEET AND OTHER PRICING REQUIREMENTS

Complete APPENDIX A (Pricing Sheet), with the following considerations:

5.3.1 *Tax Excluded from Price*

(a) Sales Tax: Wayne County and local units of government are exempt from sales tax for direct purchases. The Proposer's prices must not include sales tax.

(b) Federal Excise Tax: Wayne County may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for Wayne County's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, the Proposer's prices must not include the Federal Excise Tax.

5.3.2 *Special Incentives*

Wayne County is interested in any other special programs and alternative recommendations that Proposer's may have. Please discuss these programs, such as customer employee retail discounts, return policies, trade-in programs allowing the return of new product not needed, quantity discounts, green product offering, Michigan made products. For contracts designated to be extended to other schools, municipalities and counties it is expected that Wayne County will see an offer for administrative fees and rebates to assist in the operation of this consortium.

5.3.3 *Price Stability Guarantee*

For the first twelve months of the Agreement, the Proposer must guarantee to provide the services at the proposed rates.

5.3.4 *Proposal Pricing*

Proposal pricing must reflect Net 45 payment terms.

5.4 PROPOSAL GUARANTEE/BID BOND

Not applicable.



5.5 RESPONSE TO SCOPE OF WORK REQUIREMENTS FORM

Review Section 3.0 (Scope of Work Requirements), as outlined in the corresponding sections below, and confirm your understanding:

Section 3.1 Contracted Scope of Services/Statement of Work

Section 3.2 Specifications

Section 3.3 Contract Term

Section 3.4 Additional Specifications:

Section 3.4.1 Service Work Schedules

Section 3.4.2 Service Security of Building and Property Requirements

Section 3.4.3 Service Equipment Requirements

Section 3.4.4 Service Consumable Supplies Requirements

Section 3.4.5 Service Inspection and Correction of Deficiencies Requirements

Section 3.4.6 Service Capabilities

Section 3.4.7 Ordering of Services

Section 3.4.8 Customer Service

Section 3.4.9 Roles & Responsibilities

Section 3.4.10 Delivery Acceptance Criteria

Section 3.4.11 Service Level Agreements

Section 3.4.12 Milestones

Section 3.4.13 Training

Section 3.4.14 Success Criteria

Proposer Response to SOW Requirements: Please confirm understanding of the requirements or state any exceptions. (Any exceptions to the requirements will be evaluated and determined whether they are in the best interest of the County.)



5.6 TERMS AND CONDITIONS FORM

Please reference the attached Agreement/Contract or Terms & Conditions Document.

Confirmation of review of Terms & Conditions

I have reviewed the terms and conditions.	YES	NO
I have thoroughly reviewed the "insurance requirements" section and can meet the requirements, if awarded the contract.	YES	NO
I accept <u>all</u> the terms and conditions outlined.	YES	NO

Company Representative's Name_____

Company Name_____

Any exceptions to the Terms & Conditions and/or insurance requirements contained herein shall be noted in writing below, or attached as a redlined (MS Word) version of the document and included with the proposal submittal.

Page Number	
Outline Number or Paragraph	
Term, Condition or Specification	
Exception	
Signature (same signature as on Proposal Affidavit Signature and Acceptance form)	



**ATTACHMENT A
PRICE SHEET
Inventory Barcoding Solution RFP #37-21-038**

Failure to complete this form shall result in your Proposal being deemed non-responsive and rejected without any further evaluation.

For the Services described in SECTION 3.0 – SCOPE OF WORK/SPECIFICATIONS, provide the following detailed breakdown of associated costs.

Pricing for Services: Requirements, Configuration, Interface Development, Implementation, Training, Support, etc.

Pricing for Hardware: printers (different models, unit price, volume or bundled discounts), barcode scanners (same breakout as printers), other necessary hardware.

Pricing for Optional additional software and/or hardware.

3-year and 5-year proposed total costs are required.

Summary annual cost:

Year 1: \$ _____

Year 2: \$ _____

Year 3: \$ _____

Total 3-year cost: \$ _____

Year 4: \$ _____

Year 5: \$ _____

Total 5-year cost: \$ _____

APPENDIX B – TERMS & CONDITIONS
(RFP #37-21-038)

SUBSTANTIAL FORM OF SOFTWARE AS A SERVICE CONTRACT

THIS ("Contract") is between the County of Wayne, a body corporate and Charter County, acting through its Department of Technology (the "County") and _____, a _____ corporation, (the "Contractor").

1. PURPOSE

1.01 The County _____.

1.02 The County desires to contract with a vendor who can provide necessary technical solution, including services and hardware for the System.

1.03 The Contractor desires to provide these services to 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, the County's Request for Proposals For _____, No. 37-16-_____, (Appendix A) and the Contractor's response to the Request For Proposals (Appendix B), and consistent with the standard of practice in the industry. If there is any conflict or inconsistency or contradiction among terms of the documents, the order of precedence is: this Contract, the County's Request For Proposals, then the Contractor's response to the Request For Proposals.

3. DEFINITION OF TERMS

Terms used throughout this Contract shall have the definitions set forth below.

3.01 "Acceptance" shall mean a written notice from the County to the Contractor that the Services have passed Acceptance Testing.

3.02 "Acceptance Date" shall mean the date upon which County accepts the Services as provided in the section titled Standard of Performance and Acceptance.

3.03 "Acceptance Testing" shall mean the standards to be met by the Software prior to Acceptance by the County, as set forth in the section titled Standard of Performance and Acceptance.

3.04 "Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 8:00 p.m. Eastern Standard Time, except for holidays observed by the County of Wayne.

3.05 "Execution Date" shall mean the date of the last signature of a party to this Contract.

3.06 "Installation Date" shall mean the date by which the Services ordered must be installed.

3.07 "License" shall mean the right to use the Services which is granted by this Contract and governed by its terms and conditions.

3.08 "Order Document" shall mean any official County document and attachments thereto specifying the Services to be purchased from the Contractor under this Contract.

3.09 "Related Services" shall mean those Services provided under this Contract that are appropriate to the scope of this Contract and includes such things as installation services, maintenance, training, etc.

3.10 "Specifications" shall mean the technical and other specifications in Appendices A and B.

4. SCOPE OF SERVICE

4.01 The Contractor must perform the Services 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.

4.02 The Contractor must expediently perform the Services to achieve the objectives of this Contract.

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

4.04 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, nor 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 for all damages to the County caused by the Contractor's negligent performance or nonperformance of any of the Services furnished under this Contract.

4.05 The Contractor shall comply with section 120-50 of the Wayne County Procurement Ordinance. 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.

5. LICENSE GRANT

5.01 Contractor grants to County a non-exclusive, irrevocable, and transferable license to access the Services and related documentation for an unlimited period according to the terms of this Contract. The Contractor shall act as licensor for all software, including third party software.

5.02 County will not reverse engineer, decompile or disassemble or otherwise attempt to discern the source code of the components of the Services.

5.03 County may use databases, services, functions and remotely-accessed gateways. The County is licensed to use data made available solely in the regular course of its business. The County may download and temporarily store portions of data to a storage device. The County may also create printouts of data for its use and for distribution to third parties. The County may, via the Services functionality, direct Contractor to transmit individual documents in electronic format to individual internet users(s). County may also make copies of the data in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. The County may use data cached in the County's disk drive solely in support of its use of the Services.

5.04 County may make and maintain archival copies of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. County may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. The County shall be able to make copies of the software to reside on its Development, Test, Training and Disaster Recovery environments and to be used for the purposes of development, testing, training and disaster recovery.

6. OWNERSHIP

6.01 Contractor warrants and represents to County that Contractor is the owner of the Services or otherwise has the right to grant to County the licensed rights to the Services provided by Contractor through this Contract without violating any rights of any third party, and that there is currently no actual or threatened suit by any such third party based on an alleged violation of such right by Contractor.

6.02 Contractor shall maintain all title, copyright, and other proprietary rights in the Services. County does not acquire any rights, express or implied, in the Services, other than those specified in this Contract.

6.03 The Services are fit for the known purposes for which sold, and are free and clear of all liens and encumbrances. This Contract does not exclude, or in any way limit, other warranties provided for in this agreement or by law.

7. AUTHORIZED USERS

7.01 Only individuals authorized by the County may access and use the Services. The identification number(s) of the County may be restricted from accessing certain materials otherwise available in the Services.

7.02 "Authorized User" means an individual to whom the County assigns a password. Only County employees, temporary employees, and contractors are eligible to be Authorized Users. County agrees that each password may only be used by the Authorized User to whom it is assigned and may not be shared with or used by any other person, including other Authorized Users. County will manage its roster of Authorized Users. The County is responsible for notifying Contractor in writing of persons to whom Contractor passwords are to be issued or from whom passwords are to be revoked. The County is solely responsible for maintaining security of County passwords. The County is also responsible for all access to and use of the Services by County's personnel or passwords. County will implement policies and procedures to prevent unauthorized use of passwords and will immediately notify Contractor, in writing, if it suspects that a password is lost, stolen, compromised, or misused.

7.03 County certifies that on the date this Contract is signed by County there are ___ users in County's organization. Throughout the Term, County will immediately notify Contractor in writing of any change in the number of users.

8. TERM

8.01 This Contract is effective from the date it is approved by resolution of the Wayne County Commission subsequent to being accepted by the parties and is effective until _____. The term of this Contract may be extended by two additional one year periods. No change in terms and conditions shall be permitted during the extension unless specifically set forth in this Contract.

8.02 The initial term for maintenance and support Services for Licensed Products shall be 42 months, commencing one day following expiration of Contractor's warranty for the Software. The terms of maintenance and support Services may be extended by an additional one year period provided the extension shall be at the option of the County. The extension shall be governed by the terms in this Contract. No change in terms and conditions shall be permitted during the extension unless specifically set forth in this Contract.

9. COMPENSATION

9.01 The County agrees to pay the Contractor at the rates in Appendix B, attached. 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 \$_____.

9.02 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 Section 9.01 with regard to the amounts payable for performance.

9.03 Such payments shall be due and payable within ninety calendar days after receipt and Acceptance of such Software or Services, or ninety calendar days after receipt of properly prepared invoices, whichever is later. Incorrect or incomplete invoices will be returned by the County to the Contractor for correction and reissue. The Contract number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.

9.04 The Contractor must direct invoices to the attention of the individual specified in the Notice provisions, Article ____.

9.05 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.

9.06 No advance payment shall be made for the Services furnished by Contractor pursuant to this Contract. Contractor shall promptly refund to County the full amount of any erroneous payment or overpayment to which Contractor is not entitled pursuant to this Contract.

9.07 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.

10. REAUTHORIZATION CODE REQUIRED

10.01 If a reauthorization code must be keyed in by Contractor for the Licensed Software to remain functional upon movement to another computer system, Contractor shall provide the reauthorization code to County within one Business Day after receipt of County's notice of its machine upgrade or movement.

11. STANDARD OF PERFORMANCE AND ACCEPTANCE

11.01 During Performance Testing, as defined in Appendix __, County shall conduct tests as it deems appropriate concerning whether the Services appears to be capable of being effectively utilized in County's operating environment.

11.02 The Performance Testing shall commence within five Business Days after access to the Services. Subject to possible extensions as indicated below, the Performance Testing shall end after 15 calendar days.

11.03 The Performance Testing shall be extended according to the following procedures:

A. If the County determines, at its sole discretion at any time prior to the end of the Performance Testing period, that the Licensed Software appears to be deficient or unsuitable for the County's use for any reason, then the County may, at its discretion, promptly notify Contractor, specifying in the notice the respects in which the Licensed Software is deemed to be deficient or unsuitable.

B. If the County gives such notice to Contractor during the period beginning five Business days prior to the expiration of the Performance Testing period, then the expiration of the Performance Testing shall be postponed for five Business Days to permit Contractor to evaluate and correct the reported deficiency or unsuitability, unless otherwise specified in County's notice.

11.04 If the County agrees to extend the Performance Testing to permit Contractor to correct deficiencies, then the Performance Testing period shall be extended by the lesser of (a) the amount of time actually taken by Contractor to deliver a corrected version, or (b) any maximum amount of time deemed reasonable by the County.

11.05 County may (a) Accept the Services subject to the terms and conditions of this contract or (b) Reject the Services by notice to Contractor at any time during the Performance Testing period. The date, if any, on which County accepts the Services is referred to as the "Acceptance Date."

11.07 The warranty shall begin on the Acceptance Date.

12. UPGRADES AND ENHANCEMENTS

12.01 Contractor shall be required:

- A. To supply at no added cost updated versions of the Services to operate on upgraded versions of operating systems;
- B. To supply updated versions of the Services which encompass improvements, extensions, or other changes which Contractor, at its discretion, deems to be logical improvements or extension of the original products supplied to the County;
- C. To supply interface modules which are developed by the Contractor for interfacing the Software to other Software products; and
- D. At no cost to the County, modify, improve, and/or upgrade the Services consistent with those modifications, improvements and/or upgrades provided to other purchasers.

13. MAINTENANCE AND SUPPORT SERVICES

13.01 Contractor will assure that Services perform in material conformity with its user documentation. Contractor shall undertake such correction service as set forth in Appendix _____ and shall

use its best efforts to make corrections in a manner that is mutually beneficial. Contractor shall disclose all known defects and their detours or workarounds to the County.

14. DOCUMENTATION

14.01 Contractor shall provide documentation at the earlier of installation of the Services or within thirty calendar days after execution of this Contract or as otherwise mutually agreed, in the form of the same number of manuals as licensed users of the Services or another mutually agreed number of manuals, adequate for use of Services ordered under the sections of this Contract. Manual upgrades will be provided on a no-charge basis through the Contractor's local sales and service office.

14.02 For all Services furnished to the County within the scope of this Contract, the Contractor agrees that if it withdraws its support, if any, from such Services, it will immediately furnish to the County, if requested, at no additional cost, sufficient documentation to permit the County to maintain, modify or enhance such purchased Services.

14.03 Contractor grants to the County the right to copy or otherwise reproduce manual and documentation furnished pursuant to this section, for use within the scope of this Contract at no additional charge.

15. INSTALLATION (SITE) SECURITY

15.01 While on the County's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations communicated to Contractor.

16. USE OF COUNTY'S PROPERTY AND FACILITIES

16.01 Any property of the County furnished to the Contractor shall be used only for the performance of this Contract.

16.02 The Contractor shall be responsible for any loss or damage to property of the County which results from willful misconduct or negligence on the part of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property according to sound management practices to ensure that the property will be returned to the County in like condition to that in which it was furnished to the Contractor. Upon the happening of loss, or destruction of, or damage to, any County property, the Contractor shall notify the County thereof and shall take all reasonable steps to protect the property from further damage.

16.03 The Contractor shall surrender to the county all property belonging to the County upon completion, termination, or cancellation of this contract. All reference to the Contractor under this section shall include any of its employees, agents, or Subcontractors.

17. TRAINING

17.01 Contractor shall provide training, by at least one qualified Contractor personnel, in the use of the Services according to Appendix _____. The starting dates of the training will be as agreed by the parties, but in no case later than _____.

18. DATA TO BE FURNISHED CONTRACTOR

18.01 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.

19. PERSONNEL

19.01 To induce the County to enter into the Contract, 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.

19.02 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.

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

19.04 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.

19.05 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.

20. COUNTY CONTRACT ADMINISTRATOR

20.01 The County shall appoint a Contract Administrator for this Contract who will provide oversight of the Services. The County Contract Administrator will manage this Contract on behalf of the County and will be the principal point of contact for the Contractor concerning Contractor's performance under this Contract. The County shall notify Contractor, in writing, when there is a new County Contract Administrator assigned to this Contract.

21. CONTRACTOR'S ACCOUNT MANAGER

21.01 The Contractor shall appoint an Account Manager for the County's account who is assigned as the primary contact person with whom the county's Contract Administrator shall work for the duration of this Contract unless replaced, with advance county approval, by another representative. The Contractor's Account Manager will be the principal point of contact for the county concerning the Contractor's performance and for receipt of notes. The Contractor's Account Manager will also serve as the focal point or business matters, support coordination, and administrative activities.

22. ADMINISTRATION

22.01 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.

22.02 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.

22.03 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.

23. RECORDS – ACCESS

23.01 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 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 7 years after the Contract's termination and completion.

23.02 The County and the Legislator Auditor General 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.

23.03 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 10 days of notification by the County.

23.04 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.

24. CONFIDENTIAL INFORMATION

24.01 The County may disclose to the Contractor written material or oral or other information that the County treats as confidential ("Confidential Information"). Title to the confidential information and all related materials and documentation will remain the County. The Contractor must treat such confidential information as secret if it is so marked, identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the County, or individuals or organizations about whom the County keeps information. Confidential Information does not include information that rightly becomes public, or that the receiving party otherwise knows or receives without obligation of confidence.

24.02 Confidential information includes, but is not limited to, social security numbers, birthdates, drivers license numbers, proprietary software and documentation (including drafts and associated materials delivered to County in the course of providing the services), materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, marketing information, police and investigative records, files containing personal information about individuals, clients, subcontractors, or employees of the County such as medical records, patient data and records, strategic business plans, information that impacts the County's competitive advantage or strategy (actual or contemplated), claims records, court administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records expressly excluded by law from public records disclosure requirements including confidential client-identifying information.

24.03 Each party's employees, contractors, subcontractors, agents, and assignees shall not disclose confidential information, unless in conformity with this contract and only to those employees, contractors, subcontractors, agents, and assignees with a reasonable need to know the information. Each party shall protect the confidential information from disclosure with reasonable diligence, including the execution of non-disclosure agreements, if necessary.

24.04 For an indefinite period after Contractor's or County's Confidential Information ("disclosing party") is disclosed to the other party ("receiving party"), the receiving party shall hold the disclosing party's Confidential Information in trust and confidence and shall not use any Confidential Information other than for the benefit of the disclosing party. The Contractor will disclose County's Confidential Information only to those persons whose services the Contractor uses in its performance of this Contract and who agree to be bound to County to the same extent as the Contractor. Upon request of County, at the time of completion of services, Contractor will return or destroy all copies of County's Confidential Information then in the possession of Contractor. The Contractor may list the County of Wayne as a client in the Contractor's marketing materials.

25. RELATIONSHIP OF PARTIES

25.01 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.

25.02 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.

26. COMMITMENTS, WARRANTIES, AND REPRESENTATIONS

26.01 Any written commitment by the Contractor within the scope of this Contract shall be binding upon the Contractor. Failure of the Contractor to fulfill such a commitment may constitute breach and shall render the Contractor liable for liquidated or other damages due the County under the terms of this Contract.

26.02 For purposes of this Contract, a commitment by the Contractor, which must be in writing, includes:

- A. Prices, discounts, and options committed to remain in force over a specified period of time;
- B. Any warranty or representation made by the Contractor in a proposal as to Software performance or any other physical, design, or functional characteristics of a machine, Software package, system, training, Services, or other products within the scope of this Contract;
- C. Any warranty or representation made by the Contractor concerning the characteristics or items above, contained in any literature, descriptions, drawings or specifications accompanying or referred to in a proposal;
- D. Any modification of or affirmation of representation as to the above which is made by Contractor in writing during the course of negotiation whether or not incorporated into a formal amendment to the proposal in question; and
- E. Any representation by the Contractor in a proposal, supporting documents or subsequent negotiations as to training to be provided, Services to be performed, prices and options committed to remain in force over a fixed period of time or any other similar matter regardless of the fact that the duration of such commitment may exceed the duration of this Contract.

26.03 Specifications are listed and described in Appendices A and B attached and made a part hereof, as though completely set forth. Contractor warrants that products delivered shall perform according to these specifications, the Licensed Standard Software, Services, custom software or third party products or services.

27. PHYSICAL MEDIA WARRANTY

27.01 Contractor warrants to County that each licensed copy, if any, of the Software or any database provided by Contractor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty"). The Physical Media Warranty does not apply to defects discovered more than ninety calendar days after the date of Acceptance of the software copy by the County.

27.02 County shall be entitled to replacement by Contractor, at Contractor's expense, including shipping and handling costs, of any Software copy provided by Contractor that does not comply with this warranty.

28. NO SURREPTITIOUS CODE WARRANTY

28.01 Contractor warrants to County the Service shall not contain or will contain any Self-Help Code nor any Unauthorized Code as defined below.

28.02 As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other Software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than a licensee of the Software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

28.03 As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm Software, or data; or to perform any other such actions.

28.04 Contractor will defend County against any claim, and indemnify County against any loss or expense arising out of any breach of the No Surreptitious Code Warranty.

29. COMPLIANCE WITH STANDARDS

29.01 Contractor represents that all Services and elements, including documentation and source code, shall meet and be maintained by Contractor to conform to applicable industry standards, specifications and any samples. Contractor warrants and guarantees that the Services shall operate 99.9999% of the time. The Contractor shall maintain records documenting the time that the Services are non-operational. If the Contractor cannot provide the Services at an uptime level of 99.999%, Contractor shall issue the County a credit that is equal to 1/30 of the monthly charges for each minute that the Services are not available for use.

30. INSURANCE

30.01 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.

30.02 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 \$1,000,000 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 \$5,000,000. 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 \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Contractor maintains higher limits than the minimum insurance coverage required in Section 30.02, the Contractor shall maintain the coverage for the higher insurance limits for the duration of the Contract.

30.03 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).

30.04 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.

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

30.06 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.

30.07 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.

30.08 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.

30.09 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.

30.10 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.

30.11 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.

30.12 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.

30.13 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.

31. INDEMNIFICATION

31.01 Except for claims arising from the County's gross negligence, 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 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.

31.02 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.

31.03 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.

31.04 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.

31.05 This indemnity applies without regards 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.

31.06 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.

32. INTELLECTUAL PROPERTY INDEMNIFICATION

32.01 Contractor will, at its expense, save the County harmless, and defend or settle any claim against the County that Software, or work products supplied infringe any patent, copyright, utility model, industrial design, mask work, or trademark. Contractor will pay resulting costs, damages, and attorneys' fees finally awarded provided that County:

- A. Promptly notify Contractor in writing of the claim; and
- B. Cooperates with and agrees to use its best efforts to encourage the Office of the Corporation Counsel for the County to grant Contractor sole control of the defense and all related settlement negotiations.

32.02 Contractor will pay all costs of such defense and settlement and any costs and damages awarded by a court or incurred by County, except costs paid to the Office of Corporation Counsel as legal fees. If such claim has occurred, or in Contractor's opinion is likely to occur, County agrees to permit Contractor at its option and expense, either to procure for County the right to continue using the Software or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Software is enjoined by a court and the Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Software and pay the cost to secure comparable software, including installation costs. If the Software has been installed less than one year, transportation to the initial installation site paid by County shall be refunded by Contractor.

32.03 Contractor has no liability for any claim of infringement arising from:

- A. Contractor's compliance with any designs, specifications, or instructions of the County;
- B. Modification of the Software or by County or a third party without the prior knowledge and approval of Contractor; or
- C. Use of the Software in a way not specified by Contractor; unless the claim arose against contractor's Software or Services independently of any of these specified actions.

33. LIQUIDATED DAMAGES

33.01 Any delay by the Contractor in meeting the Delivery Date and Acceptance Date set forth in this Contract will interfere with the proper implementation of the County's programs to the loss and damage of the County. As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, the County and the Contractor, therefore, agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained will be the amount set forth in the following section and the parties agree that the Contractor shall pay such amounts as liquidated damages and not as a penalty.

33.02 If Contractor does not have the Services installed by the date agreed upon between the County and Contractor, then Contractor shall provide a revised installation 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 installation date and the date that Contractor actually installs the Services, an amount of \$500 per day. If the revised installation date is more than fifteen calendar days from the original installation date, then by written notice to the Contractor the County may immediately terminate the right of Contractor to install the Services and the County may obtain substitute Services from another Contractor. In this event, the Contractor shall be liable for fixed and agreed liquidated damages, in lieu of all other damages due to such delay, in the amount specified above, until substitute Services are installed, or a maximum of thirty calendar days from the original installation date, whichever occurs first.

33.03. If Contractor's maintenance personnel fail to arrive at the County's installation site within sixty minutes after notification by the County that maintenance is required, or if the Contractor fails to respond to a request for assistance within 60 minutes, the Contractor shall pay to the County as fixed and agreed liquidated damages, in lieu of all other damages due to such non-responsiveness, for each hour between the agreed response time and the actual response time an amount of five hundred dollars per hour for each "late" hour or part (prorated) beginning with the time of notification by the county and ending with the time that Contractor's maintenance personnel arrive at the County's site.

34. LIMITATION OF LIABILITY

34.01 Neither the Contractor nor the County shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either the Contractor or the County. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than County acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the County or their respective Subcontractors and directly affect the Services in this Contract.

35. FAILURE TO PERFORM

35.01 If the Contractor fails to perform any substantial obligation under this Contract, the County shall give the Contractor written notice of such failure to perform. If after thirty calendar days from the date of the written notice Contractor still has not perform, then the County's may withhold all monies due and payable to Contractor, without penalty to the County, until such failure to perform is cured or otherwise resolved.

36. NOTICE OF MATERIAL CHANGES

36.01 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; and
- H. Transfer, sell, assignment or delegation to an entity other than the Contractor, of ownership or administrative services.

37. RELEASE OF INFORMATION

37.01 Within 24 hours of a request, the Contractor shall release to the County records, data, address lists, notes, reports, discs, databases and documents, or if the information is hosted on a third party server, shall cause the third party to release to the County, upon the occurrence of one or more of the following events defined below:

- A. The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign;
- B. The Contractor has wound up or liquidated its business voluntarily or otherwise and the County has compelling reasons to believe that such events will cause the

Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;

- C. The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its warranties and maintenance obligation; or
- D. When, in the County's determination, the Services fail to function.
- E. When the Contract is terminated or cancelled or expires.

37.02 County may request that the completeness and accuracy of any released information be verified by the Contractor at its expense.

- A. Such verification will be conducted by the Contractor or a third party, at the County's discretion.
- B. Unless otherwise agreed at the time by Contractor and County, verification will be performed on site at County's premises, at a time reasonably acceptable to Contractor. Contractor shall make technical and support personnel available as reasonably necessary for the verification.
- C. Contractor may at its discretion designate a representative to be present at the verification.
- D. The responsibility for the completeness and accuracy of the verification will be solely that of the Contractor. The Contractor shall be responsible for any incompleteness or inaccuracy of any verification.

38. TERMINATION

38.01 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 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. 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. Contractor waives any claim for damages, including loss of anticipated profit. In no event shall County be liable for any loss of profits on the order or portion thereof so terminated. The parties agree that no payments under this section will exceed the amount payable under Article ____.

38.02 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 5 working days, the Contract is deemed terminated 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.

38.03 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, address lists, 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 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; and
- G. Submit within 30 days a listing of all creditors, subcontractors, lessors, and other parties with which the Contractor has incurred financial obligations pursuant to the Contract.

38.04 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.

38.05 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 \$500.00 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.

38.06 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.

38.07 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. Contractor shall cooperate with any subsequent vendor designated by the County.

39. TERMINATION FOR NON-ALLOCATION OF FUNDS

39.01 If funds are not allocated to continue this Contract in any future period, the County will not be obligated to pay any further charges for Services including the net remainder of agreed-to consecutive

periodic payments remaining unpaid beyond the end of the then-current period. The County agrees to notify the Contractor of such non-allocation at the earliest possible time. No penalty shall accrue to the County if this section shall be exercised. This section shall not be construed so as to permit the County to terminate this Contract in order to acquire similar Software or Services from a third party.

40. BANKRUPTCY OR INSOLVENCY

40.01 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:
 - 1. 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;
 - 2. 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
 - 3. 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 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.

40.02 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.

41. PROMPT PAYMENT

41.01 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 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 10 days after receipt of the invoice. The 45 day period shall be extended by each day over 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 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.

42. ETHICS IN CONTRACTING

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

42.02 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.

42.03 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.

42.04 If the contract price is in excess of \$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, 120-231 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.

42.05 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.

43. NONDISCRIMINATION PRACTICES

43.01 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.

43.02 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.

43.03 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.

43.04 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.

43.05 If the Contract price is in excess of \$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 17.07, and debarment from any further business with the County.

43.06 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.

43.07 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 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 \$500.00 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

43.08 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.

43.09 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.

44. DEBARMENT AND SUSPENSION

44.01 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-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 49.01 b above; and
- D. The Contractor and its principals have not, within a three-year period preceding this Contract, had one or more public transactions (Federal, State or local) terminated for cause or default.

44.02 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 of default.

44.03 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.

44.04 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.

44.05 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.

44.06 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.

44.07 A Contractor may rely upon a certification of 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).

44.08 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.

44.09 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.

45. NOTICES

45.01 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:

Attn: _____
Telephone: _____
Fax: _____
Email: _____

If to the County:

Attn: _____
Telephone: _____
Fax: _____
Email: _____

45.02 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.

45.03 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.

46. DISPUTE RESOLUTION

46.01 The parties must attempt in good faith to resolve any dispute arising out of this Contract first by discussion between the County Contract Administrator and the Contractor's Account Manager and

then by negotiation between executives who have authority to settle controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Contract. Either party may give the other party written notice of any dispute not resolved in the normal course of business. Within 5 days after notice, the receiving party must submit to the other party a written response. The notice and response must include (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 5 days after delivery of the disputing party's notice, the executives of both parties must meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.

46.02 If the matter has not been resolved by these persons within 15 days of the disputing party's notice, or if the parties fail to meet within 15 days, the dispute shall be resolved in accordance with the Wayne County Procurement Ordinance.

46.03 All negotiations pursuant to this Article are confidential and must be treated as compromise and settlement negotiations for the purposes of the Federal Rules of Evidence and Michigan Rules of Evidence.

47. JURISDICTION AND LAW

47.01 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. 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.

48. COMPLIANCE WITH LAWS

48.01 Contractor represents and warrants that the performance of this Contract and the furnishing of the Services shall be according to applicable standards, provisions, and stipulations of all pertinent federal, state, or Wayne County laws, rules, regulations, resolutions, and ordinances including, but not limited to, the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.

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

49. PUBLICITY

49.01 The Contractor agrees to submit to the County all advertising, sales promotion, and other publicity matters relating to this Contract or any Product furnished by the Contractor wherein the County's name is mentioned or language used from which the connection of the County's name may, in County's judgment, be inferred or implied. The Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of the County.

50. ASSIGNMENT AND SUBCONTRACTORS

50.01 The Contractor may subcontract with the companies listed in Appendix __, List of Subcontractors. Appendix _ 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 __. 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.

51. MISCELLANEOUS

52.01 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.

52.02 The terms of the sections titled Termination, Limitation of Liability, Intellectual Property Indemnification, Indemnification, Notices and County's Confidential Information shall survive the termination of this Contract.

52.03 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.

52.04 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.

52.05 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.

52.06 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.

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

52.08 The County is exempt from federal excise and state sales taxes.

52.09 The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

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

52.11 This document, including the Appendices, schedules, attachments, exhibits, and change orders 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. There are no promises or understandings other than those stated. Any terms or conditions of sales set forth in the Contractor's quotation or order or sales acknowledgment shall not constitute a part of the agreement between the parties.

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

52.13 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.

52.14 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.

52.15 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.

52.16 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.

53. AUTHORIZATION AND CAPABILITY

53.01 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.

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

54. SIGNATURE

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

CONTRACTOR

COUNTY OF WAYNE

By: _____

By: _____

Its: _____

WARREN C. EVANS
COUNTY EXECUTIVE

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Dept of Corporation Counsel

Date: _____

Wayne County Department of Technology

Security Posture Questionnaire

Risk Assessment and Treatment	Yes or No	Explanation
Is there a risk assessment program that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the program?		
Security Policy		
Is there an information security policy that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the policy?		
Have the policies been reviewed in the last 12 months?		
Is there a vendor management program?		
Organizational Security		
Is there a respondent information security function responsible for security initiatives?		
Do external parties have access to Scoped Systems and Data or processing facilities?		
Asset Management		
Is there an asset management policy or program that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the policy?		
Are information assets classified?		
Is there insurance coverage for business interruptions or general services interruption?		

Human Resource Security	Yes or No	Explanation
Are security roles and responsibilities of personnel defined and documented in accordance with the respondent's information security policy?		
Is a background screening performed prior to allowing personnel access to Scoped Systems and Data?		
Are new hires required to sign any agreements upon hire?		
Is there a security awareness training program?		
Is there a disciplinary process for non-compliance with information security policies?		
Is there a personnel termination or change of status process?		
Physical and Environmental Security		
Is there a physical security program?		
Are reasonable physical security and environmental controls present in the building/data center that contains Scoped Systems and Data?		
Are visitors permitted in the facility?		
Communications and Operations Management		
Are Management approved operating procedures utilized?		
Is there an operational change management / change control policy or program that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the policy?		
Is application development performed?		

Communications and Operations Management	Yes or No	Explanation
Do third party vendors have access to Scoped Systems and Data? (backup vendors, service providers, equipment support maintenance, software maintenance vendors, data recovery vendors, etc.)?		
Is there an anti-virus / malware policy or program (workstations, servers, mobile devices) that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the policy?		
Are system backups of Scoped Systems and Data performed?		
Are firewalls in use for both internal and external connections?		
Are vulnerability assessments, scans or penetration tests performed on internal or external networks?		
Are there external network connections (Internet, intranet, extranet, etc.)?		
Is wireless networking technology used?		
Is there a removable media policy or program (CDs, DVDs, tapes, disk drives) that has been approved by management, communicated to appropriate personnel, and an owner to maintain and review the policy?		
Is Scoped Data sent or received electronically or via physical media?		
Are Web services provided?		
Access Control		
Are electronic systems used to transmit, process or store Scoped Systems and Data?		
Are unique user IDs used for access?		
Is application development performed?		

Access Control	Yes or No	Explanation
Is remote access permitted?		
Information Systems Acquisition Development & Maintenance		
Are business information systems used to transmit, process or store Scoped Systems and Data?		
Is application development performed?		
Is there a formal Software Development Life Cycle (SDLC) process?		
Are systems and applications patched?		
Is a web site supported, hosted or maintained that has access to Scoped Systems and Data?		
Are vulnerability tests (internal/external) performed on all applications at least annually?		
Are encryption tools managed and maintained for Scoped Data?		
Incident Event and Communications Management		
Is there an Incident Management program?		
Business Continuity and Disaster Recovery		
Is there a documented policy for business continuity and disaster recovery that has been approved by management, communicated to appropriate personnel and an owner to maintain and review the policy?		
Is there an annual schedule of required tests?		
Are BC/DR tests conducted at least annually?		
Is there a Pandemic Plan?		
Is a Business Impact Analysis conducted at least annually?		

Compliance	Yes or No	Explanation
Is there an internal audit, risk management or compliance department with responsibility for identifying and tracking resolution of outstanding regulatory issues?		
Is there an internal compliance and ethics reporting mechanism and training program for employees to report compliance issues?		
Mobile		
Are mobile devices used to access Scoped Systems and Data		
Privacy		
Is Scoped Data transmitted, processed, or stored that can be classified as non-public information (NPI), personally identifiable information (PII), or sensitive customer financial information? If yes, describe and list types of data.		
Is Scoped Data transmitted, processed, or stored that can be classified as protected health information, electronic health records, or personal health records? If yes, identify the classifications.		
For Scoped Data, is personal information about individuals transmitted to or received from countries outside the United States? If yes, identify the countries.		
For Scoped Data is there a dedicated person (or group) responsible for privacy compliance. If yes, describe. If no, explain reason		
For Scoped Data, is there a documented privacy policy or procedures to protect confidential information?		
For Scoped Data are there regular privacy risk assessments conducted? If yes, provide frequency and scope. If no, explain reason.		
Is there formal privacy awareness training for employees, contractors, and third-party users to ensure confidentiality and privacy of Scoped Data?		

Privacy	Yes or No	Explanation
Is there a formal process for reporting and responding to privacy complaints or privacy incidents for Scoped Data? If yes, describe. If no, explain reason.		
Is there a data classification and retention program for Scoped Data that identifies the data types that require additional management and governance?		
Is there a documented response program to address privacy incidents, unauthorized disclosure, unauthorized access or breach of Scoped Data?		
Is Scoped Data disclosed to third parties? If yes, describe		
Is Scoped Data disclosed to third parties outside of the U.S.? If yes, describe.		
Are there contractual controls to ensure that Scoped Data shared with third parties is limited to defined parameters for access, use and disclosure? If yes, describe the controls, If no, explain reason.		
Is there a business associate contract in place to address obligations for the privacy and security requirements of the services provided?		
Is there a documented privacy program with administrative, technical, and physical safeguards for the protection of Scoped Data?		
Is there a process for ensuring the accuracy of Scoped Data at the direction of the client? If yes, describe. If no, explain reason.		
Is there a process to ensure that the personal information provided by an individual is limited for the purposes described in the respondent's privacy notice? If yes, describe. If no, explain reason.		
Are personnel regularly monitored for privacy compliance? If yes, describe. If no, explain reason.		
Are there documented policies, procedures, and controls to limit access based on need to know or minimum necessary for personnel? If yes, describe.		

Are enforcement mechanisms applied to personnel who violate privacy policies or confidentiality requirements?		
Privacy		
Is customer data accessed, transmitted, processed, or stored that can be classified as consumer report information provided by a consumer reporting agency?		
Software Security		
Is software provided?		
Cloud		
Are Cloud Services provided? If yes, what service model and deployment model is provided (select all that apply):		