

REQUEST FOR PROPOSALS

CALL CENTER MANAGEMENT SOLUTION

RFP # 2008-105



**MECKLENBURG COUNTY
NORTH CAROLINA**

AUGUST 13, 2007

REQUEST FOR PROPOSALS
RFP # 2008-105
Call Center Management Solution

August 13, 2007

Dear Service Provider:

Mecklenburg County, located in the State of North Carolina, is now accepting Proposals for Call Center Management Solution. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the "RFP"). Please review them carefully.

A **Non-Mandatory** Pre-Proposal Conference for the purpose of reviewing the RFP and answering questions regarding the Services will be held on Thursday, **AUGUST 30, 2007, at 1:30 p.m.**, at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, 9th Floor Large Conference Room 986. Please bring a copy of the RFP with you at that time. All Service Providers should return a completed Request for Proposals Acknowledgement Form (see Section 7, Form One) by the date stated in the schedule in Section 2.1 of this RFP.

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Johnella Walker at jowalker@ci.charlotte.nc.us.

All Proposals are due to the Business Support Services, Procurement Services Division, 9th Floor, CMGC 600 East Fourth Street, Charlotte, North Carolina 28202, no later than Wednesday, **September 12, 2007 at 2 p.m.**

One electronic copy of the Proposal on a CD in MS Word and one unbound original Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal, plus six (6) copies of your Proposal must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals
Attention: Johnella Walker
Name of Company Submitting Proposal
Call Center Management Solution
RFP # 2008-105

RFP questions must be directed to Johnella Walker, Business Support Services, Procurement Services Division, per the enclosed instructions in Section 2.3. The County is an equal opportunity purchaser.

Sincerely,

Kay Elmore
Procurement Services Division Manager

cc: Evelyn Minter, Mecklenburg County, IT Manager
Denise Davis, Mecklenburg County, IT Project Manager
RFP file

TABLE OF CONTENTS

1. INTRODUCTION.....	1
1.1. OBJECTIVE.	1
1.2. DEFINITIONS.	1
1.3. ACCURACY OF RFP AND RELATED DOCUMENTS.	5
1.4. COUNTY’S RIGHTS AND OPTIONS.	5
1.5. EXPENSE OF SUBMITTAL PREPARATION.	6
1.6. PROPOSAL CONDITIONS.	6
1.6.1. <i>RFP Not an Offer.</i>	6
1.6.2. <i>Right to Terminate Discussions.</i>	6
1.6.3. <i>Requirement for Representation as to Accuracy and Completeness of Proposal.</i>	6
1.6.4. <i>Trade Secrets/Confidentiality.</i>	7
1.6.5. <i>Prohibited Discrimination.</i>	7
1.6.6. <i>Statutory Requirements.</i>	8
1.6.7. <i>Reservation of Right to Change Schedule.</i>	8
1.6.8. <i>Reservation of Right to Amend RFP.</i>	8
1.6.9. <i>Additional Evidence of Ability.</i>	8
1.6.10. <i>No Collusion or Conflict of Interest.</i>	8
1.6.11. <i>Proposal Terms Firm and Irreversible.</i>	8
1.6.12. <i>Proposal Binding for 180 Days.</i>	9
1.6.13. <i>MWSBE Program.</i>	9
1.6.14. <i>Subcontracting</i>	9
1.6.15. <i>Equal Opportunity.</i>	9
1.6.16. <i>Use of County’s Name.</i>	10
1.6.17. <i>Withdrawal for Modification of Proposals.</i>	10
1.6.18. <i>No Bribery.</i>	10
1.6.19. <i>Exceptions to the RFP.</i>	10
1.6.20. <i>Fair Trade Certifications.</i>	10
1.6.21. <i>Clarification of Ambiguities.</i>	11
1.6.22. <i>Service Provider’s Obligation to Fully Inform Themselves.</i>	11
1.6.23. <i>Environmental Preferable Purchasing.</i>	11
1.6.24. <i>Environmental Reporting Requirements.</i>	11
1.6.25. <i>Disclaimer.</i>	11
2. PROCUREMENT PROCESS.	12
2.1. SCHEDULE AND PROCESS.	12
2.2. INTENT TO PROPOSE.....	13
2.3. INTERPRETATIONS AND ADDENDA.	13
2.4. PRE-PROPOSAL CONFERENCE.	13
2.5. SUBMISSION OF PROPOSALS.	13
2.6. CORRECTION OF ERRORS.	14
2.7. EVALUATION.	14
2.8. CONTRACT AWARD BY COUNTY BOARD OF COMMISSIONERS.	14
2.9. VENDOR REGISTRATION.	15

Table of Contents

3. SCOPE OF CALL CENTER MANAGEMENT SOLUTION.....	16
3.1. GENERAL SCOPE.....	16
3.2. EQUIPMENT.....	16
3.3. PRICING.....	17
3.4. CUSTOMER SERVICE.....	17
3.5. VENDOR QUESTIONS AND RESPONSES.....	17
3.6. SYSTEM REQUIREMENTS.....	19
3.7. GENERAL REQUIREMENTS.....	25
3.8. FUNCTIONAL REQUIREMENTS.....	26
3.9. SYSTEM/ SOLUTION QUESTIONS.....	39
3.10. TRAINING.....	42
3.7.1. Training Plan.....	42
3.11. SECURITY REQUIREMENTS.....	43
3.12. SUPPORT AND MAINTENANCE.....	43
3.12.1. Maintenance Services.....	43
3.12.2. Long Term Relationship.....	44
3.13. DISASTER RECOVERY.....	44
4. PROPOSAL FORMAT.....	45
4.1. PROPOSAL CONTENT.....	45
4.1.1. Cover Letter.....	45
4.1.2. Executive Summary.....	46
4.1.3. Background and Experience.....	46
4.1.4. Proposed Solution.....	46
4.1.5. Required Forms.....	47
4.1.6. Exceptions to the RFP.....	47
5. SERVICE PROVIDER'S BACKGROUND AND EXPERIENCE.....	48
5.1. PROPOSING ORGANIZATION'S STRUCTURE.....	50
5.2. ANALYTICAL APPROACH.....	50
5.3. GUARANTOR.....	50
5.4. REQUESTS FOR FINANCIAL INFORMATION.....	51
5.5. PROPOSED PROJECT TEAM.....	52
5.6. PAST OR PENDING JUDGMENTS.....	52
5.7. FINANCIAL AND LEGAL CONSIDERATIONS.....	53
5.8. BUSINESS PARTNERS.....	54
5.9. PERSONNEL MANAGEMENT.....	54
5.10. REFERENCES.....	54
6. PROPOSAL EVALUATION CRITERIA.....	55
6.1. QUALIFICATIONS, EXPERIENCE AND APPROACH.....	55
6.2. FINANCIAL QUALIFICATIONS.....	55
6.3. COST EFFECTIVENESS AND VALUE.....	55
6.4. ACCEPTANCE OF THE TERMS OF THE CONTRACT.....	55
REQUEST FOR PROPOSALS ACKNOWLEDGEMENT.....	56
ADDENDA RECEIPT CONFIRMATION.....	57

Table of Contents

PROPOSAL SUBMISSION FORM 58

PRICING WORKSHEET..... 59

EXHIBIT B - SAMPLE CONFIDENTIALITY AND NON-DISCLOSURE

AGREEMENT 118

Section 1

Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the County to determine which Service Provider and Proposed Solution will best meet the County's needs.

1.2. Definitions.

As used in this RFP, the following terms shall have the meanings set forth below:

Affiliates: Refers to all departments or units of the County and all other governmental units, towns, boards, committees or municipalities for which the County processes data or performs Services that involve the System.

Agreement: Refers to a contract executed by the County and Service Provider for all or part of the Services covered by this RFP.

County: Refers to Mecklenburg County, North Carolina.

County Project Manager: Refers to a specified County employee representing the best interests of the County for this Project.

Company: Refers to a Service Provider that has been selected by the County to provide the Services required by this RFP.

Company Project Manager: Refers to a specified Company employee representing the best interests of the Company for this Project.

Company Software: Refers to mean all pre-existing software owned by the Service Provider or any of its "Related Entities" which the Service Provider provides or is required to provide under this RFP, and all Updates and Enhancements to the foregoing. The term "Related Entity" shall mean any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Service Provider, including but not limited to, parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.

Current Release: Refers to the latest version of the Software offered for general commercial distribution at a given point in time, including all Updates.

Customizations: Refers to all newly-developed software created by the Service Provider and/or its subcontractors pursuant to this RFP, including but not limited to all interfaces between different components of the System and between the System and other systems.

Section 1

Introduction and General Information

Customizations will not include Updates and Enhancements that become part of the company Software.

<i>Defect:</i>	Refers to any failure of the System or any component thereof to fully conform to the Specifications and Requirements. Non-conformity is not a Defect if it results directly from the County's improper use or damage, unless it is reasonably likely that such non-conformity would have occurred on that or another occasion even without the County's improper use or damage.
<i>Deliverables:</i>	Refers to all tasks, reports, information, designs, plans and other items, which the Company is required to complete and deliver to the County in connection with this Agreement.
<i>Documentation:</i>	Refers to all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the System or any component thereof, and which are published or provided to the County by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the System.
<i>Enhancements:</i>	Refers to any products, parts of products, improvements, additions or materials which are not included in the Products at the time of execution of an Agreement or that are subsequently developed, which modify the Products to provide a function or feature not originally offered or an improvement in function.
<i>Environmentally Preferable Products:</i>	Refers to products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.
<i>Evaluation Committee:</i>	Refers to a committee, as appointed by the County, responsible for determining the best Service Provider for the Services described in this RFP.
<i>Hardware:</i>	Refers to all hardware, equipment and materials which the Company actually provides or is required to provide under the terms of this RFP (whether now or in the future).
<i>License:</i>	Refers to the license agreement.

Section 1

Introduction and General Information

<i>Maintenance Services:</i>	Refers to the maintenance services described in Section 3.
<i>Milestones:</i>	Refers to the benchmarks of performance (consisting of an identified deadline for the completion of specific services and/or the acceptance of identified Deliverables), as specified in this RFP.
<i>Post-Consumer Recycled Material:</i>	Refers to material and by-products which have served their intended end-use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Project:</i>	Refers to the procurement process to choose a Service Provider to perform the Call Center Management Solution replacement for the County.
<i>Project Plan:</i>	Refers to the detailed plan for implementation of the System as described in Section 3, in the form accepted in writing by the County in accordance with the terms of this RFP and resultant Agreement.
<i>Products:</i>	Refers to all Software and all Hardware (both as herein defined).
<i>Proposal:</i>	Refers to the Proposal submitted by a Service Provider for the Services as outlined in this RFP.
<i>Recyclability:</i>	Refers to products or materials that can be collected, separated or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.
<i>Recycled Material:</i>	Refers to material and by-products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Services:</i>	Refers to the Call Center Management Solution and related work as requested in this RFP.
<i>Service Provider:</i>	Refers to a company that has interest in providing the Services required by this RFP.

Section 1

Introduction and General Information

<i>Software:</i>	Refers to (i) all Company Software; (ii) all Customizations; (iii) all Third Party Software; and (iv) all Updates and Enhancements of any of the foregoing.
<i>Source Code:</i>	Refers to the human readable form of a computer program and all algorithms, flow charts, logic diagrams, structure descriptions or diagrams, data format or layout descriptions, pseudo-code, code listings (including comments), and other technical documentation relating to such program.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Products or System which are set forth or referenced in: (i) this RFP; (ii) the Documentation; and (iii) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Products or the System.
<i>System:</i>	Refers to Call Center Management Solution to be supplied, installed, configured, tested and commissioned by the Service Provider under this RFP, including but not limited to all Products.
<i>System Acceptance:</i>	The term "System Acceptance" shall mean acceptance by the County of the complete System to be provided.
<i>Third Party Software:</i>	Refers to all software included within the System or required for the System to function in full compliance with the Specifications and Requirements that is provided by the Service Provider as a result of this RFP and was not manufactured, developed or otherwise created by the Service Provider, any Related Entity of the Service Provider, or any of the Service Provider's subcontractors. The phrase "Related Entity" shall mean any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Service Provider, including but not limited to any parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.
<i>Updates:</i>	Refers to program logic changes made by Service Provider or its subcontractors or vendors to correct Defects in the Products and/or related Documentation delivered hereunder.

Section 1

Introduction and General Information

<i>Warranty Period:</i>	Refers to the twelve-month period following System Acceptance.
<i>Workaround:</i>	Refers to a reasonable change in the procedures followed or data supplied to avoid a Defect that does not impair the performance of the System or increase the cost of using the System.
<i>Work Product:</i>	Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Service Provider in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.

1.3. Accuracy of RFP and Related Documents.

The County assumes no responsibility for conclusions or interpretations derived from the information presented in this RFP, or otherwise distributed or made available during this procurement process. In addition, the County will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents provided by the County other than those provided by the County through the issuance of addenda. In no event may a Service Provider rely on any oral statement by the County or its agents, advisors or consultants.

Should a Service Provider find discrepancies or omissions in this RFP or any other documents provided by the County, the Service Provider should immediately notify the County of such potential discrepancy in writing, and a written addendum may be issued if the County determines clarification necessary. Each Service Provider requesting an interpretation will be responsible for delivering such requests to the County's designated representative as directed in Section 2 of this RFP.

1.4. County's Rights and Options.

The County reserves the following rights, which may be exercised at the County's sole discretion:

- 1.4.1. To supplement, amend, substitute or otherwise modify this RFP at any time;
- 1.4.2. To cancel this RFP with or without the substitution of another RFP;
- 1.4.3. To take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the County ;
- 1.4.4. To issue additional requests for information;
- 1.4.5. To require one or more Service Providers to supplement, clarify or provide additional information in order for the County to evaluate the Proposals submitted;
- 1.4.6. To conduct investigations with respect to the qualifications and experience of each Service Provider;
- 1.4.7. To waive any defect or irregularity in any Proposal received;
- 1.4.8. To reject any or all Proposals;

Section 1

Introduction and General Information

- 1.4.9. To share the Proposals with County employees other than the Evaluation Committee or County advisory committees as deemed necessary;
- 1.4.10. To award all, none, or any part of the Services that is in the best interest of the County, with one or more of the Service Providers responding, which may be done without or without re-solicitation.
- 1.4.11. To discuss and negotiate with selected Service Provider(s) any terms and conditions in the Proposals including but not limited to financial terms; and
- 1.4.12. To enter into any agreement deemed by the County to be in the best interest of the County, with one or more of the Service Providers responding.

1.5. Expense of Submittal Preparation.

The County accepts no liability for the costs and expenses incurred by the Service Providers in responding to this RFP, in preparing responses for clarification, in attendance at interviews, participating in contract development sessions, or in meetings and presentations required for the contract approval process. Each Service Provider that enters into the procurement process shall prepare the required materials and submittals at its own expense and with the express understanding that the Service Provider cannot make any claims whatsoever for reimbursement from the County for the costs and expenses associated with the procurement process.

1.6. Proposal Conditions.

The following terms are applicable to this RFP and the Service Provider's Proposal.

- 1.6.1. RFP Not an Offer.
This RFP does not constitute an offer by the County. No binding contract, obligation to negotiate, nor any other obligation shall be created on the part of the County unless the County and the Service Provider execute a Contract. No recommendations or conclusions from this RFP process concerning the Service Provider shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.
- 1.6.2. Right to Terminate Discussions.
The Service Provider's participation in this process might result in the County selecting the Service Provider to engage in further discussions. The commencement of such discussions, however, does not signify a commitment by the County to execute a Contract or to continue discussions. The County can terminate discussions at any time and for any reason.
- 1.6.3. Requirement for Representation as to Accuracy and Completeness of Proposal.
Each Service Provider shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the County, is true, accurate, and complete. This Proposal includes all information**

Section 1

Introduction and General Information

necessary to ensure that the statements therein do not in whole or in part mislead the County as to any material facts.”

1.6.4. Trade Secrets/Confidentiality.

Upon receipt at the Procurement Services Division, your Proposal is considered a public record except for material which qualifies as “trade secret” information under N.C. Gen. Stat. 66-152 et. seq. After the Proposal opening, the County’s Evaluation Committee, as well as other County staff and members of the general public who submit public records requests will review the Proposal.

The public disclosure of the contents of each Service Provider Proposal submitted in response to this RFP is governed by Chapter 132 and 66-152 et. seq. of the General Statutes of North Carolina. If any Proposal contains trade secret information as defined by Chapter 66-152 et. seq. of the General Statutes of North Carolina, such trade secret information should be specifically and clearly identified in accordance with this Section 1.6.4.

To properly designate material as trade secret under these circumstances, each Service Provider must take the following precautions: (a) any trade secrets submitted by a Service Provider should be submitted in a separate, sealed envelope and on separate CD for electronic files, marked **“Trade Secret—Confidential and Proprietary Information—Do Not Disclose Except for the Purpose of Evaluating this Proposal,”** and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope and on each page of the electronic file.

In submitting a Proposal, each Service Provider agrees that the County may reveal any trade secret materials contained in such response to all County staff and County officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the County to assist in the evaluation process.

Furthermore, each Service Provider agrees to indemnify and hold harmless the County and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material, which the Service Provider has designated as a trade secret. **Any Service Provider that designates its entire Proposal as a trade secret may be disqualified.**

1.6.5. Prohibited Discrimination.

The County is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this section, Prohibited Discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, Prohibited Discrimination also includes retaliating against any person, business or other entity for reporting any incident of Prohibited Discrimination. It is understood and agreed that not

Section 1

Introduction and General Information

only is Prohibited Discrimination improper for legal and moral reasons, Prohibited Discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the County and others. As a condition of entering into any Agreement, the Service Provider shall represent, warrant and agree that it does not and will not engage in or condone Prohibited Discrimination. Without limiting any rights the County may have at law or under any other provision of any Agreement, it is understood and agreed that a violation of this provision constitutes grounds for the County to terminate any such Agreement.

- 1.6.6. Statutory Requirements.
Any Contract awarded as a result of this RFP shall be in full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable.
- 1.6.7. Reservation of Right to Change Schedule.
The County shall ultimately determine the timing and sequence of events resulting from this RFP. The County reserves the right to delay the closing date and time for any phase if County staff believe that an extension will be in the best interest of the County .
- 1.6.8. Reservation of Right to Amend RFP.
The County reserves the right to amend this RFP at any time during the process, if it believes that doing so is in the best interests of the County. Any addenda will be posted to the Internet at www.ips.state.nc.us, bid# 269-2008-105. Service Providers are required to acknowledge their receipt of each addenda by including the Addenda Receipt Confirmation Form set forth in Section 7, Form Two with their Proposal.
- 1.6.9. Additional Evidence of Ability.
Service Providers shall be prepared to present additional evidence of experience, qualifications, abilities, equipment, facilities, and financial standing. The County reserves the right to request such information at any time during the Proposal evaluation period for this RFP.
- 1.6.10. No Collusion or Conflict of Interest.
By responding to this RFP, the Service Provider shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Service Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.
- 1.6.11. Proposal Terms Firm and Irreversible.
The signed Proposal shall be considered a firm offer on the part of the Service Provider. The County reserves the right to negotiate price and Services. All Proposal responses (including all statements, claims, declarations, prices and specifications in the Proposals) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the County. The Service Provider chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the County's election. Any false or misleading statements found

Section 1

Introduction and General Information

in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.

1.6.12. Proposal Binding for 180 Days.

Each Proposal shall contain a statement to the effect that the Proposal is a firm offer for one-hundred-eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Service Provider and include their name, title, address, and telephone number. All prices quoted shall be firm and fixed for the full Contract period. The County shall have the option to accept subject to exception by Contract.

1.6.13. MWSBE Program.

It shall be policy of Mecklenburg County Government to provide minority-owned, women-owned, and small business enterprises (collectively "M/W/SBE") as well as other responsible vendors with fair and reasonable opportunity to participate in Mecklenburg County's business opportunities including purchasing opportunities, construction projects, professional services, and procurement programs including but not limited to participation in procurement contracts for commodities, services and/or leasing activities as they relate to equal opportunities and affirmative action requirements established by federal, state and local governments.

It is further the policy of Mecklenburg County to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, sex, religion, sexual orientation, national origin, age, disability, or veteran's status.

Mecklenburg County's Minority, Women and Small Business Enterprises Program is not a set-aside program as it relates to construction contracting. It is a voluntary goal program. Competitive bidding is required for all contractors, subcontractors, suppliers and distributors. The MWSBE Program encourages contractors to actively and aggressively seek MWSBE participation. Contact Teresa McDow, the MWSBE Coordinator at (704) 336-6186 for more information regarding the program and how your company may show compliance (Refer to Section 7, Form 5 to be submitted with the proposal.)

1.6.14. Subcontracting

The Service Provider given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Service Provider shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by the subcontractor. Additionally, the County must be named as a third party beneficiary in all subcontracts.

1.6.15. Equal Opportunity.

The County has an equal opportunity purchasing policy. The County seeks to ensure that all segments of the business community have access to supplying the goods and services needed by County programs. The County

Section 1

Introduction and General Information

provides equal opportunity for all businesses and does not discriminate against any Service Providers regardless of race, color, religion, age, sex, and national origin or disability.

- 1.6.16. Use of County's Name.
No advertising, sales promotion or other materials of the Service Provider or its agents or representatives may identify or reference the County in any manner absent the prior written consent of the County.
- 1.6.17. Withdrawal for Modification of Proposals.
Service Providers may change or withdraw their Proposals at any time prior to Proposal opening; however, no oral modifications will be allowed. Only telegrams, letters, or other formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal, and received by the County prior to the scheduled closing time for receipt of Proposals, will be accepted. The Proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked "**Modifications to Proposal.**"
- 1.6.18. No Bribery.
In submitting a response to this RFP, each Service Provider certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the County in connection with the Contract.
- 1.6.19. Exceptions to the RFP.
Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Sample Contract language included as Section 8. An "exception" is defined as the Service Provider's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Sample Contract language included as Section 8. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Service Provider provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Service Provider's solution, must be described in detail.
- 1.6.20. Fair Trade Certifications.
By submission of a Proposal, the Service Provider certifies that in connection with this procurement:
- The prices have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with anyone;
 - Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Service Provider and will not knowingly be disclosed by the Service Provider prior to opening; and

Section 1

Introduction and General Information

- No attempt has been made or will be made by the Service Provider to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

1.6.21. Clarification of Ambiguities.

Any Service Provider believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify the County in writing of such apparent discrepancy. Failure to notify will constitute a waiver of claim for ambiguity, inconsistency or error.

1.6.22. Service Provider's Obligation to Fully Inform Themselves.

Service Providers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Service Provider's own risk.

1.6.23. Environmental Preferable Purchasing.

The County promotes the practice of Environmentally Preferable Purchasing (EPP) in acquiring products or services. Applicable EPP attributes that may be taken into consideration as environmental criterion include the following:

Recycled content	Renewable resources
Recyclability	Packaging
Biodegradability	Reduced toxicity
Energy and water efficiency	Durability
Low volatile organic compounds	Take back options

Service Providers able to supply products or services containing any of the applicable environmentally preferable attributes that meet performance requirements are encouraged to offer them in the Proposal. Service Providers must provide certification of environmental standards and other environmental claims, such as recycled content and emissions data or a formal statement signed by a senior company official.

1.6.24. Environmental Reporting Requirements.

The Service Provider shall furnish quarterly usage reports showing a summary of the ordering and/or history of each County department for the previous quarter to the Procurement Services Division. The report must show at minimum, description and total quantity of each item ordered during the period, reporting period, County agency, and total dollars per agency. The County reserves the right to request additional information, if required, when reviewing contract activity.

1.6.25. Disclaimer.

Each Service Provider must perform its own evaluation and due diligence verification of all information and data provided by the County. The County makes no representations or warranties regarding any information or data provided by the County.

Section 2

Procurement Process

2. PROCUREMENT PROCESS.

This Section 2 contains information about the procurement process for this Project.

2.1. Schedule and Process.

The following chart shows the schedule of events to prepare the Service Provider's Proposal. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
August 13, 2007,	<i>Issuance of RFP.</i> The County issues this RFP.
August 27, 2007	<i>Request for Proposals Acknowledgement.</i> Service Providers who intend to submit a Proposal shall submit the RFP Acknowledgement Form on this date to the fax number listed in Section 2.2.
August 27, 2007	<i>Submission of Written Questions Prior to Pre-Proposal Conference.</i> Service Providers are permitted to submit written questions, but only for purposes of clarifying this RFP. All submissions must be faxed or preferably e-mailed to Johnella Walker at the address and number listed in Section 2.3. Questions are due by 5 p.m. on Monday, AUGUST 27, 2007.
August 30, 2007	<i>Non-Mandatory Pre-Proposal Conference</i> 1:30 p.m. 9th Floor Conference Room Charlotte Mecklenburg Government Center
September 12, 2007	<i>Proposal Submission.</i> Proposals are due by 2 p.m. on Wednesday, September 12, 2007, at the Procurement Services Division, CMGC 9 th Floor. All Proposals will be time-stamped upon receipt and held in a secure place until this date.
September 12-19, 2007	<i>Evaluation.</i>
September 19, 2007	<i>Short List Complete</i>
September 26, 2007	<i>Interviews:</i> County reserves time period for any additional Vendor Interviews to further Proposal
September 28, 2007	<i>Vendor Selection</i>
September 28, 2007- October 31, 2007	<i>Contract Award by County Board of Commissioners (Exact date TBD).</i> <i>Contract Negotiation.</i>
November 1, 2007	<i>CALL CENTER MANAGEMENT SOLUTION</i> Service Provider begins providing all project needs.

Section 2

Procurement Process

2.2. Intent to Propose.

Please acknowledge receipt of this RFP via facsimile by **5:00 p.m. on Monday, AUGUST 27, 2007** using the Request for Proposals Acknowledgement Form located in Section 7, Form One. Complete the form in its entirety advising the County of your firm's intention to submit or not submit a Proposal. Fax the completed and signed form to 704-632-8253, Attention: Johnella Walker.

2.3. Interpretations and Addenda.

No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Service Provider with the exception of questions answered at the Pre-Proposal Conference. Otherwise, Service Providers must request such interpretations or clarifications in writing from the County. Address requests for information or clarification of this RFP to Johnella Walker with a copy to Denise Davis at the e-mail addresses listed below. **When submitting questions, please reference the RFP page and topic number.** In order for questions to be addressed at the Pre-Proposal Conference, they must be submitted by **5 p.m. on Monday, AUGUST 27, 2007.**

After the Pre-Proposal Conference, questions must be submitted in writing in a timely manner. In the case of questions not submitted in a timely manner, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the Proposal Due Date. When responding to Service Provider questions or issuing addenda to the RFP, the County will post the answer or information to the Internet at www.ips.state.nc.us, RFP # 269-2008-105.

Johnella Walker
Procurement Services Division
RFP # 2008-105
Fax: 704-632-8253
E-mail: jowalker@ci.charlotte.nc.us; cc: denise.davis@mecklenburgcountync.gov

The County reserves the right to disqualify any Service Provider who contacts a County or County official, employee, or agent concerning this RFP other than in accordance with this Section. Nothing in this Section shall prohibit the County from conducting discussions with Service Providers after the Proposal opening.

2.4. Pre-Proposal Conference.

A Non-Mandatory Pre-Proposal Conference will be conducted on **AUGUST 30, 2007 at 1:30 p.m.** The meeting will be held at the Charlotte-Mecklenburg Government Center, 600 East Fourth Street, Charlotte, North Carolina 28202, 9th Floor Large Conference Room 986.

While attendance at the Pre-Proposal Conference is not mandatory, all interested Service Providers are encouraged to attend. If special accommodations are required for attendance, please notify Johnella Walker in advance of the conference date and time identifying the special accommodations required.

2.5. Submission of Proposals.

One electronic copy on a CD in MS Word and one unbound original Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal, plus 6 copies shall be submitted to the address listed in Section 2.3 above by **Wednesday, SEPTEMBER 12, 2007 at 2 p.m.** The "original" Proposal and each of the six (6) copies shall be complete and unabridged, and shall not refer to

Section 2

Procurement Process

any other copy of the signed/sealed original for any references, clarifications, or additional information. When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the County. **Proposals sent by fax will not be accepted.**

Due to increased security concerns at the Charlotte-Mecklenburg Government Center (CMGC), your sealed boxed may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place if delivering your Proposal in person to the CMGC.

Do not arrive at the Procurement Services Division on the Proposal due date for the purposes of reviewing your competitor's Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved.

2.6. Correction of Errors.

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Service Provider further agrees that in the event of any obvious errors, the County reserves the right to waive such errors in its sole discretion. The County, however, has no obligation under any circumstances to waive such errors.

2.7. Evaluation.

As part of the evaluation process, the Evaluation Committee may engage in discussions with any Service Provider. Discussions might be held with individual Service Providers to determine in greater detail the Service Provider's qualifications, to explore with the Service Provider the scope and nature of the required contractual Services, to learn the Service Provider's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the County.

The County may in its discretion require one or more Service Providers to make presentations to the Evaluation Committee or appear before the County and/or its representatives for an interview. During such interview, the Service Provider may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the County deems appropriate. Service Providers will be notified in advance of the time and format of such meetings.

Since the County may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall define the Service Provider's best offer for performing the Services described in this RFP.

2.8. Contract Award by County Board of Commissioners.

As soon as practical after opening the Proposals, the name of the apparent successful Service Provider will be submitted to the County Board of Commissioners for final approval of award. If approved by the County Board of Commissioners, the Procurement Services Division will provide Contract documents to the Service Provider. In the event the County Board of Commissioners approval is not received within one hundred eighty (180) calendar days after opening of the Proposals, the Service Provider may request that it be released from the Proposal.

2.9. Vendor Registration.

The County is pleased at your interest in doing business with Mecklenburg County and appreciates the opportunity to provide you with information regarding procurement protocols. The County's vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all Service Providers. To assist you in familiarizing yourself with procurement at the County, please follow the link below to the "How to Business with the City of Charlotte" booklet:

<http://www.charmeck.org/NR/rdonlyres/ek33m4cyfumkuevj4jdodelp646mx5x2ja2vydhpyrosfoo2ntxbrp2cxd7n5tt2oxiz7okexkmfe6dhivwtybxrqog/How+to+do+business+booklet.pdf>

Once you have had an opportunity to review the information above, you will need to register as a vendor with the City of Charlotte-Mecklenburg County. Your registration provides the County with baseline information for your company including location, contact and demographic information, as well as your areas of expertise with specific commodity and/or service descriptions. You will also have the opportunity to complete any applicable certifications if your company desires to establish itself as a Small Business Enterprise (SBE) or a Minority and Woman-Owned Business Enterprise (MWBE). The link below will provide you with the opportunity to complete your registration on-line.

<https://cityvendors.charmeck.org>

3. SCOPE OF CALL CENTER MANAGEMENT SOLUTION

3.1. General Scope.

Replace the BellSouth provided Nortel Call Center Management Solution with a new system to:

- Support a mandatory business system currently no longer be supported after June 30, 2007
- Deliver feature-rich service to business managers allowing higher levels of self service for users and managers
- Provide reporting through a web interface
- Permits higher levels of usability when viewing statistics without the expense of additional licenses
- Comply with Mecklenburg County technical architecture
- Eliminate many of the recurring costs associated with building and maintaining ACDs
- Permit call recording and monitoring for training and evaluation
- Provides enhanced real time and historical reporting
- Provide continuous support from vendor

While the County is flexible with respect to certain elements of its proposed relationship with the CALL CENTER MANAGEMENT SOLUTION Services Provider, the County does have certain preferences for that relationship and has developed the following proposed model for that relationship.

3.2. Equipment.

3.2.1. Hardware Requirements

- Identify all physical systems required to set up and maintain the system. Provide costs of proposed hardware components where applicable.
- Provide hardware requirements for all components of your proposed system, including end user, supervisor and administrator desktops and all required peripheral hardware
- Explain how to automate the backup and recovery processes, including supported tools (TSM), use of “hot backup” methods, on-site vs. off-site recovery etc.
- Describe the space requirements for standard system components
- Any servers must be able to be rack mounted

3.2.2. Software Requirements

- Identify all software components, including additional software licenses that must be obtained for third-party vendors
- Define the support framework for all software licenses
- Include details on ALL software license information, whether based on named, concurrent or an enterprise model and an explanation of how you view each one.
- Proposal must include purchase price, number of users/licenses included in purchase price, and cost and number of users included with any additional licenses required.

3.2.3. Warranty Information

Identify what is and is not included in warranty support.

When applicable, indicate variances of warranty support that may be associated with additional Service Level Agreements (SLA).

Provide warranty information, including initial warranty length and coverage (9-5, 24x7, etc), breakdown of what is covered, response times and costs of coverage for extended/additional warranties on all software and hardware.

3.3. Pricing.

Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars rounded to the nearest quarter of a dollar. A pricing worksheet is provided in Section 7, Form 4 to assist you.

3.4. Customer Service.

The County is very focused on Customer Service with a philosophy to provide all customers with quality services in a manner that is courteous, responsive, accessible, and seamless. The Services will be delivered with patience, understanding, good will, and without regard to our own convenience. The selected Service Provider will be expected to use these guidelines in developing the Proposed Solution:

- Accessible, courteous, responsive and seamless customer service is of highest priority for the County.
- Accessible service means that citizens have easy access to the organization.
- Seamless customer service means that a customer gets good service no matter who is responsible.
- Responsible customer service means that our employees know what they are doing; that information they give is accurate; that they have a good understanding of how to get problems and decisions made; that they are trained and evaluated for the jobs they are doing.
- Customer Service goals must be measurable and regularly evaluated.
- Continuous improvements in customer service must be made in order to make County services accessible, responsive and as seamless as possible.

3.5. Vendor Questions and Responses

Please respond the vendor questions below and submit with Proposal Response - Proposal Solution Section.

Note: Where applicable, provide the following responses:

MEET – Use ONLY the following codes when indicating how each requirement can be satisfied. Do not use multiple codes.

Section 3

Scope of Services

YES – product completely meets requirement out-of-the-box (with little or no configuration work).

NO – product cannot meet requirement.

COUNTY – product can be configured to meet requirement by County’s IT staff after a standard week-long training course offered by Contractor. The “configured” settings shall survive future version upgrades with no modification. “Configured” settings that require additional work to in order to survive version upgrades are considered CUSTOM.

VENDOR – product can be configured to meet requirement by Proposer’s technical/business staff. The “configured” settings shall survive future version upgrades with no modification. “Configured” settings that require additional work to in order to survive version upgrades are considered CUSTOM.

THIRD – a third-party component is needed to meet this requirement.

CUSTOM – product can meet requirement only through custom scripts/programs written by IT staff from County or Bidder.

MODULE/DETAILED EXPLANATION

Indicate which specific software module(s) meet the requirement and how.

If the response to MEET is COUNTY, VENDOR, THIRD, or CUSTOM, describe what type of configuration/customization/component is needed.

You may attach a separate document with your explanation, if needed.

Questions and/or submittals regarding Reporting		Module/Detailed Ex
	Basic Requirements	
3.5.1	List and provide all graphical and textual canned reports	
3.5.2	Describe the process that a user would use to create both ad hoc queries and reports. Include the capability to publish and automatically distribute standard reports, on demand reports, pre scheduled reports, and customized reports, based on security access levels	
3.5.3	List the system’s export file formats (i.e. Excel, Access, etc.). Detail how the export capability maintains report formatting of the data	
3.5.4	Describe how a user would customize a report such as changing report format and headings, free form data placement, revisions on the fly, inserting page breaks on data elements, insertions of the County logo or other graphics, removal of unwanted graphics such as vendor logos, subtotal and grand total data by specific fields, etc.	
3.5.5	Describe how the system allows for summary and detail reports and how the system implements On-Line Analytical Processing (OLAP).	
3.5.6	Mecklenburg County is looking for a solution that will allow management and other authorized users outside the call center environment the ability to generate standard and ad-hoc reports without installing separate software. Is the reports interface browser-based?	
3.5.7	Provide a list and screen shots of standard reports included in the software.	

Section 3

Scope of Services

	Historical Reporting Requirements	Meet ?	
3.5.8	The system must maintain long term (at minimum 36 months) historical data. The system will allow viewing and extraction reports in multiple formats used to predict future performance, requirements, and costs		

	Questions regarding Basic Requirements		
3.5.9	Can results be exported to MS Access? MS Excel?		
3.5.10	Can it be run from any PC with permissions?		
3.5.11	Can individuals (with permission) create and save their own ad-hoc reports for later use and retrieval?		
3.5.12	Is it possible for these ad-hoc reports to be either shown to or hidden from other users (as permissions permit)?		
3.5.13	Can reports be setup on a schedule to be automatically generated?		

3.6. System Requirements.

The goal of these system specifications is to provide the County with the most flexibility in the operating environment as well as an efficient maintenance environment. An efficient maintenance environment is one that allows the software to be modified and/or extended to meet the business needs with little effort. Another characteristic of an efficient maintenance environment is one where changes to the system are contained to components, such that a small change can be tested by testing just the component that changed and without having to test the entire system.

Vendors will keep these objectives in mind when detailing their proposed systems. To the extent the proposed system does not embody these concepts; the vendors will describe why it would not impact the County's operation and/or maintenance of the proposed system.

The following components deal with the basic make-up/foundation of the architecture and the general administrative use of the system

Any proposed systems must be currently available and in use. Do not respond with any systems under development but not yet released.

Section 3

Scope of Services

Questions and/or submittal requests regarding System Requirements			Module/Detailed Explanation
	Basic Requirements	Meet?	
3.6.1	The application and its related components must be modular in architecture and allow selective acquisition/ implementation of individual components, as required, centered on telephone answering, CTI and queuing services.		
3.6.2	The system must support advanced ACD functionality including multiple ACD splits, skill sets and delay announcements in queue		
3.6.3	The system must have an effective solution for supporting remote agents/groups		
3.6.4	System navigation must be based on intuitive functionality and ease of use. Users must be able to access multiple system modules by simple keystrokes, without repetitive signing in and out.		
3.6.5	Supervisors must have access to tools that allow them to “view” real-time activity, to enable them to make real-time agent modifications		
3.6.6	The system must be flexible enough to accommodate the current and future unique business characteristics of Mecklenburg County		
3.6.7	The system must have an integrated database allowing a single point of input for each data element. Changes to an element or related elements must automatically update other occurrences or modules, to allow for a continuous and transparent call flow to our clients.		
3.6.8	Authorized access to the system through passwords and roles is required for individual modules. Audit trails must be produced, down to specific transactions The system must provide context-sensitive help menus to assist users with the operation and administration of the system		

Section 3

Scope of Services

3.6.9	The selected Contractor must provide complete system documentation that can be customized to support local operational requirements. This includes a data model of database design, system flow, end user documentation, systems administration, business functional process work flow diagram, end-user procedure documents, and supported data dictionary for composing customized reports.		
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The following items are not system requirements of the Call Center Solution, but are additional features that are under consideration. State the position of your application related to the following:

Questions and/or submittal requests regarding Optional System Functionality		Module/Detailed Explanation	
	System Compatibility		
3.6.10	The system should conform to County operating system requirements. Mecklenburg County currently uses the following operating platforms for desktops - Windows XP. Does your application run on this platform? Include information on middleware and other third party software requirements		
3.6.11	Provide desktop software requirements, (including thick and web based client needs – ODBC, Java versions, SP Levels, etc) What is your minimum recommended configuration for desktops running your application? Any upgrades to current in-use desktops will be charged to regular operating expenses and must not be included in your proposal costs.		
3.6.12	Does system connect to existing DMS-100 hardware? Explain integration method.		
	Technology		
3.6.13	What development platform is your application built upon?		
3.6.14	If your application runs on a server, what is your recommended server environment?		
3.6.15	Does your system/database offer protection to prevent two different users from concurrently updating the same record?		

Section 3

Scope of Services

3.6.16	Is your system browser-based, and if so, what browsers and browser versions are supported?	
3.6.17	Is there a desktop installation procedure required for all users? If so, what is the size (in kilobytes) of the desktop hard-drive installation requirements?	
3.6.18	Do new releases of software require re-installation on each desktop? If so, can Microsoft SMS be used?	
3.6.19	Can your company change/design your delivered web pages to match the "look and feel" of current Mecklenburg County web pages?	
3.6.20	After your web pages have been delivered and are in production, can County staff assume the maintenance of those pages?	
3.6.21	Will your delivered web pages be built using already functioning web pages as a starting point or will they be built "from scratch"?	
3.6.22	What changes/additions are needed in the current County network to provide adequate capacity? What level of communications traffic will be generated?	
3.6.23	What methods do you propose for the County to integrate with your system? How are these methods implemented? e.g. API, Web Services? How are the methods secured?	
3.6.24	Does your application provide a means to publish events/messages suitable for Business Process Monitoring or Business Activity Monitoring systems?	
3.6.25	How is data passed between application layers? What is the average size of data transmitted per request?	
3.6.26	Do you have benchmark guides to support the sizing of your application for performance?	
3.6.27	How do you propose to support conversion of existing data?	
3.6.28	If your application provides configuration files, how are these files secured?	
3.6.29	Does your application require cookies to be turned on?	
3.6.30	Does your application support input validation? Across all application boundaries?	
3.6.31	Does your organization belong to any standards bodies such as WC3, OASIS, etc?	

Section 3

Scope of Services

	Security Questions		
3.6.32	Describe application security features including user authentication and application resource authorization where applicable, identifying any vendor specific dependencies on external systems (e.g. Active Directory Services).		
3.6.33	Our users sign-on to Microsoft Active Directory with a User ID and password. In order to use system security features, will users maintain a separate User ID and password, or can system accept the Microsoft User ID as a "pass through" sign-on? Our User ID is a seven-digit alphanumeric field.		
3.6.34	Are unauthorized functions (due to security) "grayed out" or unseen to an unauthorized user?		
3.6.35	Describe any system audit trail. Do you date, time stamp and capture User ID when a file record is changed? Do you identify which data element of a file record is changed? Do you track each change or just keep "last changed by" information? Do you keep "added by" information separate from "last changed by" information?		
3.6.36	Describe your recommended back-up procedures, and disaster recovery approach for this system/application.		
3.6.37	Using your knowledge of our current data volumes and your proposed system, how long would the system be "down" or unavailable due to any nightly batch cycles, system backups, database reorganizations, etc.		
	Database		
3.6.38	What DBMS's does your application support?		
3.6.39	What is your primary or preferred database?		
3.6.40	What type of licensing is required for your database environment?		
3.6.41	What is the number of database environments needed in a typical installation?		
3.6.42	Do you use native DBMS data types?		
3.6.43	What percentage of your data access code is written using stored procedures?		

Section 3

Scope of Services

3.6.44	What is the estimated size of your database in our environment?	
3.6.45	What is the approximate number of tables and views?	
3.6.46	What is the data access method used to access the database from your application?	
3.6.47	Are there any proprietary features or practices used related to your database? If so, please detail.	
3.6.48	Is there any reason why system administration privileges would be needed outside of a central DBA group to administer your application or database?	
3.6.49	Are any proprietary toolsets/utilities needed to administer your database environment?	
3.6.50	Are any third party tools needed to administer your database environment?	
3.6.51	Please describe how database security is handled within your application.	
3.6.52	How are reporting needs accommodated in your database design?	
3.6.52	Do you have a data model available for review?	
3.6.53	Does the system support voice recording & call monitoring? If so, provide description of the solution.	

3.7. General Requirements

Questions and/or submittal requests regarding General Requirements		Module/Detailed Explanation
Enhancements/ New Releases		
3.7.1	Explain the process for upgrading the application, and whether the upgrades require modifications to the contract or additional licensing – or if they can be managed internally.	
3.7.2	Describe the upgrade policy for new versions, releases and enhancements. Include how the schedule is set and communicated, how installation and training will be handled and any associated costs	
3.7.3	Provide a list of customers who have executed multiple upgrades with your system.	
3.7.4	Provide a product roadmap, which would include all aspects of new versions – hardware platforms, required software, and application functionality - notating what is included as part of a maintenance contract or considered additional fees/expenses.	
User Interface		
3.7.5	Provide some sample screen shots to demonstrate the intuitiveness of your application	
3.7.6	The user interface must be intuitive and support customization/user preferences. Describe how your system accommodates the user interface, and provide screen shots to demonstrate	
3.7.7	Identify which fields can be customized and how this task is performed, whether by our on-site administrator or through you. Explain how a user's screen can be customized to display user-defined fields.	

3.8. Functional requirements

This section of the RFP is organized by categories. Each section has a brief overview of the necessary functionality with detailed questions that will help substantiate your ability to meet and/or exceed our specifications. Responses will be evaluated on how well your products and services support our total value of ownership. When applicable, be sure to validate your proposed functionality against known industry standards.

Functional Requirements	Meet?	Module/Detailed Explanation
3.8.1 Capacity: The current environment consists of the following: Nortel DMS100 ACD provided by AT&T through Centrex Service agreement Nortel CCMIS v 5.2.2 County owned, on Premise The CCMIS system is configured for: 400 Agent Licenses 32 Supervisor Licenses 4 Partitions 30 Groups (Call Centers) Other information: Average Calls offered/month 139,000 system wide. High call volume centers - 3 of our ACDs have an average of 8 agents, receive about 2,300 weekly and average 3:30 min average talk time (ATT). Very high call volume - 1 ACD has 25 agents, receives about 4,800 calls weekly and averages 3:50 min ATT. Long talk time - 2 ACDs have about 4 agents each, receive an average of 350 calls weekly and average 10:05 min ATT. The remaining 17 centers average 5 agents, receive about 320 calls weekly and average 3:00 minutes of ATT. In most cases, hold times in all centers are less than 2 minutes		

Section 3

Scope of Services

	The proposed system should minimally exceed these parameters by 25% for expansion and growth.		
3.8.2	Describe your system administration interface.		
3.8.3	Describe the levels of administrative access. Mecklenburg County requires the ability to provide our Administrator with full permissions for all administrative functions including but not limited to full group/agent administration and an internal support group with a more restricted access level that would allow for password resets and general troubleshooting support.		
3.8.4	In the absence of the County Administrator, the Vendor must provide a mechanism to address any “changes” that would need to be made to our system to accommodate our daily operational demands. Identify how these requests would be managed and identify all associated pricing with these requests.		
Questions and/or submittal requests regarding Basic ACD Features		Meet?	
3.8.5	State the number of queues available, the number of queue slots available and the system’s method of queuing.		
3.8.6	Outline how queue thresholds are managed, including real-time changes to queue size, and the process for overflow.		
3.8.7	Provide details on the various methods to “prioritize” calls, including First in First Out configuration. Provide details on how this would be accommodated, including the process of calls overflowing from one split to another and how it would be queued ahead of other calls.		
3.8.8	For basic ACD applications, callers must be provided a queue specific (different for each queue) delay announcement if an agent is not immediately available to answer a call. After waiting a specified period of time, a second announcement must be provided. This period of time between announcements must be programmable by queue. Also, the second announcement must repeat after a specified period of time. For some applications, it is required that a queue specific announcement be provided first before talking to an agent even if an		

Section 3

Scope of Services

	agent is immediately available. Describe your ability to meet these basic announcement requirements and the method used.		
3.8.9	If an agent is not available to handle a call, the call must queue for the next available agent. The system must be able to provide music on hold (MOH) until the call is answered. The system must be able to provide multiple MOH sources and it must be easy to change the MOH output for any queue at any given time. Explain.		
3.8.10	Based on our current operational demands, Mecklenburg County requires the ability to offer our clients the option to leave the queue and request an alternate method of contact, such as leaving a message with callback information or email address for follow-up, or return to queue while maintaining queue position. Explain the process of opting out of queue and alternate contact methods.		
3.8.11	Mecklenburg County will require the ability to have agents within multiple splits/skills. Identify any system limitations, such as limitations to the number of splits/skills an agent can be assigned.		
3.8.12	The chosen solution must be able to accommodate the routing of calls to the "most-idle" agent. Describe your algorithm for selecting the most-idle agent.		
3.8.13	Describe how the distribution of calls based upon Most Idle Agent is impacted if an agent is a member of multiple split/skill groups. Identify the mechanisms and options in place to allow for variable call distribution parameters, such as allowing a call incoming to a specified split/skill to go either to the agent Most Idle for only the split/skill in question or the agent Most Idle across all of their defined split/skill groups.		
3.8.14	Explain the abilities of your system to allow for multiple-call processing by a single agent. Outline how the system would accommodate an agent that is handling a call and needs to put the call on hold and wait for further information.		
3.8.15	Mecklenburg County requires the ability to redirect unanswered calls and is looking for the chosen system to have intuitive means to identify and deal with certain situations. Explain what would happen to a call that is sent to an agent who left a position without logging off. Identify		

Section 3

Scope of Services

	the process for which the supervisor would be notified of this condition and how your system would ensure that calls aren't continuously sent to this agent position.		
3.8.16	Explain the process for enabling night service at the skill set and contact center level.		
3.8.17	Mecklenburg County requires an intuitive means to access and update a queue/skill set announcement or status. Supervisors may encounter an emergency, unplanned situation that requires the operation to be closed unexpectedly. Describe the process a Supervisor would take to update their announcement and manage their queue/skill set in this type of situation. In addition to unplanned closings, there are planned closings such as holidays.		
3.8.18	Outline how your system accommodates the prerecording of announcements and their implementation and schedules to address call flow management.		
Questions and/or submittal requests regarding the Advanced ACD Features			
3.8.19	Does the system provide multiple split/skill queuing? State the system capacity for simultaneous queuing to agent groups.		
3.8.20	Mecklenburg County requires that the chosen solution support automated load-balancing capabilities and customized conditional routing capabilities. Describe how comparisons are made in queue conditions before routing calls to ensure that split/skills are not overloaded. Also include how the process occurs in queue conditions after routing calls to determine if calls should be re-routed to alternate destinations.		
3.8.21	Describe your system's conditional routing capability.		
3.8.22	Mecklenburg County requires the ability to reference priority customers, to allow for priority routing and possibly queuing to a dedicated agent. State how this can be accomplished and the limitations of your integrated database table solution		
3.8.23	Mecklenburg County requires the ability to route calls based on regional demographics. Outline how your system would match ANI or other digits in routing tables using sequences such as area code or exchange, which would identify and route those calls to given		

Section 3

Scope of Services

	destination.		
3.8.24	Describe the system's ability to route calls based on Dialed Number Identification Service (DNIS).		
3.8.25	Describe the systems ability to route calls based on Automatic Number Identification (ANI).		
3.8.26	Describe the system's ability to predict and announce to the caller the estimated wait time for the next available agent. How accurate is this prediction?		
3.8.27	Mecklenburg County requires the ability to use the estimated wait time or average speed of answer to make routing decisions. Describe your systems ability to predict the estimated wait time for various split/skills and pick the best destination for a call to avoid excessive wait times and subsequent overflow.		
3.8.28	Mecklenburg County requires priority routing. Describe your system's ability to prioritize calls based on variables such as length of time in queue and caller response to a prompt. Also identify how the priority can be changed after the call is initially queued.		
	Mecklenburg County requires a system solution that will provide alternate routing automatically based upon time of day and day of week. Describe how calls are routed to night service after hours. Provide an example of how Time-of-Day, Day of Week routing is accomplished.		
3.8.29	Mecklenburg County requires the ability to provide alternate routing for holidays and special dates automatically based upon time of day and day of year per call center and/or skill set. Provide an example of how Time-of-Day, Day of Year Holiday routing is accomplished, a listing of system recognized holidays and the mechanism for maintaining this list.		
3.8.30	The system must provide the ability to automatically route incoming calls to alternate groups within the ACD dependent upon incoming call volume and/or number of calls waiting in queue. Each group, application, and/or trunk group will have the ability to overflow uniquely, depending upon business requirements.		
3.8.31	Mecklenburg County is looking for a solution that allows calls to be automatically overflowed to voice messaging or a voice response system. Identify the systems' capability to automatically route to a		

Section 3

Scope of Services

	remote location based upon conditions in the call center including call volume and time of day. List overflow destination types.		
3.8.32	Mecklenburg requires that the solution provide integrated auto-attendant routing functionality such as "If you know the extension of the party you wish to speak with, you may dial it now"? Can your ACD system prompt callers for the type of service they desire, i.e. "For...Press 1, For...Press 2". Identify how your system would support these capabilities without requiring an external IVR system or announcement device		
3.8.33	Mecklenburg County requires that the chosen solution be capable of providing CTI integration from the very first phase of the implementation. Mecklenburg County has agents and ACD technology currently in a number of operations, utilizing various application solutions, such as PeopleSoft, IDX Scheduling, MAGIC, Heat and various internally developed applications. Describe your process for implementing these interfaces, including a list of applications that can be interfaced to "out of the box". Provide a listing of applications your have previously interfaced to and corresponding reference information.		
3.8.34	MECKLENBURG COUNTY requires that the chosen ACD system be capable of requesting information, such as account code/medical record number, before the call is sent to an agent and then the ability to route the call based upon that information. Describe how this function is handled in your system.		
3.8.35	Mecklenburg County requires that the chosen solution be capable of taking information that the call routing commands collect about the caller (such as account number, position in the queue, estimated wait time, and menu selection) and forward it to a voice response unit (VRU) to be used for routing purposes, database lookups, or trigger IVR applications. Describe what information can be forwarded and how and the ability of the VRU to return information to the ACD such as caller identification information or routing destinations.		
3.8.36	Outline your systems ability to accommodate connecting a caller to a voice response unit (VRU) while they remain in queue for an agent. Does an incoming call lose its place in queue when the call is routed to voice applications, audio text announcements, or other VRU		

Section 3

Scope of Services

	applications?		
3.8.37	Describe your system's ability to use the routing commands to obtain information from another source or a database before routing the call.		
3.8.38	Mecklenburg County requires the ability to administer the call routing tables from a call center manager or supervisor terminal in real-time, without adversely affecting call processing. Describe how real-time changes are made to the call routing tables, identifying whether it is dynamic and immediate.		
3.8.39	Mecklenburg County requires the ability to test all call routing and announcement steps prior to production. Describe the process for testing.		
3.8.40	Outline the process for storing contingency call routing programs in the system and the process and anticipated timeframe for implementing them in the event there is a need.		
3.8.41	Describe how your system handles multiple announcements being played to a caller during their time in queue. Identify how many announcements can be administered per ACD split/skill.		
3.8.42	Mecklenburg County requires the ability to store and play multiple announcements, based on the caller, skill set, spilt, etc. Identify many announcements are supported by your system and the maximum recording time supported for each. How many callers can simultaneously listen to a single announcement?		
3.8.43	The supervisor should, dependent upon security code, have the ability to control and change announcements and messages pertinent to his/her group. Supervisors should be able to make new recordings or change recordings. Identify the process for recording new announcements and how they could be changed from a remote location. Describe this process for both local and remote announcement access.		
3.8.44	Mecklenburg County requires multiple music sources for callers in queue. How many music sources can be administered per ACD split/skill?		
3.8.45	Mecklenburg County requires that agents answer callers with predetermined scripts based on the type of call being received. For agents that handle calls for multiple applications/skill sets, identify what indication would be given to the agent detailing what type of call		

Section 3

Scope of Services

	is arriving so that the agent can greet the caller appropriately.		
3.8.46	Mecklenburg County requires the ability to assign multiple skills and skill levels to each agent (i.e. bilingual, training or experience level, product knowledge, customer knowledge, etc.). Describe how individually assigned skills are ranked and rated in terms of priority, proficiency, or preference within your system and identify the maximum number of simultaneous skills queries and routing requests that can be executed at a time?		
3.8.47	Describe how call handling preferences are managed. Specifically identify how your system assures that the agent will receive a waiting call for his/her primary assignments even if a secondary skill assignment call has been waiting longer or in contrast on an agent-by-agent basis, how you specify that an agent always receive the highest priority oldest call waiting for any of the agent's skill competencies or a "greatest need" basis.		
3.8.48	Mecklenburg County requires the ability to add/remove agent skills dynamically while agents are on calls. Describe this process and identify whether an agent can be logged into one or more splits/skills when being moved between agent groups. Identify who has access to changing split/skill assignments (supervisors only or agents and supervisors) and describe your auditing tools to track the changes		
3.8.49	Mecklenburg County requires the ability to monitor calls by agent login rather than position or extension number. Describe the monitoring process for your proposed solution.		
3.8.50	Mecklenburg County requires the ability to allow for direct agent calling. Describe how this is handled within your system and identify whether the agent must give out their DID number to receive a call back.		
3.8.51	Describe proposed systems ability to address agent fairness relative to equitable agent call distribution for multi-skilled agents. Can your system distribute calls to agents based on ACD work occupancy instead of most idle or longest current idle time? An occupancy measurement would consider the total amount of time an agent has been occupied since logging on rather than just the longest time since the last call.		
3.8.52	Mecklenburg County requires the ability to provide calls with the option		

Section 3

Scope of Services

	to continue waiting in queue or to leave a message. Describe how this would be processed in your system. If the caller chooses to continue to wait, does the call retain the original position in queue?		
3.8.53	Mecklenburg County requires that the chosen solution support an option for callback messaging capability. Identify whether your solution accommodates the ability to allow the caller to schedule messages for callback, at a specific time and date and whether the caller can keep their place in queue and receive a callback. List all options available to the caller?		
3.8.54	Mecklenburg County requires a mechanism to manage downtime. During slower periods, can the system automatically offer agents the option of returning calls to customers who had called earlier and left messages? Describe how call center staff accesses callback messages and whether your solution offers the ability to queue messages for the agents to be automatically delivered?		
3.8.55	Describe the supervisor's graphical user interface.		
3.8.56	Can your system distribute calls to achieve service level objectives for different call types as defined by our business needs?		
3.8.57	Mecklenburg County requires the ability to do call recording. Describe all recording options, such the ability to record all calls or manually initiated by the agent.		
3.8.58	Describe the process for any manual intervention.		
3.8.59	Mecklenburg County requires the ability to store recordings for easy reference. Describe the process for storing the recordings and fully detail the searching and retrieval process.		
3.8.60	It is expected that call recording be provided as a component of the proposed system. If this option an optional feature, please identify all associated pricing, hardware, etc.		
3.8.61	Mecklenburg County is looking for a solution that will allow both voice and keystroke recording. Describe how your solution synchronizes the voice recording with the PC screen shots/windows and keystrokes. Is this an optional feature?		
3.8.62	Mecklenburg County requires that the chosen solution offer remote		

Section 3

Scope of Services

	agent capabilities. Outline how your system works in a remote agent/work from home scenario, identifying any differences in process or functionality.		
Questions and/or submittal requirements regarding Web/ Email Contact			
3.8.63	Mecklenburg County requires the ability to offer our clients browsing the Mecklenburg County Web Site the option to request a web chat or request a call from an agent. Identify how these “calls” are queued and prioritized. Describe your web chat platform.		
3.8.64	Mecklenburg County is looking for the chosen solution to allow the agent engaged in a chat with a client to push web pages and information to clients, based on the information being requested. Describe the process for pushing web pages and identify whether the option is available in queue, while not active in a chat.		
Agent Functionality			
3.8.65	Mecklenburg County requires the proposed solution to make the number of calls in a specific skill set/split available/visible to the agents assigned to that particular skill set/split. Describe the tools that are available in your system and the process for accessing the information.		
Management Information System			
3.8.66	Mecklenburg County requires the chosen solution to provide a Graphical User Interface for administrators, supervisors, and agents to monitor call center activity on a PC. Describe your reporting tool and outline the available reports and information.		
3.8.67	Mecklenburg County requires the ability to customize report views, based on the group or position of the individual viewing the information. Describe the level of customization available to supervisors, agents and administrator for real time monitoring of the items and resources of interest in the call center(s).		

Section 3

Scope of Services

The following items are not reporting requirements of the Call Center Solution, but are additional features that are under consideration. State the position of your application related to the following:

Questions regarding Optional Functionality		Module/Detailed Explanation
3.8.68	Do you offer an option for administering call routing through a Windows-based graphical user interface?	
3.8.69	Does your graphical solution provide drag and drop access to available functions in order to design the call flow?	
3.8.70	Can comments be added to the design and be viewed graphically?	
3.8.71	Are remote agents allowed? What type of PC access must the agent use? VPN?	
3.8.72	What is the additional cost for each remote user?	
3.8.73	What additional time and effort is required to setup and support a remote agent?	
3.8.74	What specific hardware and software is required for a remote agent?	
3.8.75	Does the system require a specific type of phone line for receiving ACD calls?	
3.8.76	Does your system allow the agent to request that an additional ACD call be delivered while waiting?	
3.8.77	Can one or more additional ACD calls be forced to an agent?	
3.8.78	What type of digit matching is available?	
3.8.79	Can multiple split/skills which might typically be considered backup or overflow destinations be considered up front if it is predicted that the call will overflow anyway? Describe this capability	
3.8.80	Does this require an adjunct voice processing system? If so, please describe the proposed platform, manufacturer, features, integration,	

Section 3

Scope of Services

	connectivity, and all associated pricing.	
3.8.81	Can more than one person be making changes to different screens or tables simultaneously? Explain	
3.8.82	Can messages be stored in a group mailbox? If so, how are the agents notified that messages are waiting?	
3.8.83	Can an agent be notified when voice mail messages are left for the personal extension number and separately for the ACD group? Explain.	
3.8.84	When the agent receives a callback message from the queue, is the callback to the customer launched automatically or does the agent have to dial the customer callback number? Explain the options that the agent has for handling the callback message.	
3.8.85	Can the supervisor display customer messages and their status on a Windows PC?	
3.8.86	Can Callback messages be played back directly from the supervisor's PC?	
3.8.87	Can the supervisor reschedule, delete, re-prioritize, and launch messages to the agents from the PC?	
3.8.88	Can the system monitor whether service levels are above or below the objectives, and automatically adjust routing calls out of their normal place in queue (oldest call first) to attempt to meet our desired service level objectives?	
	Can certain agents be defined as "reserve" agents for certain skill sets?	
3.8.89	Can the system monitor queue thresholds and expected wait times in queues and automatically activate reserve agents as needed in order to prevent bad service from occurring. Is supervisor intervention required to monitor the queue thresholds or to activate the agents?	
3.8.90	Does the system allow agents to record calls to confirm transactions in case there are difficulties with an order at a later timeframe?	
3.8.91	Does PC screen recording require an additional server or other optional hardware? If yes, provide all associated pricing and hardware requirements and specifications.	
3.8.92	Does your system have the ability for potential customers browsing the Mecklenburg County Web Site to request a call back from an	

Section 3

Scope of Services

	agent? Describe how the call back requests are queued and evenly distributed to available agents.	
3.8.93	Does your system support e-mail distribution? Explain the process	
3.8.94	Can the system force the agents to be put into a Variable-wrap-up state for a predefined period of time in order to provide rest time between calls, pace calls to the agents, or limit the amount of time an agent spends in completing wrap up work? Describe.	
3.8.95	Does the system allow agent positions to activate an alarm notifying a supervisor of an emergency condition? The system must have the ability to automatically record the trunk number and/or calling number if provided; agent position involved in the emergency, and activate a recording of the conversation if recording equipment is provided?	
3.8.96	Does your proposed solution support these capabilities? Describe this process.	
3.8.97	Does the agent have the ability to directly signal the supervisor when the agent requires assistance handling an active call? How does the supervisor assist the agent? Describe this process.	
Questions regarding Supervisor Functionality		
3.8.98	Can supervisors make themselves available to receive ACD calls during busy periods? Describe the process.	
3.8.99	Can the supervisor logout agents without having to go to the agent's desk? Can they log them out from a remote location?	
3.8.100	Can the supervisor force the availability of agents without having to go to the agent's desk? Can they force availability from a remote location?	
3.8.101	Can the supervisor monitor an agent's conversation for training or administrative purposes in real-time without plugging in to the agent's telephone set? State whether a special type of voice terminal is required for either the monitored or monitoring telephone.	
3.8.102	Both silent monitoring and tone indication to the agent during monitoring should be available. Are the parties on the call given an indication that the call is being monitored?	
3.8.103	Can the supervisor monitor an agent's conversation from a remote location?	
3.8.104	Can your reporting system support multiple external wallboards for	

Section 3

Scope of Services

	display of real-time data to various ACD groups? Can text messages created by supervisors be displayed on wallboards?	
3.8.105	Can you set thresholds on data items that alert supervisors both visually and audibly when thresholds are reached?	

3.9. System/ Solution Questions

The following items are not requirements of the Call Center Solution, but are additional features that are under consideration. State the position of your application related to the following:

Questions regarding Optional Functionality		Module/Detailed Explanation
Basic Requirements		
3.9.1	Can your system provide a Single Point of Administration for: Recording Dialer Workforce Management MAC	
3.9.2	Can your system provide a Single Supervisor Console for: Dialer WFM Call Center Management	
3.9.3	Can Supervisors create Real-time Alerts based on Call Center Stats?	
3.9.4	Can supervisors be alerted by email, paging, pop-ups?	
3.9.5	Can your system provide Real-time Logic based on the alerts, such as logging-in available agents when queue hold times are exceeded?	
3.9.6	Can your solution provide Native Support of SIP without Boards or external Gateways?	
3.9.7	Can your solution provide Real Time Adherence in Same Supervisory Console for WFM?	
3.9.8	Can your solution provide support for multiple SIP end points?	
3.9.9	Are all the applications developed from the Same Core Software?	

Section 3

Scope of Services

3.9.10	Can your solution provide Blended Agent Support?	
3.9.11	Can you solution provide Blended Agent from Same Admin Interface?	
3.9.12	Does the system use industry standard server hardware?	
3.9.13	Does the system provide universal line ports that act as a PBX port, an IVR port, a voicemail port, a fax port, a Web call-back port, or an ACD port? Or are applications such as IVR and voice mail switched to a separate server?	
3.9.14	Does the system provide IVR functionality or is that a separate component? If separate please explain how it is integrated to the ACD?	
3.9.15	Does the system provide Web integration, or is that a separate component?	
3.9.16	Do your Gateways support Call Progress Detection?	
3.9.17	Is your platform Windows based?	
3.9.18	Are all capabilities of the solution “exposed” in one Development tool?	
3.9.19	Can you provide the same user interface for Business users and agents for easier training and consistency across the organization?	
3.9.20	Can your Call your call recording application record ALL media types including email, and web chat not completed by screen capture?	
3.9.21	Can you support Multi Media Queuing?	
3.9.22	Can you support Administration of Multi Media in same Administration interface?	
3.9.23	Is Voice mail and Unified Communication provided in same application or is this an add-on?	
3.9.24	Do you provide universal ports for Unified Communication and VM	
3.9.25	Is fax included or a separate solution?	
3.9.26	Is VM a component of core telephony server?	
3.9.27	Is Dialer application a component of core telephony server?	
3.9.28	Does the system function as a PBX?	
3.9.29	Can applications be written on the system to function in both a traditional and IP telephony environment on the same system?	
3.9.30	When adding a user does the information propagate to other	

Section 3

Scope of Services

	applications: Recorder WFM Dialer Skills based routing	
3.9.31	Is the WFM Application a component of the core Telephony server?	
3.9.32	Can you provide a single maintenance agreement for all applications?	
3.9.33	Can call recording be encrypted	
3.9.34	Can you provide IVR options while maintaining place in Queue? Explain requirements to make this happen.	
3.9.35	Can your solution provide routing of Business Objects? Explain requirements to make this happen.	
3.9.36	Can your system provide for "Agentless" Campaigns?	
3.9.37	Do you support Outbound IVR and can it be administered from one interface?	
3.9.38	Can you support Call Staging for Predictive Dialer?	
3.9.39	Can you provide Disaster Recovery without repurchase of agent licenses?	
3.9.40	Does your solution provide seamless failover across the WAN?	
3.9.41	Is CTI provided with a separate server?	
3.9.42	Can you solution provide Cradle to grave reporting across all applications.	
3.9.43	Explain the Total cost for full redundancy.	
3.9.44	Does your solution provide Open standard report data allowing for blending business data with communication system data?	

3.10. Training.

The County views training as a critical element of the Project. Explain the training curriculum available to support the Service Provider's Proposed Solution.

3.7.1. Training Plan.

The Service Provider shall submit a preliminary Training Plan that shall outline the content, sequence and duration of each segment of each training session necessary to thoroughly and comprehensively train County personnel to fully utilize the System (the "Training Plan"). Successful system utilization is directly related to your ability to provide an effective training program.

- Vendor must provide training on all system modules for designated end-users, technical support staff, and management
- The Training Plan will outline all subjects necessary to train staff to fully understand and utilize all user functions of the System, and to train the designated "trainers" to effectively train other personnel to fully understand and utilize the user functions of such software on the System.
- The Training Plan shall require the Service Provider to provide the operator training and comprehensive "train the trainer" training for the numbers of County designated personnel; the Service Provider will schedule the training classes and modules according to their appropriate phase of the Project.
- The Training Plan must take into account classroom resources and personnel scheduling.
- Describe the training that accompanies the system purchase, including information curriculum, location, and number of students and manuals provided.
- All training will be conducted on-site in County facilities.
- The cost of all training referenced in this Section must be included in the Proposal Pricing.
- Provide multi-media training resources (such as computer-based training) to help end-users learn the application on their own time and at their own pace.
- Define the opportunities available for customizing the training program, and references to support local requirements

3.7.2. Describe how your company manages the implementation and testing process, including the roles of key project personnel.

3.7.3. Describe what requirements the County must provide in order to house the proposed System.

3.7.4. The Service Provider shall describe and list a detailed acceptance test plan. Describe the criteria for assuring full system performance and outline how tests will be conducted to demonstrate proper installation.

3.7.5. Describe the Service Provider's plan for system administrator training.

3.11. Security Requirements.

The Service Provider must define and demonstrate security procedures that are in place. The County requires that security measures be taken – both physical security and network security, in that the County's information and other documents are made available only to the Service Provider and parties that the County approves. Describe your security procedures to include physical plant, electronic data, hard copy information, and employee security. Explain your point of accountability for all components of the security process. Describe the results of any third party security audits in the last five (5) years.

3.12. Support and Maintenance.

3.12.1. Maintenance Services

Beginning on the date of System Acceptance and continuing throughout the term of the Agreement the Service Provider shall provide to the County the following Maintenance Services:

- Prevention and Correction of System Defects;
- Prevention and Correction of Software Defects;
- Prevention and Correction of Hardware Defects;
- Software Updates and Enhancements;
- Hardware Updates and Enhancements;
- Compliance with laws;
- Training and Documentation for Major Updates and Enhancements;
- Reporting of Defects;
- Telephone Support
- Remote Support
- Onsite Support;
- Change Control Procedures;
- Severity Levels, Response Times, and Resolution Times;
- Disaster Recovery;
- Phone Logs; and
- Technical Records.

3.12.2. Long Term Relationship

The system purchase will establish a long-term relationship with Company well beyond the initial production cutover.

- Validate your ability to provide sustained production support
- Include a copy of your Service Level Agreement with response
- Describe the avenues to obtain customer service and troubleshooting support
- Provide online and telephone support
- Indicate the hours of operation for any method of support you provide, and any costs associated with support/service
- Training may be required after implementation. Provide detailed information on how this is scheduled and identify all associated pricing
- Mecklenburg County must be able to track and report all issues to you. Explain problem resolution process
- Mecklenburg must be able to escalate issues determined to be delayed to appropriate management. Explain escalation procedure
- Explain which services are no longer provided when a service level agreement contract or maintenance contract is terminated
- Provide reinstatement costs for a contract that lapses or is terminated
- Provide an explanation of support options for procuring the software, including the ability to have you host the application

3.13. Disaster Recovery.

The Service Provider must have the capability to recover from natural, human-caused, and electronic disasters (including security compromises) that could interrupt service to the County and the County's customers. The Service Provider will detail their solution to include:

- Procedures for off-site storage of information;
- Capabilities and availability of alternate processing, communications, and operations facilities;
- Plans for maintaining business processes, including communications with the County, the County's customers, and suppliers of goods and services.
- Estimated time to recover from disaster events, and service level expectations for business continuity following a disaster;
- Cost to the County, if any, for disaster recovery services; and
- Documented disaster recovery and business continuity plan, including dates of disaster recovery tests and schedule for future tests.

4. PROPOSAL FORMAT.

The County requires all Proposals to be identical in format in order to facilitate comparison. While the County's format may represent departure from the Service Provider's preference, the County requires strict adherence to the format. The Proposal will be in the format described below:

- a. Cover letter;
- b. Executive Summary;
- c. Background and Experience as requested in Section 5;
- d. Proposed Solution as requested in Section 3;
- e. Financial Information as requested in Section 5;
- f. The "Addenda Receipt Confirmation" set forth in Section 7, Form Two;
- g. The "Proposal Submission" set forth in Section 7, Form Three;
- h. The "Pricing Worksheet" set forth in Section 7, Form Four;
- i. The "Proposal Certification" set forth in Section 7, Form Five; and
- j. Exceptions to the Remainder of the RFP.

All Proposals shall be 8 1/2" x 11" format with all standard text no smaller than eleven (11) points. All submissions should use one-sided copying and be bound in a three ring binder with tab dividers corresponding to the content requirements specified below. Proposals must also include a compact disk with the entire Proposal in a searchable format of either Adobe Acrobat or MS Word.

Service Providers are required to organize the information requested in this RFP in accordance with the format outlined. Failure of the Service Provider to organize the information required by this RFP as outlined may result in the County, at its sole discretion, deeming the Proposal non-responsive to the requirements of this RFP. The Service Provider, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.1. Proposal Content.

4.1.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents on behalf of the Service Provider as outlined in Section 1.7.3. The cover letter shall provide the name, address, telephone and facsimile numbers of the Service Provider along with the name, title, address, telephone and facsimile numbers of the executive that has the authority to contract with the County. The cover letter shall present the Service Provider's understanding of the Project, a summary of the approach to be undertaken to perform the Services, as well as a summary of the costs to provide the Services.

Each Service Provider shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the County, is true, accurate, and complete. This Proposal includes all information**

necessary to ensure that the statements therein do not in whole or in part mislead the County as to any material facts.”

4.1.2. Executive Summary.

The Service Provider shall submit an executive summary, which outlines its Proposal, including the proposed general management philosophy. The executive summary shall, at a minimum, include an identification of the proposed project team, responsibilities of the project team, and a summary of the proposed Services. This section should highlight aspects of this Proposal, which make it superior or unique in addressing the needs of the County.

4.1.3. Background and Experience.

The Service Provider shall provide a concise description of the company, including origin, state of incorporation, background, and current size as requested in Section 5. Include information concerning general organization and staffing as well as experience with similar Call Center Management Solution replacement projects as described in Section 3.

4.1.4. Proposed Solution.

Given the purpose of this project and the County’s goals as stated in this RFP, provide a creative solution to meet such goals. Following is a framework and questions to guide your organizations suggested solution. Please address the following as completely as possible. **If you wish to add supplemental information, it shall be labeled “Supplemental Information.”**

4.1.4.1. Process.

What steps will your organization take to ensure that the implementation for the Project runs smoothly?

4.1.4.2. Transition Plan.

The Company shall prepare and submit to the County for approval a comprehensive and detailed Transition Plan, which describes in detail all tasks and resources associated with the transition of Call Center Management Solution to the Company (the “Transition Plan”) with minimum disruption to the County’s operations. The Transition Plan is subject to the terms set forth in Section 7 of this RFP.

4.1.4.3. Project Plan.

Prepare and submit a Project Plan (preferably in MS Project format) to describe, to the best of your ability, all times, tasks and resources associated with the performance of Services. The Project Plan is subject to the terms set forth in Section 7 of this RFP.

4.1.4.4. Client Relationship Management.

Describe the communications scheme that your organization will use to keep the County informed about the progress of the Project.

4.1.4.5. Risk Management.

Describe the risks associated with this contract. What contingencies have been built in to mitigate those risks?

4.1.4.6. Responses to Matrices and Questions from Scope of Work, Section 3

4.1.4.7. Pricing.

The County is requesting firm fixed price Contract for Hardware, Software, Professional Services, and Maintenance for three (3) years plus pricing for contract extensions for Services and Maintenance. Pricing MUST include all aspects of the Project. Please refer to Section 7, Form 4 for a pricing worksheet to assist you.

4.1.5. Required Forms.

To be deemed responsive to this RFP, Service Providers must complete in detail, all Proposal Forms listed in this Section 4, items numbered f through i.

4.1.6. Exceptions to the RFP.

An “exception” is defined as the Service Provider’s inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP including the Sample Contract language. Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP. If the Service Provider provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Service Provider’s solution, must be described in detail.

If exceptions are not identified in your Proposal they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal council needs to review the Contract before your Company can sign, reviews must be completed before your Proposal is submitted.

Section 5

Background and Experience

5. SERVICE PROVIDER'S BACKGROUND AND EXPERIENCE.

Please answer the following questions as completely as possible, placing your answer immediately after the question to which it applies. **If you wish to add supplemental information, it shall be labeled "Supplemental Information."**

Background and Experience		Module/Detailed Explanation
	Basic Requirements	
5.1	Provide the legal name and address of the company and state of incorporation submitting the proposal. Also identify all subcontractors or joint venture partners.	
5.2	Provide an overview and history of your company. How long has the company been providing Services to local governments? Describe the organization and ownership. Include an organization chart	
5.3	Prove the viability of your business pertaining to a long-term business relationship.	
5.4	Provide a brief description of your company and history	
5.5	Provide a description of your experience in providing enterprise-class Multimedia Contact Center solutions.	
5.6	Provide evidence of financial stability with an annual report or audited financial statement.	
5.7	Describe your implementation and production support/service options.	
5.8	You must have a technical support center that provides remote maintenance during normal business hours. Provide hours of operation.	
5.9	Describe the types support performed by this service center.	
5.10	Describe provisions to provide emergency and extended service to facilitate off-hours upgrades of the system.	
5.11	Submit at least five customer references with similar size and business requirements that use the system proposed to Mecklenburg County. Reference information must include company name, contact, telephone number, and the system name and in-service date.	
5.12	Describe the roles and responsibilities of your team and ours for implementing the proposed system.	

Section 5

Background and Experience

5.13	Provide an overview of the implementation approach, as well as methods used to track implementation milestones and facilitate internal reporting to upper management.	
5.14	Provide an overview of the escalation procedures and methods used to track the status of implementations.	
5.15	Provide an overview of the software application development methodology.	
5.16	Provide an overview of the employee-training program.	
5.17	Provide an overview of any external and/or internal audits that validate the historical track record and governance of the proposed support services.	
5.18	Describe how you will produce source code in the event that you are no longer able to support the application	

5.1. **Proposing Organization's Structure.**

- a. Describe your total organization, including any parent companies, subsidiaries, affiliates, and other related entities;
- b. Describe the ownership structure of your organization, including any significant or controlling equity holders;
- c. Provide a management organization chart of your overall organization, showing director and officer positions and names and the reporting structure. Provide detailed information for the Call Center Management Solution business segments of your organization, showing the reporting structures within these segments and among these segments and the overall organization; and
- d. Describe any organizational changes such as divestitures, acquisitions, or spin-offs involving your Call Center Management Solution business segments that have occurred in the latest two (2) years or are anticipated in the future.

5.2. **Analytical Approach.**

The evaluation of financial viability of the Service Providers was developed with one primary goal in mind: to protect the County from risk of default by a selected Service Provider due to financial instability. Various analytical techniques will be used to assess the financial strength and stability of each Service Provider, focusing on profitability, solvency, and efficiency. The analysis will include an evaluation of specific financial indices and ratios in an effort to maximize objectivity and provide measures that are more directly comparable among Service Providers.

Other factors which may impact the financial position of a Service Provider, or which provide additional evidence of the financial strength of a Service Provider, will also be assessed. These factors include years of experience in providing similar Services, and demonstration of the ability to obtain sufficient levels of liability and property damage insurance.

Relevant information regarding recent litigation and bankruptcy filings, which may materially affect a Service Provider's financial position, will be examined. In addition to credit ratings and credit reports, bank and vendor references will be used to evaluate the credit worthiness of each Service Provider.

5.3. **Guarantor.**

The nature of the relationship between the Service Provider and its guarantor is crucial to protect the County in the event that the contracting Service Provider defaults on its obligations. If the parent company of a proposing Service Provider is serving as the guarantor, then the parent company **must indicate in a letter its willingness to guarantee all contractual obligations of the Service Provider.** If the Company that is serving as guarantor has a relationship with the Service Provider other than a parent/subsidiary relationship, then a detailed explanation of all past and present relationships between the Service Provider and its guarantor must be provided, in addition to a letter from the guarantor indicating its willingness to guarantee all contractual obligations of the Service Provider.

Any financial information requested of the Service Provider in the following section must similarly be provided for the guarantor. In the event of a joint submission or Proposal, all proposing entities must provide statements specifying the extent to which each entity will act as guarantor and provide all relevant financial documents

Section 5

Background and Experience

for all entities involved in the joint venture. Additionally, if there is more than one (1) guarantor, then the guarantors must be jointly and separately obligated.

5.4. Requests for Financial Information.

The Service Provider must have the financial information requested in this Section 5.6 readily available and have the ability to provide it to the County, **without exception, within twenty-four (24) hours** upon the County's request during the Proposal evaluation process.

DO NOT INCLUDE THE FINANCIAL INFORMATION REQUESTED IN THIS SECTION WITH YOUR PROPOSAL SUBMISSION.

If your Company does not have the audited financial statements requested, it is the responsibility of the Company to provide the County with information of sufficient quantity and with verifiable sources to ascertain that the Company is financially capable of performing the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

Upon request, please furnish the following financial information for the proposing Service Provider(s), guarantor(s), and any sub-contractor included as having a significant role (defined as providing more than fifteen percent (15%) of the services) in providing Services to the County :

- a. Include in the statement of guarantor(s), as described in Section 5.5. Guarantor, evidence of the ability of the guarantor to meet the short-term funding needs of this project;
- b. Evidence that demonstrates the ability to obtain the insurance as required in the Sample Contract. Such insurance should provide coverage in the stated amount for each occurrence of bodily injury and for each occurrence of property damage with coverage for products/completed operations, personal injury liability, and contractual liability;
- c. Annual audited financial reports for each of the past five (5) fiscal years, prepared in accordance with Generally Accepted Accounting Principles (GAAP), and all relevant notes;
- d. The most recent Form 10-K and Form 10-Q filed with the Securities and Exchange Commission (SEC); or, if the contractor is not regulated by the SEC, then the most recent quarterly financial report.
- e. Description of any material adverse changes in financial position within the past five (5) years; any material changes in the mode of conducting business; any bankruptcy proceedings, mergers, acquisitions, takeovers, joint ventures, and/or divestitures within the past five (5) years. In addition, provide a clear and definitive statement of the following:
 - Years of providing similar Services by the Service Provider and/or predecessor organization;
 - Whether or not the Service Provider (and/or predecessor, guarantor or subcontractor) has declared bankruptcy within the last five (5) years;

Section 5

Background and Experience

- Description of the financial impact of any past or pending legal proceedings and judgments, as identified in Section 5.10 that could materially affect the Service Provider's financial position or ability to provide Services to the County. This information will be reviewed and assessed in accordance with the information provided by the Service Provider, in the above referenced Section;
- All credit reports, credit bulletins, and any other published statements by the most recognized agencies (Standard & Poors Rating Group, Moody, Investor Services, Dun & Bradstreet, and Value Line) that have been issued or published about the entity within the past five (5) years;
- The prospectus or offering statement for the entity's latest security or equity offering;
- The company name, contact person, telephone number, and fax number of at least two (2) references from bank or institutional lenders which have extended credit to the entity in the past five (5) years; or if the entity has not applied for credit in the past five (5) years, the contact person's name, telephone number, and fax number of at least two (2) references from banks with which the entity conducts business;
- The company name, contact person, telephone number, and fax number of at least two (2) credit references from suppliers/vendors; and
- Any additional information, which the Service Provider believes, is appropriate to fully reflect the financial strength of the entity.

Failure to provide such information is cause for rejection of the Service Provider Proposal at the sole discretion of the County. For any subcontractor providing more than fifteen percent (15%) of the Services, the County reserves the right, at its sole discretion, to reject the subcontractor if it fails to meet minimum financial requirements. In the event the County's Evaluation Committee rejects the subcontractor, the Contractor must assume the responsibilities of the subcontractor or find a replacement satisfactory to the Evaluation Committee.

5.5. **Proposed Project Team.**

If the Service Provider's proposal submission will be from a team composed of more than one (1) company or if any subcontractor will provide more than fifteen percent (15%) of the Services, all participating companies must be identified. Provide a description, which includes the teaming relationships, form of partnership, each team member's contribution, and the experience of each team member, which qualifies them to fulfill their responsibility. Provide descriptions and references for the projects on which team members have previously collaborated.

5.6. **Past or Pending Judgments.**

For purposes of this Section, the term "Related Entity" means any parent, subsidiary, affiliate or guarantor of the Service Provider. For all matters involving the Service Provider providing products or services to local, state or federal government, submit declarations of the current status of any past or pending criminal, civil, or administrative litigation against the Service Provider or any Related Entity. For all matters involving the Service Provider providing products or services to local, state or federal government, in addition, submit declarations of the current status of all

Section 5

Background and Experience

pending criminal, civil or administrative litigation that commenced within the past five (5) years in North America, whether or not it involves local governments, against the Service Provider or Related Entity. (For the purpose of the declarations, current officer, shall be defined to include those individuals who are presently serving or who have served within the past two (2) years as an officer of the company.) Please state whether there are any cases pending against the Service Provider, a Related Entity, officer of either, that, if adversely resolved, would pose a material risk of insolvency to either the Service Provider or Guarantor or materially affect the Service Provider's or Guarantor's ability to perform their obligations.

The respondent may choose not to submit records for matters that were resolved prior to the time that the subsidiary or affiliate became associated with the parent company, as long as that subsidiary or affiliate will not be involved in the provision of Services to the County . All records for subsidiaries or affiliates of the parent company that may be involved in the provision of Services to the County must be included.

The County reserves the right to request additional information to explain any of the above citations/violations.

5.7. **Financial and Legal Considerations.**

The Service Provider must have the financial information requested in this Section 5.9 readily available and have the ability to provide it to the County, **without exception, within twenty-four (24) hours** upon the County's request during the Proposal evaluation process.

DO NOT INCLUDE THE FINANCIAL INFORMATION REQUESTED IN THIS SECTION WITH YOUR PROPOSAL SUBMISSION.

If the audited financial statements requested in this section are not available, it is the responsibility of the Company to provide the County with information of sufficient quantity and with verifiable sources to ascertain that each entity identified is financially capable of performing the Services required by the Company in performance of the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

- a. For each entity identified in Section 5.3a, specify the entity's total revenue, number of employees, products and services, affiliated companies, and other descriptive information;
- b. For each entity identified in Section 5.3a, provide relevant documents that describe the entity's financial status, such as audited financial statements, annual reports, or 10-K reports, and the DUNS number; and
- c. If your Company does not have the audited financial statements requested above, it is the responsibility of the Company to provide the County with information of sufficient quantity and with verifiable sources to ascertain that the Company is financially capable of performing the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

Section 5

Background and Experience

5.8. Business Partners.

- a. Describe your organization's customer service philosophy and describe how it is communicated and reinforced throughout the organization;
- b. Describe your organization's approach to total quality management, and describe your organization's total quality plan;
- c. Describe your organization's continuous improvement program and how your current customers benefit from your service improvements; and
- d. Describe your organization's experiences in adapting to changing technologies.

5.9. Personnel Management.

- a. Describe the key individuals, along with their qualifications, professional certifications and experience that would comprise your organization's team for providing Services to the County ;
- b. Explain how your organization ensures that personnel performing technical support services are qualified and proficient;
- c. Describe your organization's approach, policies, and experience with respect to deployment of your personnel; and
- d. Has your organization been the subject of a dispute or strike by organized labor within the last five (5) years? Describe the circumstances and the resolution of the dispute.

5.10. References.

Provide an organization name, address, contact name, and contact telephone number for five (5) customers of comparable size and scope of service that your Company has been under contract with to provide Call Center Management Solution for during the past two (2) years.

6. PROPOSAL EVALUATION CRITERIA.

Proposals will be evaluated based on the Service Provider's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Service Provider to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Service Provider's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Services and requested herein. Failure of any Service Provider to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the County based on, but not limited to, the criteria below. The County reserves the right to modify the evaluation criteria or waive portions thereof. Proposals will be evaluated on the following major categories:

- a. Qualifications, Experience and Approach;
- b. Financial Qualifications;
- c. Cost Effectiveness and Value; and
- d. Acceptance of the Terms of the Contract.

6.1. Qualifications, Experience and Approach.

Service Providers will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the County's, and the feasibility of the Service Provider's approach for the provision of the Services.

6.2. Financial Qualifications.

This criterion includes an evaluation of the financial qualifications of the Service Provider. The evaluation will take into account the financial strength of the Service Provider and its ability to meet the long-term financial requirements of the Contract.

The Internal Audit Division of the County will evaluate the Proposal responses and give an opinion to the evaluation team as to the financial strength of each Service Provider based on the financial information submitted in accordance with Section 5.

6.3. Cost Effectiveness and Value.

Under this criterion, Proposals will be compared in terms of the most reasonable, and or most effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services.

6.4. Acceptance of the Terms of the Contract.

The County will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP. Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with Section 1.7.4 of this RFP.

Section 7
Required Forms – Form One

REQUEST FOR PROPOSALS ACKNOWLEDGEMENT

The Service Provider hereby certifies receipt of the Request for Proposals for Mecklenburg County, North Carolina RFP #2008-105, CALL CENTER MANAGEMENT SOLUTION. This form should be completed upon receipt of the County's Request for Proposals and faxed in time for the County to receive it by **5:00 p.m. on Monday, August 27, 2007**. Please fax the completed Request for Proposals Acknowledgement Form to the attention of:

Johnella Walker
Procurement Services Division
Fax: 704-632-8253

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Company Location: _____

Contact Name: _____

Contact E-mail address: _____

Contact Phone Number: _____

Please check the appropriate space below and provide the requested information:

_____ **We plan to attend the Pre-Proposal Conference and plan on submitting a Proposal**

Indicate number of attendees: _____

_____ **We do not plan to attend the Pre-Proposal Conference but plan on submitting a Proposal**

Reason: _____

_____ **We do not plan to attend the Pre-Proposal Conference and do not plan on submitting a Proposal**

Reason: _____

Section 7
Required Forms – Form Two

ADDENDA RECEIPT CONFIRMATION
RFP # 2008-105

CALL CENTER MANAGEMENT SOLUTION

Please acknowledge receipt of each addendum posted to www.ips.state.nc.us by faxing this form to Johnella Walker at 704-632-8253. This form, acknowledging all addenda, must also be included with your Proposal.

ADDENDUM #:

DATE Addendum POSTED:

I certify that this proposal complies with the General and Specific Specifications and conditions issued by the County except as clearly marked in the attached copy.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

Section 7
Required Forms – Form Three

PROPOSAL SUBMISSION FORM
RFP # 2008-105

CALL CENTER MANAGEMENT SOLUTION

This Proposal is submitted by:

Service Provider Name: _____

Representative (printed): _____

Representative (*signed*): _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Fax Number

It is understood by the Service Provider that the County reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the County, to waive formalities, technicalities, to recover and re-bid this RFP. Proposal is valid for one hundred and eighty (180) calendar days from Proposal Opening.

Service Provider

Date

Authorized Signature

Please type or print name

Section 7

Required Forms – Form Four

PRICING WORKSHEET

Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars rounded to the nearest quarter of a dollar. **If there are additional costs associated with the Services, please add to this chart. Your Price Proposal must reflect all costs that the County will be responsible for.**

#	Acquisition and Implementation	FY08	FY09	FY10	FY11
1	Equipment &				
2	Licenses				
3	Personnel				
4	Professional Services				
5	Optional*				
A	Total	\$	\$	\$	\$

	Annual Operations and Maintenance	FY08	FY09	FY10	FY11
6	Equipment				
7	Software Licenses				
8	Personnel: New Positions				
9	Professional Services				
10	Option*				
B	Total	\$	\$	\$	\$

	Total Costs	FY08	FY09	FY10	FY11
A	Acquisition and Implementation Total	\$	\$	\$	\$
B	Annual Operations and Maintenance Total	\$	\$	\$	\$
	Total	\$	\$	\$	\$

*Options – Voice Recording/Call Monitoring Features

Section 7

Required Forms – Form Five

M/W/SBE COMPLIANCE

M/W/SBE PROGRAM COMPLIANCE IN THE PURCHASE OF COMMODITIES AND SERVICES M/W/SBE UTILIZATION PROPOSAL: The goals for MWBE participation on this project are set at: 5% for all minority groups inclusive and 3% WBE*. Set goals are based on Mecklenburg County's portion only.

*Note: MWSBE groups are defined as follows: BBE: Black Business Enterprise; NBE: Native American Business Enterprise; ABE: Asian Business Enterprise; HBE: Hispanic Business Enterprise; SBE: Small Business Enterprise; and WBE: Women Business Enterprise.

Do you customarily subcontract portions of your Contracts and projects with the County?
 _____ Yes _____ No

Do you intend to subcontract portions of this Contract?
 _____ Yes _____ No

List any services in this proposal for which you could seek quotes from minority and/or women owned businesses.

1. _____
2. _____
3. _____

MWSBE UTILIZATION COMMITMENT

We, _____, do certify that on _____,
 _____ (Service Provider)
 _____ (Project) _____ (Contract Amount).

We will expend a minimum of _____% of the total dollar amount of the Contract with Minority Business Enterprises, and _____% with Women's Business Enterprises.

Section 7
Required Forms – Form Five

Name of Company	BBE NBE ABE HBE WBE	Description of Work	Dollar Value

A list of County certified MWBE bidders available to offer quotes and prices as subcontractors is available on the Internet at <http://www.ci.charlotte.nc.us/cibss/mwbd/index.htm> . If you need additional firms, which offer other services, or if you have any questions concerning the MWSBE provision, contact the MWSBE office at (704)336-4138.

* The County reserves the right to request verification of these payments.

The County's Minority and Women's Business Enterprise Program (revised June 27, 1994) is hereby incorporated into these Specifications by reference.

The undersigned hereby certifies that the bidder has read the terms of this compliance and is authorized to bind the firm to the information herein set forth.

Date:_____

Name of Company

Name, Title and Signature

Proposed Product or Service

Total Dollar Amount Bid

Section 8

Exhibit A – Contract Sample

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

MASTER CONTRACT FOR
SYSTEM INTEGRATION

This Master Contract for System Integration (the "Contract") is entered into as of this ____ day of [MONTH], [YEAR] (the "Effective Date"), by and between [COMPANY NAME], a [STATE OF INCORPORATION] corporation doing business in North Carolina (the "Company"), and the County of Mecklenburg, North Carolina (the "County").

1. **EXHIBITS.** The following Exhibits and Appendices are attached to this Contract and incorporated into and made a part of this Contract by reference:

Exhibit A:	Price Schedule and List of System Components
Exhibit B:	Milestone Plan
Exhibit C:	Scope of Implementation Services
Exhibit D:	Project Schedule
Exhibit E:	Scope of Maintenance Services
Exhibit F:	License
Exhibit G:	Requirements
Appendix 1 to Exhibit G	Confidential / Trade Secret Section of Specifications and Requirements
Exhibit H	Final Payment Affidavit

Each reference to the Contract shall be deemed to include all Exhibits and Appendices. Any conflict between language in an Exhibit or Appendix to this Contract and the main body of this Contract shall be resolved in favor of the main body of this Contract. Each reference to [COMPANY NICKNAME] in the Exhibits and Appendices shall be deemed to mean the Company.

2. **DEFINITIONS.** The following terms shall have the following meanings for purposes of this Contract (including all Exhibits):
- 2.1. **"Affiliates"** means all departments or units of the County and all other governmental units, towns, boards, committees or municipalities for which the County processes data or performs Services that involve the System.
 - 2.2. **"Company Software"** and **"[COMPANY NICKNAME] Software"** shall be used interchangeably to mean all pre-existing software owned by the Company or any of its Related Entities which the Company provides or is required to provide under this Contract, and all New Releases and New Versions of the foregoing.
 - 2.3. **"Current Release"** means the latest version of the Software offered for general commercial distribution at a given point in time, including all New Releases.

Section 8

Exhibit A – Contract Sample

- 2.4. **“Customizations”** means all newly-developed software created by the Company and/or its subcontractors pursuant to this Contract, including but not limited to all interfaces between different components of the System and between the System and other systems. Customizations will not include New Releases and New Versions that become part of the company Software.
- 2.5. **“Defect”** means any failure of the System or any component thereof to fully conform to the Specifications and Requirements. A non-conformity is not a Defect if it results directly from the County’s improper use or damage, unless it is reasonably likely that such non-conformity would have occurred on that or another occasion even without the County’s improper use or damage.
- 2.6. **“Deliverables”** means all tasks, reports, information, designs, plans and other items that the Company is required to complete and deliver to the County in connection with this Contract, other than the Products.
- 2.7. **“Documentation”** means all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the System or any component thereof, and which are published or provided to the County by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the System.
- 2.8. **“Effective Date”** means the date stated in the first sentence of this Contract.
- 2.9. **“Hardware”** means all hardware, equipment and materials that the Company actually provides or is required to provide under the terms of this Contract (whether now or in the future).
- 2.10. **“Implementation Services”** means the Services described in Exhibit C.
- 2.11. **“License”** means the license agreement attached to this Contract as Exhibit F.
- 2.12. **“Maintenance Services”** means the Services described in Exhibit E.
- 2.13. **“Milestones”** means the benchmarks of performance (consisting of an identified deadline for the completion of specific services and/or the acceptance of identified Deliverables), as specified in Exhibit B and the Project Plan.
- 2.14. **“New Version”** means any products, parts of products, improvements, additions or materials not included in the Products as of the Effective Date that significantly modify the Products to provide a function or feature not originally offered or an improvement in function. New Versions are typically identified by a new version number that changes the number left of the decimal point. For example, a change from Version 5.0 to Version 6.0 would likely represent a New Version.
- 2.15. **“New Release”** means any change issued by the Company or its subcontractors to the Products or the Documentation that is not a New Version. New Releases are typically identified by changing the number to the right of the decimal point (e.g., going from Version 5.1 to 5.2).
- 2.16. **“Project”** refers to the project for the Company to design, supply, install, configure, test and commission the System for the County in accordance with the terms and conditions in this Contract.

Section 8

Exhibit A – Contract Sample

- 2.17. **"Project Plan"** means the detailed plan for implementation of the System as described in Exhibit C, in the form accepted in writing by the County.
- 2.18. **"Products"** means all Software and all Hardware (both as herein defined).
- 2.19. **"Project Schedule"** means the Project Schedule attached to this Contract mean Exhibit D.
- 2.20. **"Related Entity"** means any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Company, including but not limited to any parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.
- 2.21. **"Services"** means all services that the Company provides or is required to provide under this Contract, including all Implementation Services and all Maintenance Services.
- 2.22. **"Software"** means: (i) all Company Software; (ii) all Customizations; (iii) all Third Party Software; and (iv) all New Releases and New Versions of any of the foregoing.
- 2.23. **"Source Code"** means the human readable form of a computer program and all algorithms, flow charts, logic diagrams, structure descriptions or diagrams, data format or layout descriptions, pseudo-code, code listings (including comments), and other technical documentation relating to such program.
- 2.24. **"Specifications and Requirements"** means all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Products or System which are set forth or referenced in: (i) Exhibit G of this Contract, including the Appendix; (ii) the main body of this Contract; (iii) other Exhibits to this Contract aside from Exhibit G; (iv) the Documentation; and (v) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Products or the System. Any conflict between the requirements or specifications referenced in subparts (i), (ii) (iii) (iv) or (v) of this definition shall be resolved in the order of priority in which they are listed; provided, however, that the County may, at its option, disregard the order of listing to resolve any such conflicts in a manner that takes advantage of new or enhanced functionality or features.
- 2.25. **"System"** means [DESCRIBE SYSTEM] to be [designed, supplied, installed, configured, tested and commissioned] by the Company under this Contract, including but not limited to all Products.
- 2.26. **"System Acceptance"** means acceptance by the County of the complete System as provided in Exhibit C of this Contract.
- 2.27. **"Third Party Software"** means all software included within the System or required for the System to function in full compliance with the Specifications and Requirements that is provided by the Company under this Contract and was not manufactured, developed or otherwise created by the Company, any Related Entity of the Company, or any of the Company's subcontractors.

Section 8

Exhibit A – Contract Sample

2.28. **"Warranty Period"** means the twelve-month period following the County's Final System Acceptance.

2.29. **"Workaround"** means a reasonable change in the procedures followed or data supplied to avoid a Defect that does not impair the performance of the System or increase the cost of using the System.

2.30. **"Work Product"** means the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Company in connection with this Contract, and all partial, intermediate or preliminary versions of any of the foregoing.

3. **GENERAL DESCRIPTION OF SERVICES.** The Company shall provide the Implementation Services described in Exhibit C and any other **[design, development, supply, installation, consulting, system integration, software development, project management, training, technical]** and other services necessary to deliver and implement the System so that it is in production at the County in full compliance with the Specifications and Requirements on or before **[PLANNED ACCEPTANCE DATE]**. The Company shall also provide the Maintenance Services described in Exhibit E. The Company shall perform the Implementation Services on site at the County's facilities in Charlotte, North Carolina, except as otherwise stated in this Contract or agreed in writing by the County.

4. **COMPENSATION.**

4.1. **PURCHASE PRICE FOR SYSTEM.** The County shall pay the Company a fixed price of **[PURCHASE PRICE]** (the "Purchase Price") as full and complete consideration for the satisfactory performance of all the requirements of this Contract other than Maintenance Services beyond the Warranty Period ("Extended Maintenance Services"). The Purchase Price is allocated to the Products and Services in accordance with Exhibit A, and shall be payable in accordance with Exhibit B (the "Milestone Plan"). The amount of the Purchase Price referenced in this Section constitutes the total fees, charges and expenses payable to the Company under this Contract for everything other than the Extended Maintenance Services, and shall not be increased except by a written instrument duly executed by the County, which expressly states that it amends this Section of this Contract.

4.2. **MILESTONE PAYMENT PLAN.** The Company shall invoice the County for the Purchase Price in accordance with the Milestone Plan attached as Exhibit B. The Company shall not invoice the County for any Products or Services within a particular Milestone until all Products and Services required in connection with that Milestone have been fully delivered, completed and accepted by the County.

4.3. **MAINTENANCE FEES FOR EXTENDED MAINTENANCE.** The Maintenance Services shall be provided to the County at no charge for a period of one year after System Acceptance (the "Warranty Period"). After the Warranty Period, the County shall have four one-year options to purchase Extended Maintenance Services from the Company at a price of **[ANNUAL MAINTENANCE FEE]** per year (the "Maintenance Fees." The County shall be entitled to exercise its option to buy Extended Maintenance Service for a given one-year option period by: (a) providing written notice to the Company at any time prior to or within sixty days following the beginning of such one-year option period; or (b) payment of the Company's invoice for such one-year option period. The Company shall invoice the County for Maintenance Fees on an annual basis, but not more than sixty days before the one-year extended maintenance term being billed for begins.

4.4. **INVOICES.**

Section 8

Exhibit A – Contract Sample

4.4.1. Each invoice sent by the Company shall detail all Services, Products and Deliverables performed and delivered which are necessary to entitle the Company to the requested payment.

4.4.2. The Company shall mail all invoices to:

[ADDRESS FOR INVOICES]

4.5. **DUE DATE OF INVOICES.** Payment of invoices shall be due within thirty (30) days after the later of: (a) receipt of an undisputed properly submitted invoice by the County; or (b) acceptance by the County of the Milestone to which the invoice applies. For Extended Maintenance Service fees, only subpart (a) of the preceding sentence shall apply.

4.6. **ADDITIONAL PURCHASES.** For a period of eighteen months after the date of this Contract, the County shall have the right to purchase and the Company shall sell to the County all Hardware and Software listed in Exhibit A as optional items at the prices set forth in Exhibit A.

4.7. **PRE-CONTRACT COSTS.** The County shall not be charged for any Services or other work performed by the Company prior to the Effective Date.

4.8. **AUDIT.** During the term of this Contract and for a period of two years after termination of this Contract, the County shall have the right to audit, either itself or through an independent auditor, all books and records and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of this Contract or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the County in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the County for the cost of the audit.

5. TIME IS OF THE ESSENCE. Time is of the essence in having the Company perform all Services and deliver all Products within the time frames provided by this Contract and the Project Plan, including all completion dates, response times and resolution times (the "Completion Dates"). Except as specifically stated in this Contract, there shall be no extensions of the Completion Dates. All references to days in this Contract (including the Exhibits) shall refer to calendar days rather than business days, unless this Contract provides otherwise for a specific situation.

6. PRODUCT PURCHASE AND DELIVERY.

6.1. **COMPANY TO PROVIDE ALL HARDWARE AND SOFTWARE.** As part of the Purchase Price, the Company shall provide all hardware, software, labor, equipment and materials required by the County in order for the System to perform in accordance with the Specifications and Requirements, except for those items that are specifically listed in Exhibit C as a County responsibility.

6.2. **DELIVERY SCHEDULE.** The Company shall deliver the Products by the delivery dates set forth in the Project Schedule, as may be modified by the parties' mutual consent in the Project Plan. Delivery shall be to the County's facility at 600 E. Fourth Street in Charlotte, North Carolina unless otherwise agreed in writing by the County.

6.3. **TITLE / RISK OF LOSS.** Except for loss or damage occurring in connection with the Company's performance of services under this Contract, title and risk of loss of all

Section 8

Exhibit A – Contract Sample

Hardware shall pass to the County upon delivery of the Hardware to the County's premises.

6.4. *DELIVERY AND INSTALLATION COSTS.* All delivery and installation costs associated with the Hardware and the Software shall be borne by the Company.

6.5. *SOFTWARE LICENSE FOR EMBEDDED SOFTWARE.* The Company grants to the County the right to use all software which is embedded in or included with the Hardware ("Embedded Software") to the full extent necessary for the County to use the Hardware in the manner contemplated by this Contract. The County agrees to be bound by the terms and limitations of any licenses for Embedded Software which have been: (i) provided to the County in writing preceding delivery of such Hardware; and (ii) accepted by the County in writing. Notwithstanding the foregoing, in no event shall any terms or conditions of such licenses restrict the County from using the Hardware in the manner contemplated by this Contract, nor shall such terms or conditions in any way modify the County's rights under the License.

6.6. *TRANSFER OF WARRANTIES.* Without limiting the Company's obligations to provide warranty Services or the Maintenance Services, the Company hereby assigns and transfers to the County all of the Company's warranties from the Company's suppliers covering the Hardware, the Embedded Software and Third Party Software. The Company will provide copies of such warranties to the County with delivery of the applicable Hardware or Software. While the Company shall be entitled to make arrangements to have such warranty work performed by the supplier, nothing herein shall relieve the Company of its obligation to correct Defects in the Hardware or the Software or to meet the time deadlines provided in this Contract for the correction of such Defects.

6.7. *REPLACEMENT EQUIPMENT.* The Company shall execute all documents necessary to evidence the County's title to the Hardware, including Hardware replaced pursuant to warranty provisions or pursuant to the Maintenance and Support Contract.

7. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.

Throughout the duration of this Contract, the Company shall identify and request in writing from the County Project Manager all County resources that may reasonably be required by the Company to perform the Services (the "County Resources"), including all information, County staff, equipment, facility or materials needed by the Company. The Company shall request County Resources far enough in advance to allow adequate planning and availability on the County's part and to avoid unnecessary expense or overtime. Notwithstanding the foregoing, the Company shall not be entitled to request that the County provide County Resources other than those identified as a County responsibility in Exhibit C (with respect to the Implementation Services) or Exhibit E (with respect to the Maintenance Services) unless the County can do so at no significant cost. If the County Project Manager fails to provide within a reasonable time period a County Resource that this Contract requires the County to provide, the Company will notify the responsible County Key Business Executive of such failure. The Company shall not be relieved of any failure to perform under this Contract by virtue of the County's failure to provide any County resource: (i) that the Company failed to identify and request in writing from the County pursuant to this Section; or (ii) which the County is not required to provide pursuant to this Contract. To the extent the Company is excused from performance under the terms of this Section, the Company will only be excused for delays that occur after it has given notice to the County Key Business Executive of the County's failure.

Section 8

Exhibit A – Contract Sample

- 8. REMOVAL, REPLACEMENT AND PROMOTION OF COMPANY PERSONNEL.** The County will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to provide Services to the County. The County shall be entitled to exercise such right in its sole discretion by providing written notice to the Company.

The County must approve in writing any hires or transfers of personnel to "Key Personnel" positions on the Project, and the County shall have the right to interview all personnel that the Company proposes to hire or transfer to such positions. As used in this Contract, the term "Key Personnel" shall mean the Company Project Manager, and any other personnel of the Company or its subcontractors who are identified as Key Personnel in an Exhibit to the Contract, or whom the County from time to time designates in writing to the Company as fulfilling a key role in the Project. Unless approved by the County in writing, the Company will not: (i) remove the Company's Key Personnel from the Project or permit its subcontractors to remove Key Personnel from the Project; or (ii) materially reduce the involvement of the Company's Key Personnel in the Project or allow its subcontractors to materially reduce the involvement of Key Personnel in the Project.

The Company will replace any personnel who leave the Project with equivalently qualified persons. The Company will replace such personnel as soon as reasonably possible, and in any event within thirty days after the Company first receives notice that the person will be leaving the Project.

If the Company gets more than 7 days behind in completing any Deliverable required by this Contract or the Project Plan, the Company will devote all personnel assigned to the Project to working on the Project on a first priority basis.

As used in this Contract, the term "personnel" includes all staff provided by the Company or its subcontractors, including but not limited to Key Personnel.

9. REPRESENTATIONS AND WARRANTIES OF COMPANY.

9.1. SPECIFIC WARRANTIES. Company represents, warrants and covenants that:

- (a) For a period of twelve months after System Acceptance (the "Warranty Period"), the System will fully comply with the Specifications and Requirements, and all federal, state and local laws, regulations, codes and guidelines that apply to it (including any changes to such laws, etc.).
- (b) All Products and Services delivered after System Acceptance shall fully conform to the Specifications and Requirements for a period of one year after acceptance of such Product or Service by the County.
- (c) For as long as the County exercises its options to purchase Extended Maintenance Services, the System will fully comply with the Specifications and Requirements, and all federal, state and local laws, regulations, codes and guidelines that apply to it (including changes to such laws, etc.).
- (d) All Software provided by the Company or its subcontractors is and will be free of viruses, worms and Trojan horses, and any code designed to disable the Software because of the passage of time, alleged failure to make payments due, or otherwise (except for documented security measures such as password expiration functions);
- (e) All Software and Hardware is and will be Year 2000 Compliant (as defined below).

Section 8

Exhibit A – Contract Sample

- (f) In accordance with the North Carolina electronic data-processing records law N.C.G.S. §132-6-1:

9.1.f.1. All Software and Documentation provided by the Company or its subcontractors will have sufficient information and capabilities to enable the County to permit the public inspection and examination and to provide electronic copies of public records stored, manipulated or retrieved by the System; and

9.1.f.2. All Software and Documentation provided by the Company or its subcontractors will have sufficient information to enable the County to create an index containing the following information with respect to each database used by the System without extraordinary commitments of staff or resources: (i) annotated list of data fields: name, description, and restricted field indicator; (ii) description of the format or record layout; (iii) frequency with which the database is updated; (iv) list of any data fields to which public access is restricted; (v) description of each form in which the database can be copied or reproduced; (vi) title of the database; (vii) owner of the data; (viii) narrative description of the database; (ix) person creating the index; and (x) purpose of the database. The Company agrees that the County may copy and disclose the information listed above in response to requests for database information under the North Carolina General Statutes.

- (g) All Documentation for the Products and the System is and will be in all material respects complete and accurate, and will enable data processing professionals and other County employees with ordinary skills and experience to utilize the Products and the System for the expressed purpose for which they are being acquired by the County;
- (h) All work performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- (i) Neither the Services, nor the Products nor any Deliverables provided by the Company under this Contract will violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third party rights (including without limitation non-compete agreements);
- (j) All Hardware shall be delivered and shall remain free and clear of all liens and encumbrances. The Company shall not place or allow to be placed on the Software any third party lien or encumbrance of any kind at any time which could conceivably interfere with the County's use of the Software or the Company's maintenance of the Software.

For purposes of this Contract, the term "Year 2000 Compliant" means that software will: (a) store all date-related information and process all data interfaces involving dates in a manner that unambiguously identifies the century, for all date values before, during and after the Year 2000; (b) calculate, sort, report and otherwise operate correctly and in a consistent manner for all date information processed by the software, whether before, during or after the Year 2000; (c) calculate, sort, report and otherwise operate correctly, in a consistent manner and without interruption regardless whether the date on which the software is operated or executed is before, during or after the Year 2000; (d) report and

Section 8

Exhibit A – Contract Sample

display all dates with a four-digit date so that the century is unambiguously identified; and
(e) handle all leap years, including but not limited to the Year 2000 leap year, correctly;

Prior to System Acceptance, the Company will correct all Defects in the System and the components thereof within the time frames set forth in Exhibit C and the Project Plan. During the Warranty Period and at all times during which the County has purchased Extended Maintenance Services, the Company will correct all Defects and provide Maintenance Services pursuant to the Exhibit G.

If the Company breaches the warranty set forth in Section 9.1(a), the County, without limiting any other remedies it may have under this Contract or at law, shall be entitled to an immediate refund of all amounts paid to the Company or its subcontractors or licensors under this Contract.

9.2. **ADDITIONAL WARRANTIES.** Company further represents and warrants that:

- (a) It is a corporation duly incorporated, validly existing and in good standing under the laws of the state of **[STATE OF INCORPORATION]**;
- (b) It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
- (c) The execution, delivery, and performance of this Contract have been duly authorized by the Company;
- (d) No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
- (e) In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
- (f) The Company shall not violate any agreement with any third party by entering into or performing this Contract.

10. REMEDIES.

10.1. **RIGHT TO COVER.** If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the County may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have:

- (a) Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Company is again able to resume performance under this Contract; and
- (b) Deduct any and all expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Company and, should the County's cost of obtaining or performing the services exceed the amount due the Company, collect the amount due either from the Company.

10.2. **RIGHT TO WITHHOLD PAYMENT.** If the Company breaches any provision of this Contract, the County shall have a right to withhold all payments due to the Company until such breach has been fully cured.

10.3. *SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.* The Company agrees that monetary damages are not an adequate remedy for the Company's failure to provide the Products, Services or System as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the County obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches the Contract.

10.4. *SETOFF.* Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred as a result of the other party's breach of this Contract.

10.5. *LIQUIDATED DAMAGES.* The County and the Company acknowledge and agree that the County will incur costs if the Company fails to meet one or more of the time frames for delivering Services and Products under this Contract and the Project Plan, including all completion dates, response times and resolution times (the "Completion Dates"). The parties further acknowledge and agree that the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Company agrees to pay liquidated damages at the rate of **[LIQUIDATED DAMAGES]** per day for each day the Company is late in meeting a Completion Date set forth in the Project Schedule or the Project Plan. The Company further agrees to pay any liquidated damages that are set forth in Exhibit E in the event it fails to meet a Completion Date for Maintenance Services.

The liquidated damages referenced above are not intended to compensate the County for any costs other than inconvenience and delay in the implementation or loss of use of the System. The existence or recovery of such delay costs shall not preclude the County from recovering other amounts which the County can document as being attributable to a failure to meet such Completion Dates, including but not limited to the cost of internal staff hours or amounts paid to third parties (such as other vendors or independent contractors) as a result of such failure.

10.6. *OTHER REMEDIES.* Upon breach of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.

11. REGENERATION OF LOST OR DAMAGED DATA. With respect to any data which has been lost or damaged due to an act or omission of the Company or its subcontractors, the Company shall, at its own expense: (a) promptly replace or regenerate such data from the County's machine-readable supporting material, or (b) obtain a new machine-readable copy of lost or damaged data from the County's data sources. The Company shall further reload and restore such data at the Company's expense. The Company shall not be responsible for any expenses that are the result of the failure of the County to maintain backup data in accordance with the County's regular schedule.

12. TERMINATION.

12.1. *TERM.* Unless terminated in accordance with its terms, this Contract shall commence on the Effective Date, and shall continue until the License has terminated.

Section 8

Exhibit A – Contract Sample

12.2. *TERMINATION WITHOUT CAUSE.* The County may terminate this Contract at any time without cause by giving thirty (30) days written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, Company shall submit a statement to the County showing in detail the Services performed under this Contract through the date of termination. In the event of termination without cause pursuant to this Section, the County agrees to: (i) pay the Company a pro rata amount of the purchase price for Implementation Services rendered through the termination date based on percentage of completion of the applicable payment Milestones; and (ii) return all Hardware which the County elects not to keep, and (iii) pay the Company for any Hardware received by the County which the County has elected to keep, or which has been damaged by the County so as to preclude return. The forgoing payment obligation is contingent upon: (i) the Company having fully complied with Section 12-7; and (ii) the Company having provided the County with written documentation reasonably adequate to verify the number of hours of Services rendered by each person through the termination date and the percentage of completion of each task.

12.3. *TERMINATION FOR DEFAULT BY EITHER PARTY.* By giving written notice to the other party, either party may terminate this Contract upon the occurrence of one or more of the following events:

- (a) The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Contract, provided that, unless otherwise stated in this Contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- (b) The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section 12.3 shall identify this Section of this Contract and shall state the party's intent to terminate this Contract if the default is not cured within the specified period.

12.4. *ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE COUNTY.* By giving written notice to the Company, the County may also terminate this Contract upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

- (a) Failure of the Company to complete and deliver a particular Product, Deliverable or Service by the completion date set forth in this Contract (including the Exhibits) or the Project Plan;
- (b) Failure of the Company to correct all Defects and deficiencies identified by the County with respect to a Deliverable within the time period set forth in Exhibit C;
- (c) Failure of the Company to correct all items identified in a Rejection Notice within the time period specified in Exhibit C;

Section 8

Exhibit A – Contract Sample

- (d) Failure of the Company to resolve a problem within the time set forth in Exhibit G regarding Maintenance Services (whether during the Warranty Period or during Extended Mainframe Services);
 - (e) The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, Company's Proposal, or any covenant, agreement, obligation, term or condition contained in this Contract; or
 - (f) The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as required by this Contract.
- 12.5. **TERMINATION FOR FAILURE TO AGREE ON PROJECT PLAN.** If the parties have not finalized and agreed upon the Project Plan by the date set forth in the Project Schedule, the County shall be entitled to terminate this Contract and receive a refund of all amounts paid to the Company.
- 12.6. **CROSS TERMINATION.** A default by the County under Exhibit E shall constitute grounds for terminating the Maintenance Services if not cured as provided above, but shall not constitute a basis for the Company to terminate the License or any other obligations the Company may have under this Contract. A default by the County under Exhibit A shall constitute grounds for terminating the Implementation Services if not cured as provided above, but shall not constitute a basis for the Company to terminate the License, the Maintenance Services or any other obligations the Company may have under this Contract. Otherwise, a default by either party under any Exhibit or Attachment of this Contract, or the main body of this Contract, shall be regarded as a default under the entire Contract
- 12.7. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.** Upon expiration or termination of this Contract, the Company shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other material and equipment that is owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new service provider access to the systems, software, infrastructure, or processes of the Company that are necessary to mitigate the Services to a new service provider; and (d) refund to the County all pre-paid Maintenance Fees (other than pre-paid Maintenance Fees for the then current year).
- 12.8. **NO SUSPENSION.** In the event that the County disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in this Contract, the Company agrees that it will not terminate this Contract or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.
- 12.9. **AUTHORITY TO TERMINATE.** The following persons are authorized to terminate this Contract on behalf of the County: the County Manager, any Assistant County Manager or any designee of the County Manager.
- 13. TRANSITION SERVICES UPON TERMINATION.** Upon termination or expiration of this Contract, the Company shall cooperate with the County to assist with the orderly transfer of the Services, functions and operations provided by the Company hereunder to another

Section 8

Exhibit A – Contract Sample

provider or to the County as determined by the County in its sole discretion. The transition services that the Company shall perform if requested by the County include but are not limited to:

- 13.1. Working with the County to jointly develop a mutually agreed upon transition services plan to facilitate the termination of the Services; and
- 13.2. Notifying all affected service providers and subcontractors of the Company of transition activities;
- 13.3. Performing the transition service plan activities;
- 13.4. Answering questions on an as-needed basis; and
- 13.5. Providing such other reasonable services needed to effectuate an orderly transition to a new system.

14. CHANGES. In the event changes to the Services (collectively “Change”), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references this Contract (a “Change Statement”). The Change Statement shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all Milestones and delivery dates and any associated price.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Change Statement. If the receiving party does not accept the Change Statement in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Statement. If the parties cannot reach agreement on a proposed Change, the Company shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the County may require execution by the County Manager or designee depending on the amount. Some increases may also require approval by the Board of Commissioners.

15. INTELLECTUAL PROPERTY

15.1. COMPANY OWNERSHIP. The Company shall have exclusive ownership of intellectual property rights in all Company Software and related Documentation, including but not limited to all copyrights, patents and trade secrets (collectively “Company Intellectual Property”). The Company grants the County a perpetual, royalty-free, non-exclusive license to use and copy the Company Intellectual Property for all purposes of the County and the Affiliates in accordance with the terms of the License.

15.2. COUNTY OWNERSHIP. The County shall have exclusive ownership of all intellectual property rights in all Customizations, Deliverables and other Work Product created by the Company or its subcontractors in connection with this Contract, including all modifications, updates, enhancements and Documentation relating thereto, and including but not limited to all copyrights, patents and trade secrets (collectively “County Intellectual Property”). The Company hereby assigns and transfers all rights in the County Intellectual Property to the County. The Company further agrees to execute and deliver such assignments and other documents as the County may later require to

Section 8

Exhibit A – Contract Sample

perfect, maintain and enforce the County's rights as sole owner of the County Intellectual Property, including all rights under patent and copyright law. The Company hereby appoints the County as attorney in fact to execute all such assignments and instruments and agree that its appointment of the County as an attorney in fact is coupled with an interest and is irrevocable.

The County Intellectual Property shall not include Deliverables created by the Company for other customers prior to the date of this Contract, provided that the Company shall notify the County in writing of any Deliverables that are not County Intellectual Property at the time it submits such Deliverables. The County grants the Company a royalty-free, non-exclusive license to use and copy the County Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the County Intellectual Property for other purposes without the County's prior written consent, and shall treat the County Intellectual Property as "Confidential Information" under the Confidentiality Contract.

15.3.COMPANY WILL NOT SELL OR DISCLOSE DATA. The Company will treat as Confidential Information under the Confidentiality Agreement all data provided by or processed for the County in connection with this Contract or use of the Software (including metadata). Such data shall remain the exclusive property of the County. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the County in any manner except that contemplated by this Contract.

16. OTHER OBLIGATIONS OF COMPANY

16.1.WORK ON COUNTY'S PREMISES. The Company will ensure that its employees and agents shall, whenever on the County's premises, obey all instructions and directions issued by the County with respect to rules, regulations, policies and security procedures applicable to work on the County's premises. The Company agrees that its personnel and the personnel of its subcontractors will comply with all such rules, regulations and security procedures when on the County's premises.

16.2.DAMAGE TO EQUIPMENT OR FACILITIES. The Company shall be responsible for any damage to or loss of the County's equipment or facilities arising out of the negligent or willful act or omission of the Company or its subcontractors.

16.3.RESPECTFUL AND COURTEOUS BEHAVIOR. The Company shall assure that its employees interact with County employees and with the public in a courteous, helpful and impartial manner. All employees of the Company in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Company.

17. NEW TECHNOLOGY. The parties recognize that technology may change during the term of this Contract. Accordingly, the parties agree as follows:

17.1.The Company shall provide the County with prompt written notice of all upgrades, enhancements and modifications to the Products or Services that become available during the term of this agreement (the "New Technology").

17.2.Unless specified in writing by the County in a specific instance, all Products provided by the Company will be the latest, most recent version available as of the time of installation. The Company will schedule installation of all Products as late in the process as is reasonably practicable to meet the Project Plan deadlines. Unless specified in writing by the County in a specific instance, the Company will continually update the

Section 8

Exhibit A – Contract Sample

Software after installation at no additional cost and it shall be a condition of System Acceptance that all Software be the latest, most current version available as of the date of System Acceptance.

17.3.If the Company causes a delay in the Project of six months or more, it shall be a condition of System Acceptance (at the County's option) that the Hardware be the latest, most recent version available as of six months prior to the date of System Acceptance.

17.4.Notwithstanding anything contained in this Contract to the contrary, the County shall have the option to reject proposed New Technology and to accept less than the most current version of the Products by providing written notice to the Company.

17.5.The Company shall make the New Technology available to the County at no additional cost if the required by this Contract, or if New Technology is generally commercially available to the Company's customers at no additional cost. Notwithstanding the foregoing, there shall be no additional charges for providing the most recent version of the Hardware as required by Section 17.2 or 17.3.

17.6.The Company shall provide additional details and estimated prices to the County at the request of the County, if the County wants to consider further the possible addition of the New Technology.

17.7.Notwithstanding anything contained herein to the contrary, neither the acceptance of proposed New Technology by the County nor the amendment of this Contract to incorporate New Technology shall relieve the Company from its obligations under this Contract to satisfy the Specifications and Requirements.

18. INDEMNIFICATION. To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Work or any products or deliverables provided to the County pursuant to this Contract ("Infringement Claims"); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; or (iii) arising from the Company's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from the Company's violation of any law (including without limitation immigration laws); or (v) any claim that the Company or an employee or subcontractor of the Company is an employee of the County, including but not limited to claims relating to worker's compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term "Indemnitees" means the County and each of the County's officers, officials, employees, agents and independent contractors (excluding the Company); and (b) the term "Charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall either: (i) procure for the County the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the overall product(s) and service(s) provided to the County shall not be adversely affected by such

Section 8

Exhibit A – Contract Sample

replacement or modification. If the Company is unable to comply with the preceding sentence within thirty days after the County is directed to cease use of a product or service, the Company shall promptly refund to the County all amounts paid under this Contract.

19. INSURANCE. Throughout the term of this Contract, the Company shall comply with the insurance requirements described in this Section. In the event the Company fails to procure and maintain each type of insurance required by this Contract, or in the event the Company fails to provide the County with the required certificates of insurance, the County shall be entitled to terminate this Contract immediately upon written notice to the Company.

19.1. General Requirements.

19.1.1. The Company shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this **Section 19**, and the County has approved such insurance. The Company shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and approved.

19.1.2. All insurance policies required by **Section 19.1** shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioner's Office. The Company shall name the County as an additional insured under the commercial general liability policy required by **Section 19.1**

19.1.3. The Company's insurance, except for Automobile Liability, shall be primary of any self-funding and/or insurance otherwise carried by the County for all loss or damages arising from the Consultant's operations under this agreement. The Company and each of its subcontractors shall and does waive all rights of subrogation against the County and each of the Indemnitees (as defined in **Section 18**).

19.1.4. The County shall be exempt from, and in no way liable for any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.

19.1.5. Within 3 days after execution of this Contract, the Company shall provide the County with certificates of insurance documenting that the insurance requirements set forth in this **Section 19** have been met, and that the County be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Company shall further provide such certificates of insurance to the County at any time requested by the County after execution of this Contract, and shall provide such certificates within five (5) days after the County's request. The County's failure to review a certificate of insurance sent by or on behalf of the Company shall not relieve the Company of its obligation to meet the insurance requirements set forth in this Contract.

19.1.6. Should any or all of the required insurance coverage be self-funded/self-insured, the Company shall furnish to the County a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.

If any part of the work under this contract is sublet, the subcontractor shall be required to meet all insurance requirements set forth in this **Section 19**, provided that the amounts of the various types of insurance shall be such amounts as are approved by the County in

Section 8

Exhibit A – Contract Sample

writing. However, this will in no way relieve the Consultant from meeting all insurance requirements or otherwise being responsible for the subcontractor

19.2. *Types of Insurance.* The Company agrees to purchase and maintain during the life of this Contract with an insurance company, acceptable to the County, authorized to do business in the State of North Carolina the following insurance:

19.2.1. *Automobile Liability.* Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.

19.2.2. *Commercial General Liability.* Bodily injury and property damage liability as shall protect the Company and any subcontractor performing work under this Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.

19.2.3. *Errors and Omissions Liability Insurance* as shall protect the Company and his employees from claims alleging the failure to provide the services required by this Contract. This policy shall be specific to the performance of this Contract and shall provide limits of \$1,000,000 each occurrence/aggregate. Proof of this policy of insurance shall be submitted to the County's Risk Management Division before acceptance.

19.2.4. *Electronic Errors and Omissions.* If the risks typically covered by Electronic Errors and Omissions Insurance are not covered by the Company's Errors and Omissions Insurance, the Company shall purchase an electronic errors and omissions insurance policy having aggregate limits of \$1,000,000 and occurrence limits of \$750,000, respectively.

19.2.5. *Workers' Compensation Insurance.* The Company shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

The County shall be named as additional insured under the commercial general liability insurance for operations or services rendered under this Contract. Certificates of all required insurance shall be furnished to the County and shall contain the provision that the County will be given thirty (30) day written notice of any intent to amend or terminate by either the insured or the insuring company.

20. RELATIONSHIP OF THE PARTIES. The relationship of the parties established by this Contract is solely that of independent contractors, and nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day activities of the other; (ii) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; (iii) make either party an agent of the other for any purpose whatsoever, or (iv) give either party the authority to act for, bind, or otherwise create or assume any obligation on behalf of the other. Nothing herein shall be deemed to

Section 8

Exhibit A – Contract Sample

eliminate any fiduciary duty on the part of the Company to the County that may arise under law or under the terms of this Contract.

- 21. SUBCONTRACTING.** The Company shall not subcontract any of its obligations under this Contract without the County's prior written consent. In the event the County does consent in writing to a subcontracting arrangement, Company shall be the prime contractor and shall remain fully responsible for performance of all obligations which it is required to perform under this Contract. Any subcontract entered into by Company shall name the County as a third party beneficiary.
- 22. CONFIDENTIALITY AGREEMENT.** The parties acknowledge that they have executed and entered into a Confidentiality Agreement prior to the execution of this Contract (the "Confidentiality Agreement"), and that they are bound by all terms contained in the Confidentiality Agreement with respect to any Confidential Information which either of them obtains access to in connection with this Contract.
- 23. NON-DISCRIMINATION.** The County has adopted a Commercial Non-Discrimination Policy that is described in Section 2, Article V of the Charlotte City Code, and is available for review on the County's website (the "Non-Discrimination Policy"). The Company agrees to comply with the Non-Discrimination Policy, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a County contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on County contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Company understands and agrees that a violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Company from participating in County contracts or other sanctions.

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the County all information and documentation that may be requested by the County from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the County within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Company has used on County contracts in the past five years, including the total dollar amount paid by Contractor on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the County pursuant to the County's Non-Discrimination Policy as set forth in Section 2, Article V of the County Code, to provide any documents relevant to such investigation that are requested by the County, and to be bound by the award of any arbitration conducted under such Policy. The Company understands and agrees that violation of this clause shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Company from participating in County contracts and other sanctions.

The Company further agrees to provide to the County from time to time on the County's request, payment affidavits detailing the amounts paid by Company to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format provided by the County.

Section 8

Exhibit A – Contract Sample

24. DRUG-FREE WORKPLACE. The County is a drug-free workplace employer. The Company hereby certifies that it has or it will within thirty (30) days after execution of this Contract:

- 24.1. Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;
- 24.2. Establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Company's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;
- 24.3. Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlines in (a) above, and (ii) notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- 24.4. Impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by, an employee convicted of a drug crime;
- 24.5. Make a good faith effort to continue to maintain a drug-free workplace for employees; and
- 24.6. Require any party to which it subcontracts any portion of the work under the contract to comply with the provisions of this Section.

A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Contract shall be ground for suspension, termination or debarment.

25. OTHER SERVICES. In the event the County desires for the Company to perform any services which are not covered by this Contract ("Other Services"), the Company will provide such Other Services at an additional charge which shall not exceed the rates being charged to similar clients for similar services, plus "Out of Pocket Expenses" as defined below that are related to the Other Services. The County shall not be required to pay for hours worked that which are not reasonable in relation to the service provided, nor shall the County be required to pay for Out-of-Pocket Expenses are not reasonable.

As used in this Contract, the term "Out-of-Pocket Expenses" shall mean the following expenses which are actually incurred by employees of the Company or its subcontractors who live outside of a 100 mile radius of Charlotte, North Carolina and who travel to Charlotte in the performance of the Other Services, when such travel would not otherwise have been necessary for the performance of this Contract:

- Lodging at a local hotel.
- A per diem meals reimbursement of \$25 per day.
- Long distance calls made by employees of Company while in Charlotte, if a given call is necessary for performance of the Services detailed in this Contract.
- Parking, tolls, or rental car.
- Travel costs to and from the County.

Section 8

Exhibit A – Contract Sample

For Company or subcontractors and employees who stay in Charlotte over extended time periods, the Company will rent an apartment in the County if doing so proves to be more economical on a monthly average. Otherwise, the Company will attempt to obtain accommodations at the same rates as those applicable for federal government employees. The Company will attempt to minimize travel costs by obtaining the lowest fares reasonably practicable under the circumstances.

Each invoice for Other Services shall detail all services performed and shall itemize in detail and provide documentation for all Out-of-Pocket Expenses for which the Company seeks reimbursement. The parties acknowledge that the Out-of-Pocket Expenses apply only to Other Services, and that the Company shall not be permitted to charge the County for Out-of-Pocket Expenses related to any Services which are covered by this Contract.

26. SOURCE CODE. Company shall cause the Source Code for all Software, New Releases and New Versions to be delivered to the source code escrow agent identified in the Source Code Escrow Contract, at the times set forth therein. The County shall be given such Source Code under the conditions stated in the Source Code Escrow Contract. The Company shall deliver the Source Code for all Customizations to the County prior to System Acceptance. The Company shall deliver the Source Code for all New Releases and New Versions to Customizations to the County within ten days after delivery of each New Release and New Version.

27. NOTICES. Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

27.1. Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract shall be sent to:

For the County

County of Mecklenburg
600 East Fourth Street
Charlotte, NC 28202
Phone:
Fax:
E-Mail

For the Company

Name: _____
Company: _____
Address: _____

Phone: _____

With Copy To

Sandra Bisanar
County Attorney's Office
600 East Fourth Street
Charlotte, NC 28202
Phone: 704.
Fax: 704.

E-Mail –

- 27.2. All other notices shall be sent to the other party's Project Manager at the most recent address provided in writing by the other party.

28. MISCELLANEOUS

29.1. *ENTIRE AGREEMENT.* This Contract, (including all Exhibits and Attachments), the Confidentiality Agreement and the Source Code Escrow Contract constitute the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.

29.2. *AMENDMENT.* No amendment or change to this Contract shall be valid unless in writing and signed by the party against whom enforcement is sought.

29.3. *GOVERNING LAW AND VENUE.* North Carolina law shall govern the interpretation and enforcement of this Contract, and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). All legal actions or other proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.

29.4. *BINDING NATURE AND ASSIGNMENT.* This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void. For purposes of this Section, a Change in Control, as defined in Section 29.12 shall constitute an assignment.

29.5. *NO DELAY DAMAGES.* Under no circumstances shall the County be liable to the Company for any damages arising from delay, whether caused by the County or not.

29.6. *FORCE MAJEURE PRIOR TO SYSTEM ACCEPTANCE.* The following force majeure provisions shall apply to the Company prior to System Acceptance and to the County at all times. Neither party shall be liable for any failure or delay in the performance of its obligations pursuant to this Contract, and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied:

- (a) If such failure or delay:
 - 1. Could not have been prevented by reasonable precaution;
 - 2. Cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
 - 3. If, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.
- (b) An event which satisfies all of the conditions set forth above shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, the

Section 8

Exhibit A – Contract Sample

affected party shall be excused from any further performance of those of its obligations which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the affected party continues to use reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

- (c) Upon the occurrence of a Force Majeure Event, the affected party shall promptly notify the other by telephone (to be confirmed by written notice within five (5) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than fifteen (15) days, the County shall have the right to terminate this Contract by written notice to the Company.
- (d) Notwithstanding anything contained herein to the contrary, strikes, slow-downs, walkouts, lockouts, and industrial disputes of the Company or its subcontractors shall not constitute "Force Majeure Events" and are not excused under this provision. The parties expressly acknowledge that Year 2000-related interruptions in operations or in the supply of the products or services of the Company or its are not excused under this provision. Nothing in the preceding Force Majeure provisions shall relieve the Company of any obligation it may have regarding disaster recovery, whether under this Contract or at law.

29.7. *FORCE MAJEURE AFTER SYSTEM ACCEPTANCE.* The following force majeure provisions shall apply to the Company after System Acceptance. After System Acceptance, the Company shall not be excused from performance under this Contract by virtue of force Majeure events. The Company shall take precautions sufficient to ensure that force Majeure events (including but not limited to fire, flood, earthquake, hurricane, elements of nature, strikes, labor disputes, terrorism and acts of God) do not result in any failure or delay in the performance of the Company's obligations pursuant to this Contract. Failure to comply with this provision will constitute a default under this Contract, and grounds for immediate termination.

29.8. *SEVERABILITY.* The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of this Contract so long as the material purposes of this Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

29.9. *NO PUBLICCOUNTY.* No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the County in any manner without the prior written consent of the County. Notwithstanding the forgoing, the parties agree that the Company may list the County as a reference in responses to requests for proposals, and may identify the County as a customer in presentations to potential customers.

29.10. *WAIVER.* No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other

Section 8

Exhibit A – Contract Sample

covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

29.11. *SURVIVAL OF PROVISIONS.* Those Sections of this Contract and the Exhibits which by their nature would reasonably be expected to continue after the termination of this Contract shall survive the termination of this Contract, including but not limited all definitions and each of the following:

Section 2	Definitions
Section 4.6	Additional Purchases
Section 4.8	Audit
Section 6.5	Software License for Embedded Software
Section 6.6	Transfer of Warranties
Section 6.7	Replacement Equipment
Section 9	Representations and Warranties
Section 12	Termination
Section 15	Intellectual Property
Section 18	Indemnification
Section 23	Non-Discrimination
Section 27	Notices
Section 28	Miscellaneous

29.12. *CHANGE IN CONTROL.* In the event of a change in "Control" of the Company (as defined below), the County shall have the option of terminating this Contract by written notice to the Company. The Company shall notify the County within ten days of the occurrence of a change in control. As used in this Contract, the term "Control" shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.

29.13. *NO BRIBERY.* The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or attempted to bribe an officer or employee of the County in connection with this Contract.

29.14. *FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.* The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.

29.15. *TAXES.* Except as specifically stated elsewhere in this Contract, the Company shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services.

29.16. *TITLES OF SECTIONS.* The section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

Section 8
Exhibit A – Contract Sample

29.17. CONSTRUCTION OF TERMS. Each of the parties has agreed to the use of the particular language of the provisions of this Contract and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties

Exhibit A

PRICE SCHEDULE AND COMPONENTS KNOWN AS OF THE EFFECTIVE DATE

This exhibit is incorporated into and made a part of the master contract for system integration ("MCSI") between the County of Mecklenburg (the "County") and [insert company name] (the "Company"). unless otherwise defined herein, capitalized terms in this exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI.

1. **Purchase price.** the County shall pay the company a fixed price of \$_____ as full and complete consideration for the performance of all obligations of the company under the MCSI (the "purchase price"), other than maintenance services beyond the warranty period ("extended maintenance services"). the purchase price is allocated to the products and services in accordance with this exhibit, and shall be payable only in accordance with the milestone plan.
2. **Maintenance fee.** the company shall provide the maintenance services at no additional charge during the warranty period. after the warranty period, the County shall have four one-year options to purchase extended maintenance services a price of \$_____ per year. the County shall be entitled to exercise its option to buy extended maintenance service for a given one-year option period by: (a) providing written notice to the company at any time prior to or within sixty days following the beginning of such one-year option period; or (b) payment of the company's invoice for such one-year option period.

3. PURCHASE SCHEDULE FOR SOFTWARE

Item	Quantity	Price
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4. PURCHASE SCHEDULE FOR HARDWARE

Item	Quantity	Price
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5. PURCHASE SCHEDULE FOR SERVICES

Item	Quantity	Price
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6. **OPTIONAL ITEMS.** The items listed below are not required under the MCSI, and are not necessary for the system or any of its components to perform in accordance with the MCSI. However, the company has agreed that for a period of ____ months after the date of this contract, the county shall have the right to purchase and the company shall sell to the county the following items at the prices set forth below:

Item	Quantity	Price
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Section 8
Exhibit A – Contract Sample

7. Nothing in this Exhibit shall be deemed to eliminate the Company's obligation to provide alternative or updated Products to the extent required by Exhibit C or other provisions of the MCSI.

Exhibit B

MILESTONE PLAN

This Milestone Plan is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the County of Mecklenburg (the “County”) and **[INSERT COMPANY NAME]** (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the MCSI, including but not limited to Exhibit C.

The Company shall invoice the County for the Purchase Price in accordance with the Milestone Plan set forth below. The Company shall not invoice the County for any Products, Services or Deliverables within a particular Milestone until all Services and Deliverables required in connection with that Milestone have been fully completed and accepted by the County.

5% (\$ _____) shall be paid within fifteen (15) days after execution of this Contract by both parties;

5% (\$ _____) shall be paid within thirty (30) days after the later of: (i) receipt by the County of an undisputed and properly submitted invoice for completion of Phase 1 of the Project as described in Exhibit C (the “Define Phase”); or (ii) acceptance by the County of all Products, Services and Deliverables required in Phase 1 of the Project;

10% (\$ _____) shall be paid within thirty (30) days after the later of: (i) receipt by the County of an undisputed and properly submitted invoice for completion of Phase 2 of the Project as described in Exhibit C (the “Design Phase”); or (ii) acceptance by the County of all Products, Services and Deliverables required in Phase 2 of the Project;

20% (\$ _____) shall be paid within thirty (30) days after the later of: (i) receipt by the County of an undisputed and properly submitted invoice for completion of Phase 3 of the Project as described in Exhibit C (the “Build Phase”); or (ii) acceptance by the County of all Products, Services and Deliverables required in Phase 3 of the Project;

20% (\$ _____) shall be paid within thirty (30) days after the later of: (i) receipt by the County of an undisputed and properly submitted invoice for completion of all tasks in Phase 4 of the Project as described in Exhibit C (the “Deliver Phase”); or (ii) acceptance by the County of all Products, Services and Deliverables required in Phase 4 of the Project.

40% (\$ _____) shall be paid within thirty (30) days after the later of: (i) receipt by the County of an undisputed and properly submitted invoice for the completion of System Acceptance; or (ii) successful completion of System Acceptance at the conclusion of the Test Period.

Exhibit C

SCOPE OF IMPLEMENTATION SERVICES

1. MCSI

This Scope of Implementation Services is incorporated into and made a part of the Master Contract for System Integration ("MCSI") between the County of Mecklenburg (the "County") and [INSERT COMPANY NAME] (the "Company"). Unless otherwise defined herein, capitalized terms in this Scope of Implementation Services shall have the same meanings as are assigned to such terms in the main body of the MCSI. Each reference to the MCSI includes this Scope of Implementation Services and all other Exhibits and Appendices to the MCSI. The Services described in this Exhibit are collectively referred to as the Implementation Services.

2. GENERAL DESCRIPTION OF COMPANY RESPONSIBILITIES

The Company shall design, supply, install, configure, test and commission an Activity Based Costing Software that fully complies with the Specifications and Requirements. Except for the "County Responsibilities" specifically identified in this Scope of Implementation Services, the Company shall furnish all equipment, services and supplies necessary to achieve full compliance with the Specifications and Requirements. The fact that a particular service, item of equipment or material is not listed in the MCSI does not release the Company for its obligation to provide it, if such service, equipment or material is necessary to design, supply, install, configure, test and commission the System so that it fully complies with the Specifications and Requirements. Without limiting or shifting to the County the obligations of the Company which are acknowledged in the preceding two sentences, the Company shall provide to the County the specific system components and services which are itemized in Exhibit A to the MCSI, or any newer versions that the Company is required to provide under the MCSI. In the event any of the System components or services listed on Exhibit A (or any newer version that the Company is required to provide) are insufficient for the Company to deliver to the County a System which fully complies with the Specifications and Requirements, the Company shall immediately provide the County with written notice (a "Deficiency Notice"): (i) describing the deficient components and/or services and the probable impact on the System; and (ii) proposing such other or additional components or services as are necessary for the System to meet all Specifications and Requirements (the "Substitute Components/Services"). Substitute Components/Services must be equal or better in all respects to the deficient components/Services. The County shall within fifteen (15) days after receipt of a Deficiency Notice, give the Company written notice to either proceed with the current components and/or services, or to proceed with the Substitute Components and Services. In the event the County elects to proceed with the Substitute Components and Services, the Company shall provide the Substitute Components and Services at no additional charge to the County. In the event the County elects to proceed with the current components and/or Services, the Company shall not be responsible for Defects which are solely attributable to the deficiency identified by the Company in the Deficiency Notice with respect to such components and services.

3. PROJECT SCHEDULE

Time is of the essence in having the Company perform the Implementation Services. The Company shall perform all Implementation Services within the time periods set forth in the Project Schedule and the Project Plan. There shall be no extensions of such time periods without the mutual written consent of both parties; provided, however, that:

Section 8

Exhibit A – Contract Sample

- 3.1. If the County fails to complete any task assigned to it by the completion date set forth in the project schedule or project plan, and if such failure is reasonably likely to cause a delay in the completion of the remaining tasks, then the company shall give the County written notice that its delay is causing the company to fall behind (a “delay notice”). the completion dates for all remaining tasks shall be automatically extended by the number of business days between the date the County receives the delay notice and the date the County completes the overdue task identified in the delay notice; and
- 3.2. If the company fails to meet a completion date set forth in the project schedule or the project plan, the completion dates for tasks assigned to the County shall be automatically extended by the number of business days between the date the task should have been completed and the date the company actually completes such task; and
- 3.3. The County shall in its sole discretion be entitled to postpone the project at any time for any reason by giving written notice to the company. this postponement shall result in the extension of all deadlines set forth in the project schedule, the project plan and the mcsi, provided that such extensions shall not total more than six (6) months in the aggregate without the company's prior written consent.
- 3.4. The failure by the Company to meet a given completion date in the Project Schedule or Project Plan shall not entitle the Company to receive an extension for the completion of any other task assigned to the Company, even if such failure has caused the County to delay in completing one or more tasks as allowed under Section 3.2 above.

4. COUNTY PROVIDED EQUIPMENT, FACILITIES AND SERVICES

The County shall be responsible for supplying the following equipment, services and facilities for the implementation of the System (collectively referred to herein as the “County Responsibilities”):

- 4.1. Physical space and electrical power necessary for the installation of all Products (hardware, software and interconnections) by the Company;
- 4.2. A facility to accommodate Company training of County personnel, equipped with up to __ workstations at any given facility; and
- 4.3. Office facilities for up to __ Company staff, consisting of
 - 4.3.1. work space (consisting of a table, desk or cube, as the County may elect)
 - 4.3.2. a telephone;
 - 4.3.3. a modem line;
 - 4.3.4. access to a copier or, in the County's discretion, County staff to make copies; and
 - 4.3.5. access to a fax or, in the County's discretion, County staff to send faxes.
- 4.4. Company staff will be allowed reasonable use of the County's break room facilities when they are on County premises. The Company's employees shall not venture outside those areas where the County Project Manager has specifically authorized them to go. Access to the County's facilities outside

Section 8

Exhibit A – Contract Sample

normal business hours is restricted; necessary access must be arranged each day as needed with the County Project Manager.

- 4.5. County staff will perform the tasks assigned to the County in this Scope of Implementation Services.

5. PROJECT managers

- 5.1. Company project manager. _____ shall be the “company project manager” under this contract. The duties of the company project manager include, but are not limited to:

5.1.1. Direct the project as the company contact with responsibility for project performance from initiation to closure, including planning, organizing, managing, and controlling all aspects of the project to ensure that project tasks are performed according to the approved project schedule and project plan.

5.1.2. Coordinate and schedule all company resource assignments.

5.1.3. Identify all known items that may impact the availability of County resources during the project, and coordinate with the County project manager to avoid delays.

5.1.4. Ensure that all necessary subcontractor commitments are in place and monitor subcontractor commitments.

5.1.5. Initiate and maintain project reporting and filing systems to ensure that project documentation is up-to-date, organized and readily accessible by appropriate company and County staff.

5.1.6. Obtain from the County a system network configuration diagram and update it regularly to ensure that the system network configuration diagram accurately reflects the County architecture as it may change during the implementation of the project.

5.1.7. Arrange for the delivery and installation of all products and services in accordance with the project schedule.

5.1.8. Coordinate company logistics for all on-site activities

5.1.9. Mutually agree and clarify with the County the training logistics considerations such as schedules and classroom resources.

5.1.10. Provide the County project manager and company upper management with the weekly progress reports described in this scope of implementation services.

5.1.11. Maintain a “punch list” of all defects, incomplete requirements or unresolved issues that occur over the course the project, including date and manner of resolution.

5.1.12. Communicate with the County project manager on a daily or weekly basis, as needed, regarding project progress and activities, and ensure

Section 8

Exhibit A – Contract Sample

adequate communication between members of the company's and County implementation staffs.

- 5.1.13. Monitor and follow-up to ensure that the implementation services are completed in compliance with the MCSI and the dates set forth in the project schedule and project plan.
- 5.1.14. Promptly consult with the County's project manager when project plan deviations occur, and document all such plan deviations in accordance with agreed upon change control procedures;
- 5.1.15. Provide consultation and advice to the County on matters related to project implementation strategies, key decisions and approaches, and project operational concerns/issues, and acting as a conduit to the company's specialist resources that may be needed to supplement the company's normal implementation staff;
- 5.1.16. Act as the company's point of contact for all aspects of contract administration, including invoicing for services, and status reporting;
- 5.1.17. Facilitate review meetings and conferences between the County and the company's executives when requested by the County;
- 5.1.18. Identify and provide the County with timely written notice of all issues that may threaten the implementation, operation or performance of the system (with "timely" meaning immediately after the company becomes aware of them);
- 5.1.19. Employ project management procedures that ensure a mutual understanding and agreement of the tasks to be completed and the schedule to be observed.
- 5.1.20. Employ project planning methods that document the County's expectations so that there are no false starts or wasted effort.
- 5.1.21. Maintain a complete record of the project's history.
- 5.1.22. Ensure that adequate quality assurance procedures are in place throughout the project, and that the system complies with the specifications and requirements; and
- 5.1.23. Meet with other vendors working on County technology projects as necessary to resolve problems and coordinate the work that is included within the scope of this project.

The company project manager shall remain onsite at the County throughout the duration of the project, except for instances where the County has specifically agreed in writing that the company project manager need not be present.

- 5.2. County Project Manager. _____ shall be the "County project manager" under this contract. The duties of the County project manager are: (i) coordinating to fulfill the County's obligations pursuant to this contract; (ii) promptly responding to the company's project manager when consulted in writing or by e-mail with respect to project issues; and (3) acting as the County's point of

Section 8

Exhibit A – Contract Sample

contact for all aspects of the project, including contract administration and coordination of communication with the County's staff. The County shall be allowed to change staffing for the County project manager position on one business day's notice to the company.

- 5.3. In the event of vacation, illness or training, the project manager for each party shall appoint a designee to serve in his or her temporary absence.

6. Progress reports

Throughout the project, the company shall prepare and submit weekly written reports to the County project manager. The weekly reports shall:

- 6.1 Update the project plan indicating progress for each task;
- 6.2 Identify and report the status of all tasks that have fallen behind schedule, the reason for the delay, and the projected completion date;
- 6.3 Identify and summarize all risks and problems identified by the company which may affect the project;
- 6.4 For each risk and problem, identify the action and person(s) responsible for mitigating the risk and resolving the problem;
- 6.5 For each risk and problem identified, state the impact on the project plan; and
- 6.6 Identify all personnel, equipment, facilities and resources of the County that will be required for the company to perform the implementation services at least (2) weeks in advance of the need.

7. REVIEW AND CORRECTION OF INTERIM DELIVERABLES

Upon completion of each Deliverable and Milestone, the Company shall give the County a written notice of completion. Within a reasonable time after receiving such completion notice, the County shall notify the Company in writing of the County's acceptance or rejection of the applicable Deliverable or Milestone. The County shall be entitled to reject the Deliverable or Milestone if it fails in any way to comply with the MCSI (including this Scope of Implementation Services), or if it fails to comply with the highest industry standards, or if it contains time periods that are not reasonably attainable. If the County fails to accept or reject the Deliverable or Milestone within a reasonable time period, then: (a) the Deliverable or Milestone shall be deemed rejected; (b) the Company shall give the County written notice of such failure to accept or reject; and (c) work on all contingent tasks shall cease until all issues about the Deliverable or Milestone have been resolved and the County has issued an acceptance. As used in this paragraph, the term "reasonable time" means the time reasonably necessary to review and evaluate the Deliverable or Milestone based on its length, complexity and the number of people who need to review it. Under no circumstances shall the "reasonable time" be less than fifteen business days, unless the County has agreed in writing to a shorter review time.

If the County rejects a Deliverable or Milestone, the Company shall: (a) act diligently and continuously to correct all Defects and deficiencies identified by the County, and (b) immediately upon completing such corrections give the County a written, dated certification that all Defects and deficiencies have been corrected (the "Certification"). In the event the Company fails to correct all Defects and deficiencies identified in by the County and provide a Certification within a reasonable time after receipt of the Rejection Notice (which time shall in no event exceed fifteen business days), the County shall be entitled to terminate this Contract for default without further obligation to the Company.

Upon the County's receipt of the corrected Deliverable or Milestone, or a Certification, whichever is later, the above-described acceptance procedure shall recommence. The County shall not be obligated to allow the Company to recommence curative action with

Section 8

Exhibit A – Contract Sample

respect to any Defect or deficiency previously identified by the County, or more than twice for any given Deliverable or Milestone (and shall be entitled to terminate this Contract for default if the criteria for acceptance are not met within this time frame).

Under no circumstances shall the County's acceptance of a Deliverable or Milestone be deemed to constitute a waiver of any of the Specifications and Requirements, the completion dates in the Project Plan, or any of the Company's other obligations under this Contract. No such waiver shall be effective unless specifically agreed to in writing by a County Key Business Executive. Likewise, the Company shall not be relieved of such obligations by any Defect or deficiency in the Deliverable, nor by any failure on the part of the Company or County to detect such Defect or deficiency.

8. PROJECT PHASES

The Company will design, install, configure, deliver, test and commission the System in the following five phases, each of which is described in detail in the subsequent Sections of this Scope of Implementation Services:

- | | |
|------------|---------------|
| Phase I: | Define Phase |
| Phase II: | Design Phase |
| Phase III: | Build Phase |
| Phase IV: | Deliver Phase |
| Phase V: | Trial Period |

9. PHASE I: DEFINE PHASE

The Define Phase will consist of the following tasks and Deliverables:

9.1. PROJECT PLAN

- 9.1.1. Within thirty (30) days after the Effective Date, the Company shall prepare and submit to the County for approval a comprehensive and detailed project plan that identifies all tasks, steps and resources needed for delivery of the System in full compliance with the Specifications and Requirements within the time periods set forth in the Project Schedule (the "Project Plan").
- 9.1.2. The Project Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company to: (i) design, supply, configure, install, test and commission a System which fully complies with the Specifications and Requirements, and (ii) provide for a smooth and efficient transition from the existing system, to the new System, with minimum disruption to County operations. The Project Plan shall clearly define all hardware, software, deliverables and tasks required for each Milestone in each Phase of the Project. The Project Plan shall include a chart in Microsoft Project format that clearly identifies the schedule, order, completion date, number of days duration, responsible party and prerequisites for all such activities, events, tasks, Milestones and Deliverables.

Section 8

Exhibit A – Contract Sample

- 9.1.3. The Project Plan will be developed in a manner so that the County and Company Project team can use it as a stand-alone document.
- 9.1.4. The Project Plan will contain a schedule, overall strategy and methodology for the mapping, data conversion and the loading of data from the current County system(s) to the System.
- 9.1.5. The Project Plan will contain a schedule for all training courses needed by the County to fully and productively use the System.
- 9.1.6. The Project Plan will identify when each type of Hardware and Software component will be installed.
- 9.1.7. The Company shall maintain the Project Plan. The Microsoft Project schedule contained within the Project Plan and shall be updated and submitted to the County on a weekly basis throughout the Project (until System Acceptance), to reflect the current status of all work. Aside from updates to show mutually agreed upon status changes, no changes to the Project Plan shall be made without the prior written approval of the County.
- 9.2. TRAINING PLAN.
 - 9.2.1. Within the time periods and by the completion dates set forth in the Project Schedule, the Company shall prepare and provide to the County for approval a written comprehensive training program that shall outline the content, sequence and duration of each segment of each training session necessary to thoroughly and comprehensively train County personnel to fully utilize the System (the "Training Plan"). The Training Plan will outline all subjects necessary to train County staff to fully understand and utilize all user functions of the System, and to train the designated "trainers" to effectively train other County personnel to fully understand and utilize the user functions of such software on the System.
 - 9.2.2. The Training Plan shall require the Company to provide the operator training and comprehensive "train the trainer" training for the numbers of County designated personnel listed in the chart identified in Section 9.2.4. In the Training Plan, the Company will schedule the training classes and modules according to their appropriate phase of the Project. For example, the classes for building tables must be scheduled before the County begins building the tables, and operator training must be scheduled to ensure a smooth transition to live operations. The Training Plans described below will also take into account classroom resources and personnel scheduling.
 - 9.2.3. In the Training Plan, the Company shall provide the County with a written description of the types of the precise training classes that will be conducted, the number of persons that can be trained in each session, and the total number of hours required for each person to be trained. The Training Plan shall provide for rotating shift operations. All training will be conducted on-site in County facilities.
 - 9.2.4. Without limiting the Company's obligations hereunder, the Company will provide and the Training Plan will include each of the courses described

Section 8

Exhibit A – Contract Sample

in the Training Courses List which is attached to this Scope of Implementation Services as Attachment I and incorporated herein by reference to the numbers of students set forth below:

<u>CLASS</u>	<u># STUDENTS</u>
• System Overview	
• System Administration	
• System Management Reporting	
• Supervisor Functions	
•	
•	
•	

The cost of all training referenced in this Exhibit is included in the Purchase Price.

9.5. The System Administration and Management Reporting courses shall contain all information and materials necessary to enable County designated staff to become fully proficient to:

9.5.1. troubleshoot and identify the area or System component within the System that is causing any problem(s);

9.5.2. modify existing System management reports;

9.5.3. identify sources of statistical data that can be used to assess trends in System operations (use) and performance; and

9.5.4. demonstrate configuration of the System terminal display forms.

9.6. The Company will provide a documentation template so that the County can replicate all training material and pass it out to County staff and other authorized users of the System.

9.7. The Training Plan provided by the Company during the Project will include the following information:

9.7.1. Course summary/outline;

9.7.2. Duration of training for each module;

9.7.3. Location of training; and

9.7.4. Student prerequisites.

9.8. After approval of the Training Plan by the County, the Company shall prepare and provide to the County for approval, the instructor's course notes, which shall contain all information and materials necessary that will be presented in each course to be provided as part of the Training Plan (the "Lesson Plan").

9.9. The Company shall supply all training aids and course materials for the training, for: (i) the "train the trainer" training described above; and (ii) all operator training. For each course referenced in the chart included in this Section, the Company shall provide, at a minimum, the number of complete sets of all course materials and training aids for each class equal to the number of students shown on the chart (other than the videotapes).

9.10. The County shall be entitled (but not required) to videotape all training classes provided by the Company, and to use the videotapes as a permanent training aid as part of the ongoing County training program.

9.11. The County shall have royalty free unrestricted rights to reproduce an unlimited number of copies of the Training Program, the Course Lesson Plan and all Company supplied course materials and training aids (including the videotapes), for use by the County as part of the County's ongoing training.

10. PHASE II: DESIGN PHASE

The Design Phase will consist of the following tasks and Deliverables:

10.1. SYSTEM DESIGN

10.1.1. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the County for approval the detailed design documentation described below (the "Design Documentation").

10.1.2. The Company shall prepare and submit to the County for approval interface and map construction documentation in the form of, product specifications, installation, and/or other types of documentation that will enable the County to clearly determine, whether the System as proposed by the Company will fully satisfy the Specifications and Requirements. The Design Documentation shall include, without limitation, the following:

10.1.2.1. Interface Designs for all interfaces to the System. The Company will provide a design for all interfaces specified in Exhibit G sufficient to ensure compliance with the Specifications and Requirements. The interface designs will specify all links, protocols and interfaces that need to be created to link the System to required data sources and other systems.

10.1.2.2. Map Importation Design. The Company will provide specifications for all map importation so as to ensure compliance with the Specifications and Requirements. The map specifications will contain overall strategy and methodology for the mapping, conversion and loading of data from the current County system(s) to the System. The Company will specify a methodology for cleaning and verifying old data before migration, including but not limited to a contingency plan for handling data that cannot be converted (e.g., fields with data elements that have changed

their meaning over time). The Schedule for the map activities will be part of the overall project schedule.

- 10.1.2.3. Manuals, Documentation and/or on-line help capability for all third-party products used for interfaces or map importation (which documentation shall be sufficient to enable trained County users to fully utilize the System and identify problems).

The parties acknowledge that the County will require Design Documentation which meets the County's written approval prior to allowing the implementation of the System by the Company to proceed, except as agreed in writing by the County for specific items.

10.1.3. CONFIGURATION PLAN

- 10.2. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare, and submit to the County for approval a configuration plan in Visio format compatible with the County's software for all System Hardware and Software Deliverables. The Configuration Plan will include the following:

Visio Diagrams, including both system level and components; and

A System overview (written documentation to document Visio Diagrams).

- 10.3. The Configuration Plan shall clearly identify all the Hardware to be delivered as part of the System, as well as the respective Software for each piece of Hardware. The Configuration Plan will provide system administrators and other County personnel with a clear understanding of the overall System Hardware/Software configuration.
- 10.4. All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Configuration Plan.

11. CONVERSION PLAN

- 11.1 Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the County for approval, a conversion plan for converting all data necessary to transfer all operations from the old system to the new System ("Conversion Plan").
- 11.2 The Conversion Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company to convert data to the System in a manner so that the System will operate in full compliance with the Specifications and Requirements. The Company will be responsible for all data conversion activities.
- 11.3 All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Conversion Plan.

12. CUT-OVER PLAN

- 12.1 Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the County for approval a cut-over plan the ("Cut-Over Plan").
- 12.2 The Cut-Over Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company and the County, to cut over to the System in a manner so that it fully complies with the Specifications and Requirements. The Cut-Over Plan shall ensure a smooth and efficient transition from the County's current systems to the System with minimum disruption to current operations. The Cut-Over Plan will identify those operations which cannot be interrupted by implementation and provide a methodology to ensure continual delivery of service. The Company will work with the County to ensure that at the time of cut-over, the System is functioning with equivalent or better performance to the configuration currently used by the County.
- 12.3 All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Conversion Plan.

13. ACCEPTANCE TEST PLAN AND PROCEDURES

- 13.1 Within the time period and by the completion date set forth in the Project Schedule and the Project Plan, the Company shall prepare and provide to the County comprehensive acceptance test plans and procedures that will clearly and conclusively demonstrate to the County's satisfaction whether the entire System and each component thereof meets all Specifications and Requirements (the "Test Plan and Procedures").
- 13.2 The Test Plan and Procedures shall clearly specify and describe all tests, test methods and inspections necessary to clearly and conclusively demonstrate to the County's satisfaction whether or not the complete System and each component thereof meets and satisfies all Specifications and Requirements. The acceptance testing shall include peak-load processing and on-line processing, as well as all links, protocols and interfaces. The Test Plan and Procedures shall require the Company to perform the following tests in conjunction with County personnel prior to cut-over:
 - 13.2.1 Sub-system testing to ensure that collections of modules which have been integrated into sub-systems operate correctly together (including tests sufficient to detect all interface errors);
 - 13.2.2 System-wide testing to ensure that the entire System operates correctly as a whole. These tests will validate whether the System as a whole fully complies with the Specifications and Requirements; and
 - 13.2.3 County Data Testing to ensure that the System performs in full compliance with the Specifications and Requirements with data supplied by the County.
- 13.3 The Test Plan and Procedures shall further include detailed descriptions of each test to be conducted, and the minimum acceptable limits and tolerances clearly identified for each test. The Test Plan and Procedures shall identify all tests

which shall occur as a condition for the end of Phase IV and the beginning of cut-over. Additionally, the Test Plan and Procedures shall specify for each test a written results record form that will be completed by the Company as witnessed and acknowledged by the County, after each test is completed. The Test Plan and Procedures shall further include a list of all test equipment, software and facilities that will be required to complete all tests.

- 13.4 The Test Plan and Procedures shall clearly identify the sequence of all tests and the schedule for conducting all tests to comply with the Project Plan.
- 13.5 The County shall have the right to witness and object to each test performed pursuant to the Test Plan and Procedures. The Company shall provide the County reasonable notice of and opportunity to witness and object to each test performed pursuant to the Test Plan and Procedures. No test shall be deemed to be completed unless the County receives reasonable notice of such test, and was provided with an opportunity to plainly observe such test.
- 13.6 The Test Plan and Procedures shall include a description of tests for system security requirements that will occur, including but not limited to attempted break-ins. The Test Plan and Procedures shall also specify all testing software tools that are planned for use and which party will use such products in the testing. Finally, the Test Plan and Procedures will describe how and where test plans and results will be stored, including a 10-year storage requirement.
- 13.7 The Company shall conduct all tests included in the Test Plan and Procedures and shall be responsible for providing all test equipment (hardware and software), all test routines, and personnel for setting up and conducting all such tests.
- 13.8 Neither the Test Plan and Procedures nor the Test Procedures shall be revised without the prior approval of the County.

14. PHASE III: BUILD PHASE

During the Build Phase, the Company will gather input and perform System configuration activities to support the County's unique operational workflow. The Company will populate the database and construct the maps during this phase. The Company's key responsibilities during this phase include the following:

- 14.1 **SYSTEM DEVELOPMENT**
During System Development, the Company will translate the Specifications and Requirements and the Design Documentation into usable hardware components, adaptable interfaces, and appropriate code.
- 14.2 **STAGING AND TESTING**
The Company will perform integration consisting of staging the System, preparing the test platform, and testing the System. Together with development, these activities will produce the required System.
- 14.3 **DOCUMENTATION CUSTOMIZATION**
The Company will provide Documentation sufficient for the County to fully utilize the System and each of the Products.
- 14.4 **CONFIGURATION MANAGEMENT**
The Company will build the System in accordance with the approved Configuration Plan. The Company's configuration management responsibilities include maintaining baseline documentation, System configuration details and baseline software. They also include managing change. The Company Project Manager will be responsible for processing and maintaining Change Statements throughout the life of the Project and will also be responsible for updating the initial configuration diagram. By instituting an active configuration management

process, the Company will ensure that the System development effort will move ahead, that critical baseline information will be rigorously maintained, and that change requests are properly evaluated and effectively implemented when appropriate.

14.5 DATA COLLECTION

The Company will work closely with the County to ensure that the data collection activities meet the System's requirements.

14.6 COMPLETED SYSTEM

The Build Phase culminates in the creation of the System.

15. PHASE IV: DELIVER SYSTEM

During the Deliver Phase, the System will be tested and placed into live operation. The Test Plan and Procedures will serve as a foundation for the System to be rigorously tested for correct operation prior to its actual use. The Company's key responsibilities during this phase include the following:

15.1. OVERVIEW OF OPERATING ENVIRONMENT CREATION

To create the System operating environment, Company will perform the following:

15.1.1. Install the System at the County's site.

15.1.2. Establish the baseline operating environment.

15.1.3. Set up the System with all Product-related data, such as product administration accounts and product schema definitions.

15.1.4. Initialize the System and bring it on-line according to the start-up instructions.

15.1.5. Load converted data and verify connection to any other external systems as required.

15.1.6. Create, configure, and customize, as appropriate, the required user accounts.

The Deliverable for this task is that the System will be ready for the System-wide functional acceptance tests which confirm that the entire System functions in full compliance with the Specifications and Requirements using County data.

16. DELIVERY OF PRODUCTS

16.1 The Company shall deliver all Products within the time periods set forth in the Project Schedule.

16.2 All Company supplied Hardware will be staged and tested at the Company's facilities prior to delivery to the County's site. Prior to delivery of Software, the Company will perform factory acceptance tests using the Software to be delivered. The Software loaded and tested will be the latest certified version.

16.3 The County shall not be required to make any inspection of the Products. However, the County shall be entitled to inspect the Products as they are delivered and to reject all or any of the Products for any failure to comply with the descriptions, specifications, requirements and performance standards set forth in

Section 8

Exhibit A – Contract Sample

the MCSI, including but not limited to the requirement that all Hardware shall be new, undamaged and in good working order (any such failure to comply being referred to as a "Product Deficiency").

- 16.4 Within a reasonable time period, the County shall give the Company written notice of any Product Deficiencies which the County wants corrected based on the County's initial inspection. Failure by the County to give written notice of any Product Deficiencies shall not in any way relieve the Company from or shift to the County any of the Company's obligations under the Contract Documents, including but not limited to the Company's obligation to design, supply, install, configure, test and commission the System in accordance with the Specifications and Requirements. Likewise, the Company shall not be relieved of such obligations by any Defects in the Products, nor by any failure on the part of the Company or County to detect such Defects.
- 16.5 Upon receipt of notice that the County has rejected any of the Products, the Company shall promptly replace all such rejected Products. In the event the Company fails to provide replacement Products with all Product Deficiencies identified by the County corrected (and no new Product Deficiencies created) within five (5) business days after receipt of the County's notice of rejection, the County shall be entitled to terminate this MCSI without further obligation to Company. Rejection of all or part of the Product delivery by the County shall not result in any extension of the completion dates or time periods set forth in the Project Schedule unless specifically agreed in writing by a County Key Business Executive with respect to a particular rejection notice.
- 16.6 **INSTALLATION AND CONFIGURATION OF SYSTEM**
Within the time period and by the completion date set forth in the Project Plan, the Company shall install and configure the complete System Hardware and Software in full compliance with the Specifications and Requirements.
- 16.7 **Workmanship And Installation Standards**
 - 16.7.1 The Company and its subcontractors shall perform all installation work in accordance with the highest industry standards and shall comply with all local, state and federal government codes and regulations.
 - 16.7.2 The installation, location and methods of installation of all Hardware shall be subject to the prior written approval of the County.
 - 16.7.3 The Company shall route all wiring and cables from computer terminal connection points to County-provided connection points to avoid obstructing passage of personnel and shall include safeguards against inadvertent harm to personnel, the general public, or damage to the equipment and facilities of the County and its vendors.
 - 16.7.4 All installation work performed by the Company and its subcontractors shall be carried out by qualified, skilled trades people.

Section 8

Exhibit A – Contract Sample

16.7.5 The Company shall be responsible for determining all minimum installation standards for all sites, and shall obtain the County's written approval, prior to and after completion of all installation work.

16.8 SECURITY AND WAREHOUSING OF EQUIPMENT

The Company shall be responsible for the security and warehousing of all equipment supplied by the Company (or its subcontractors) pending installation of the equipment in the County facilities.

16.9 Restoration Of Premises

After implementation and prior to the expiration of the Trial Period, the Company shall restore the County's premises to their original condition. This includes removal of debris, restoring areas affected in the course of implementation, and repairing all damage.

The Company Project Manager will be responsible for inspecting all areas before work starts and reporting any pre-existing damage to the County Project Manager.

16.10 Training

Training will be completed under the schedule set forth in the Project Plan and the Project Plan.

16.11 Operation

At the end of the Deliver Phase, the System will be operational and in full conformance with the Specifications and Requirements and will be ready for use in live operations. The Company will work with the County to ensure that the System will function with equivalent or better performance to the configuration currently used by the County immediately after cut-over.

16.12 Testing

By the end of the Build Phase, the Company will complete all acceptance tests set forth in the Test Plan and Procedures, so as to establish that the System is ready to go into production. All acceptance tests shall be conducted in strict compliance with the Test Plan and Procedures with the County present during all such Tests to witness and verify such Tests. The Company will provide the County with copies of all acceptance test results immediately upon completion. After the acceptance tests have been successfully completed, the County can choose the timing for taking the System into full production use.

During the course of acceptance testing, the County may give the Company written notice of any Defects it observes in the performance of the System as a whole or any component. Failure to provide such notice shall not in any way relieve the Company from or shift to the County any of the Company's obligations under the MCSI, including but not limited to the Specifications and Requirements. Likewise, the Company shall not be relieved of such obligations by any errors or omissions in the acceptance tests.

Upon receipt of notice of Defects or deficiencies in all or any portion of the System, the Company shall act diligently and promptly to correct all Defects and deficiencies identified by the County, and shall immediately upon completing such corrections give County a written certification to that effect (a "Certification"). In the event the Company fails to correct all Defects and

Section 8

Exhibit A – Contract Sample

deficiencies identified by the County within ten (10) business days after receipt of the County's notice, the County shall be entitled to terminate the MCSI for default without further obligation to Company and without limiting any other remedies it may have. Rejection of all or part of the System by the County shall not result in any extension of the completion dates or time periods set forth in the Project Plan unless specifically agreed in writing by the County with respect to a particular rejection notice.

Upon correction of the Defects and deficiencies identified by the County and the County's receipt of a Certification, whichever is later, the System shall be re-tested and the County shall again have an opportunity to notify the Company of any Defects or deficiencies with the System or any component thereof. Upon the Company's receipt of such notice, the above-described procedure shall recommence. Regardless of the number of Defects and deficiencies identified or the number of attempts to cure, the Company shall be required to cure all Defects and deficiencies within twenty (20) business days after receipt of the County's first notice of rejection (excluding the number of days which the County evaluate the System after each Certification). In the event the Company fails to cure all Defects and deficiencies within such period, the County shall be entitled to immediately terminate the MCSI for default, without limiting any other remedies it may have.

16.13 Production System (Deliverable)

The Deliverable for completion of the Deliver Phase is the installed, functional, tested, and signed-off System in full conformance with the Specifications and Requirements ready to go into production and begin the Trial Period.

16.14 Documentation

Within the time frame and by the completion date set forth in the Project Plan and prior to the end of Phase IV, the Company shall provide to the County all user manuals and other Documentation necessary for the County to fully utilize the System. The Documentation shall satisfy all descriptions, requirements, specifications and standards set forth in Exhibit B to the MCSI.

16.15 Cut-Over Acceptance Form (Exit Criterion)

The exit criterion for the Deliver Phase will be a cut-over acceptance form signed by the County and the Company stating that the entire System and each component, module and sub-system have successfully passed acceptance tests to verify full compliance with the Specifications and Requirements and are ready to go into production, and that the Company has provided all required Documentation (the "Cut-Over Acceptance Form").

16.16 Cut-Over To Operations/Support

After completion of the above-referenced cut-over acceptance tests and delivery of the Documentation, the development portion of the Project will be complete. The next step in the Project management methodology is a transition to operations and support mode. This process will begin immediately after the above-referenced Cut-Over Acceptance Form is delivered to the Company, and will be conducted in accordance with the Cut-Over Plan.

16.17 NO WAIVER. Under no circumstances shall the County's acceptance of the Project Plan, Design Documentation, Configuration Plan, Conversion Plan, Cut-

Section 8

Exhibit A – Contract Sample

Over Plan, Acceptance Test Plan and Procedures or other Deliverable constitute a waiver of the Specifications and Requirements the completion dates in the Project Plan, or any of the Company's other obligations under this Contract. No such waiver shall be effective unless specifically agreed to in writing by a County Key Business Executive. Likewise, the Company shall not be relieved of such obligations by any Defect or deficiency in the Deliverable, nor by any failure on the part of the Company or County to detect such Defect or deficiency.

17. PHASE V: TRIAL PERIOD

17.1. SYSTEM ACCEPTANCE.

- 17.1.1. System Acceptance shall occur when the entire System has been in production use with live data for all departments and users in full compliance with the Specifications and Requirements for at least sixty (60) continuous days (the "Trial Period"). The Trial Period shall begin upon cut-over, after the completion of Phase IV.

During the Trial Period, the Company will correct Defects with the System within the time frames established in the Scope of Maintenance Services attached to the MCSI as Exhibit E, even though the Maintenance Services do not officially begin until System Acceptance. If the Company fails to comply with such time frames, the County shall be entitled to terminate the MCSI for default, in addition to any other remedies that may be available under the MCSI or at law.

- 17.1.2. During the Trial Period, the County shall also be entitled to give the Company written Rejection Notices, of the following, each of which shall be deemed a Defect:

- i. Any failure of the System or any component thereof to fully meet and comply with the Specifications and Requirements; or
- ii. If the Company has not certified in writing that all Products and Services delivered to the County by the Company, are in full compliance with all Specifications and Requirements, and with all laws, regulations and industry specified standards; or
- iii. If the Company has not certified in writing that all deficiencies, problems and variances, whether or not revealed as part of the testing and inspection process, have been corrected to meet all Specifications and Requirements; or
- iv. If the Company has failed to satisfy all of the training obligations referenced in this Scope of Implementation Services in accordance with the requirements set forth herein; or
- v. If the Company has failed to provide Documentation that satisfies the description, specifications and requirements set forth in the MCSI (including all Exhibits); or

- 17.1.3. Upon receipt of a Rejection Notice during the Trial Period, the Company: (a) shall act diligently and continuously to correct the Defects identified in the Rejection Notice; and (b) shall immediately upon completing such corrections give the County a Certification that all Defects have been corrected. In the event the Company fails to correct all Defects identified in the Rejection Notice and provide

Section 8

Exhibit A – Contract Sample

a Certification within thirty (30) days after receipt of the Rejection Notice, the County shall be entitled to terminate this Contract for default without further obligation to Company. The Trial Period shall begin again each time the County submits a Rejection Notice to the Company, provided that the starting date of the new Trial Period shall be on the date the Company certifies that the Defect(s) identified in the Rejection Notice have been corrected. The County shall not be obligated to allow the Company to restart the Trial Period more than twice, and shall be entitled to terminate this Contract for default in the event the Trial Period is not successfully completed on the third try.

18. SYSTEM ACCEPTANCE BY THE COUNTY

- 18.1. System Acceptance shall be deemed to occur only after the County has given the Company written notice of final acceptance of the System, after successful completion of the Trial Period (including the completion of all training and Documentation).
- 18.2. No warranty period for any of the Products or the System shall begin to run, nor shall the Maintenance and Support Contract become effective, until System Acceptance by the County has occurred.
- 18.3. Until System Acceptance, the Company shall continue to provide all required Products, Services, and resources necessary to correct all System Defects deficiencies and problems in a timely , forthright, and cooperative manner so as to comply with the time periods and completion dates set forth in the Project Plan.

Exhibit D

PROJECT SCHEDULE

This exhibit is incorporated into and made a part of the master contract for system integration (“MCSI”) between the County of Mecklenburg (the “County”) and [insert company name] (the “Company”). Unless otherwise defined herein, capitalized terms in this exhibit shall have the same meanings as are assigned to such terms in the main body of the mcsi.

The Company shall deliver all Products and perform all Services in accordance with the attached Project Schedule (which is incorporated herein by reference). The dates on the attached Project Schedule shall be incorporated into the Project Plan, unless revised by the mutual written agreement of the parties.

Exhibit E

MAINTENANCE SERVICES

This exhibit is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the County of Mecklenburg (the “County”) and [insert company name] (the “company”). Unless otherwise defined herein, capitalized terms in this exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI.

1. GENERAL DESCRIPTION OF COMPANY RESPONSIBILITIES

Beginning on the date of system acceptance and continuing throughout the term of this contract (and any renewal period thereof), the company shall provide to the county the services specified in the following provisions of this contract (all of which are collectively referred to in this contract as the “maintenance services”).

2. PREVENTION AND CORRECTION OF DEFECTS.

- 2.1 **SYSTEM.** The company shall respond to and correct all defects in the system within the time frames set forth in section 2.15 of this exhibit. The company shall further take all actions reasonably necessary to prevent defects, and to cause the system to reliably and consistently operate in conformance with the specifications and requirements.
- 2.2 **Software.** Without limiting any of its other obligations under this contract, the company shall correct defects in the software within the time frames set forth in section 2.15 of this contract, and take such actions as are necessary to ensure that the software fully conforms to the specifications and requirements. The company's obligations hereunder extend to third party software and customizations, as well as other software (including upgrades and new versions to third party software and customizations).
- 2.3 **Hardware.** Without limiting any of its other obligations under this contract, the company will correct defects in the hardware within the time frames set forth in section 2.15 of this contract, and maintain all hardware in a manner so that: (i) the manufacturer warranty shall remain in full force and effect; (ii) such hardware shall be qualified for coverage under the manufacturer's maintenance program, if available; and (iii) so as to ensure that the hardware operates in conformity with the specifications and requirements. During the term of this contract, the company shall be responsible for correcting all defects in the hardware (whether covered by manufacturer warranty or not). The company shall supply all parts and labor required to perform its obligations under this subsection at no charge beyond the maintenance fee.
- 2.4 **Highest industry standards.** All work performed by the company and/or its subcontractors pursuant to this contract shall meet the highest industry standards for professional quality and workmanship, and shall be performed by qualified staff using quality products and materials.
- 2.5 **Software new releases and new versions.** The company shall provide to the County all new releases and all new versions to all software (including third party software) as soon as reasonably possible following their commercial release at no charge beyond the maintenance fee. The new versions and new releases provided by the company to the County will incorporate customizations at no

Section 8

Exhibit A – Contract Sample

charge beyond the maintenance fee. If requested by the County, the company shall install new releases and new versions at no charge beyond the maintenance fee. All new releases and new versions provided to the County under this contract will become part of the software, and will be maintained by the company under the terms of this contract.

- 2.6 The company will test and certify all new releases and new versions before providing them to the County.
- 2.7 Throughout the duration of the maintenance services, the company will provide compatibility in new versions of the company's software with the products that comprise the County's system.
- 2.8 Hardware new releases and new versions. The company will provide and install at no charge beyond the maintenance fee all new releases and new versions to hardware (including engineering changes) which are: (a) necessary to correct defects or enable the system or any component to function at an optimum level; or (b) required by the manufacturer. This includes mandatory engineering change orders (ecos).
- 2.9 Compliance with laws. The company will promptly develop and provide at no charge beyond the maintenance fee all changes and additions to the software and the hardware that are required to achieve compliance with local, state or federal laws, regulations, codes and guidelines (including all changes to such laws, regulations, codes and guidelines). The company will develop new releases as necessary to improve ease of use and correct
- 2.10 Training and documentation for major updates and enhancements. The company will provide at no charge beyond the maintenance fee all training and documentation that is necessary for the County to fully utilize all major new releases and new versions.
- 2.11 **Reporting of defects.** The company shall serve as a single source to address all defects in the system. Notwithstanding the notice provisions contained in this contract, the County shall be entitled to report defects to the company by telephone, e-mail, or other means, provided that all defects which require immediate attention shall first be reported by telephone. Notice of defects need not be in writing, and shall be deemed effective when first received by the company. The County shall not be required to follow up in-person, telephone, e-mail or telefax notices of defects with a hard copy by mail or other means.
- 2.12 **Telephone support.** The company shall provide toll free "single point of call" telephone support to the County with respect to the use of the products and the correction of defects. Such support will be available from monday through friday 7:00 a.m. Until 6:00 p.m. Eastern time ("regular business hours"). During regular business hours, the company will provide sufficient, qualified help desk personnel to ensure that County problems are addressed immediately. At all other times, a recording will advise the County representative the appropriate pager number to utilize. The company will respond to each page within one hour.
- 2.13 **Remote support.** The company shall provide remote diagnostic and repair service to the County with respect to the use of the products and the correction of defects, ("remote services"). The company will make remote services available to the County both during regular business through the help desk, and at other

times through the company staff who respond to pages. The company shall comply with the security measures set forth on in this exhibit regarding remote access, and any other security measures provided by the County in writing from time to time regarding access to the system.

The Remote Services to be provided by the Company include but are not limited to the following:

- Software diagnostics
- Database diagnostics
- CPU monitoring and diagnostics
- Memory usage and performance monitoring
- Operating system parameters analysis and diagnostics
- Remote downloading of software (fixes and features releases)
- Immediate response to calls

- 2.14 **On-site services.** Company shall provide on-site maintenance and support to the extent necessary to correct any defect in the products, or the system, or to carry out any of the company's other obligations under this contract. There shall be no charge for such on-site services, other than the maintenance fees provided in this contract.
- 2.15 **Change control procedures.** In performing remote support and other maintenance services, the company will comply with the change control procedures established by the County from time to time, provided that the County shall give the company notice of such procedures.
- 2.16 **Access to facilities and personnel.** In the event company provides on-site support, the County shall provide the company with reasonable access, without charge, to the County's facilities, appropriate personnel, and any other information reasonably requested by company so as to enable company to provide services, provided that the County can do so at no significant cost to the County.
- 2.17 **Severity levels, response times and resolution times.** The company will comply with the response times, resolution time and resolution procedures set forth in this section for each of the priority levels of problems described herein. The County shall assign an initial priority level for each problem reported, either verbally or in writing, based on the conditions described below. The company will work with the County to upgrade or reduce the level of a particular problem to a different priority level, if after examining the problem there is reason to do so. Notwithstanding the foregoing, the company shall not upgrade or reduce the level of priority of a particular error to a different priority without the County's consent, which consent may not be unreasonably withheld.

Section 8

Exhibit A – Contract Sample

Priority One Critical	Priority One applies if the problem could: • Prevent the accomplishment of an operational or mission essential function, OR • Causes loss of data or data corruption, OR • Jeopardize safety or security
Response Time	Immediately, if the problem is reported during Regular Business Hours Within one hour of notification if the problem is reported after Regular Business Hours. If on-site repair is required, the Company will be on-site within two hours after notification.
Resolution Time	Within 12 hours after the problem is first reported by the County.
Liquidated Damages	Ten percent (10%) of the annual Maintenance Fees paid or payable by the County for each instance where the Company fails to resolve a Priority One problem within the resolution time specified above. For each twelve hours that a Priority One problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to ten percent (10%) of the annual Maintenance Fees paid or payable by the County
Termination Trigger	The County may exercise the right to terminate this Contract immediately for default upon written notice to the Company in the event that a Priority One problem continues in duration for more than 24hours after it is first reported by the County.

Priority Two	Priority Two applies if the problem could: • Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, and no Workaround is available, OR • Adversely affect technical or cost risks to the life cycle support of the System, and no Workaround is available. Priority Two problems include aborts, but not loss of data or data corruption.
Response Time	Immediately, if the problem is reported during Regular Business Hours Within one hour of notification if the problem is reported after Regular Business Hours. If on-site repair is required, the Company will be on-site within two hours after notification.
Resolution Time	Within 48 hours after the problem is first reported to the County
Liquidated Damages	Ten percent (10%) of the annual Maintenance Fees paid or payable by the County for each instance where the Company fails to resolve a Priority Two problem within the resolution time specified above. For each forty-eight hours that a Priority Two problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to ten

Section 8

Exhibit A – Contract Sample

	percent (10%) of the annual Maintenance Fees paid or payable by the County
Termination Trigger	The County may exercise the right to terminate this Contract immediately for default in the event that a Priority Two problem continues in duration for more than forty-eight (48) hours after it is first reported by the County.
Priority Three	Priority Three applies if the problem could: - Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, but a Workaround is available, OR - Adversely affect technical or cost risks to the life cycle support of the System, but a Workaround is available. Priority Three problems do not include aborts or loss of data..
Response Time	Immediately, if the problem is reported during Regular Business Hours. Within eight hours of notification if the problem is reported after normal working hours.
Resolution Time	Resolution within sixty (60) days.
Liquidated Damages	Five percent (5%) of the annual Maintenance Fees paid or payable by the County for each instance where the Company fails to resolve a Priority Three problem within the resolution time specified above. For each twenty days that a Priority Three problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to five percent (5%) of the annual maintenance fees paid or payable by the County
Termination Trigger	The County may exercise the right to terminate this Contract in the event that a Priority Three problem continues in duration for sixty (60) or more calendar days after the resolution time specified above.
Priority Four Minor	Any problem related to the System which does not fall within Priority One, Two or Three
Response Time	Immediately, if the problem is reported during Regular Business Hours Within two days of notification if the problem is reported after Regular Business Hours.
Resolution Time	Resolution within the next two New Releases.
Liquidated Damages	Five percent (5%) of the annual Maintenance Fees paid or payable by the County for each instance where the Company fails to resolve a Priority Four problem within the resolution time specified above. For each thirty days that a Priority Four problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to five percent (5%) of the annual maintenance fees paid or payable by the County

- 2.18 **Disaster recovery.** In the event of a disaster, the services shall be provided to the County and/or a disaster recovery services vendor at the location of the disaster recovery efforts. Upon the occurrence of a disaster, the company shall assist the County in performing disaster recovery activities to restore the system to operational service.
- 2.19 **Phone logs.** Company will keep detailed records of telephone calls, remote services, on-site visits and other information necessary to readily identify the date a problem is reported, a summary of procedures followed by the company to correct the problem and any follow up calls relating to such problem. Each month, the company will send the County a report containing such information.
- 2.20 **Technical records.** The company shall produce and maintain during the term of the masi and for a period of five (5) years thereafter detailed technical records with respect to all maintenance services performed under the masi, including but not limited to engineering notebooks, development commentary, flow charts, logic diagrams and other materials related to the system (the “technical records”). The company shall provide the County with copies of the technical records as requested in writing from time to time by the County.
- 2.21 **Preventive maintenance.** The company shall take all reasonable actions necessary to prevent defects, and to cause the system to reliably and consistently operate in conformance with the specifications and requirements.
3. **COUNTY’S RIGHT TO RANDOM AND PERIODIC VALIDATION**
Throughout the life of the System, the County shall have the right to, on its own or through any auditor or agent, randomly and periodically perform such tests, verifications or technical validations which the County deems necessary to determine whether the System or the Products are in conformance with the Specifications and Requirements, or to verify the results of any test(s) performed by the Company or its agents.
4. **ASSURANCE OF CONTINUED MAINTENANCE AND SUPPORT**
Without limiting any of the Company’s other obligations under this Contract, the Company shall support the immediately preceding version of a Current Release of the Software for at least twenty four (24) months following issuance of such Current Release of the Software, provided that if a Current Release requires the County to incur significant integration costs or significant costs in replacing hardware or software (including operating system software), then the Company shall support the immediately preceding version for at least forty-eight (48) months following issuance of the Current Release.
5. **Security measures for remote access.**
The company will not allow any person or entity to have remote access to the system other than those individuals whom the County has consented in writing to allow access to (“authorized personnel”). The company shall take appropriate steps to insure that all authorized personnel who have access to the system shall use such access only for the purpose of correcting defects in the system or providing new releases or new versions to the system. The company shall take appropriate steps to ensure that all authorized personnel comply with this restriction, including but not limited to having such persons execute a written agreement to that effect.

The Company will take such steps as are necessary to ensure that only Authorized Personnel have access to the System.

Section 8

Exhibit A – Contract Sample

The Company build and maintain such “firewalls” as are reasonably necessary to insure that access to the System is restricted in accordance with this Contract, and that Company’s access will not create an opportunity for sabotage or improper use of the System.

Exhibit F **LICENSE**

This exhibit is incorporated into and made a part of the master contract for system integration (“MCSI”) between the County of Mecklenburg (the “County”) and [insert company name] (the “company”). Unless otherwise defined herein, capitalized terms in this exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI. For purposes of this exhibit only, the term “software” shall not be deemed to include customizations, given that the customizations are owned by the County and require no license.

1. GRANT OF LICENSE

1.1. *GRANT OF LICENSE.* Subject to the restrictions set forth in Section 2.2 below, the Company grants to County and the Affiliates a perpetual, nonexclusive, irrevocable, nontransferable, royalty-free license to:

1.1.1. Use the Software and the Documentation for all purposes set forth or referenced in the MCSI or the County’s RFP or the Company’s Proposal, including but not limited to: (a) the operation and use of the System, (b) internal training and testing, (c) development, (d) disaster recovery, backup, archive and restore testing and implementation purposes and (e) any other purpose related to the above; and

1.1.2. Allow direct and remote access to the Software and Documentation by an unlimited number of users and departments of: (a) the County; (b) any Affiliate, (c) any other entity to which the County provides services through use of the System; and (d) any other person or entity to which the County needs to allow access in order to provide services to any of the above through the System;

1.1.3. Modify, improve, enhance, update, integrate and make derivative works of the Software and the Documentation on its own or through a third party; and

1.1.4. Make as many copies of the Software and Documentation as it desires in support of its authorized use of the Software, provided that said copies shall include the Company’s or the third party owner’s copyright and other proprietary notices (as the case may be).

1.2. *RESTRICTIONS ON USE.* The County shall not use, copy, disclose or distribute the Software except as permitted by this License. **[Note: Add here any concurrent use or other specific restrictions that may apply.]**

1.3. *THIRD PARTY ACCESS.* The County may: (a) allow access to the Software and Documentation by third party contractors to modify, improve, enhance, update, integrate and make derivative works of the Software and the Documentation, and (b) make and provide a copy of the Software and Documentation to third parties to whom the County has outsourced disaster recovery functions, operations of human resources, or Year 2000 testing; provided that such third parties execute an agreement containing provisions substantially similar to those set forth in the Confidentiality Agreement.

1.4. *SOURCE CODE.* Company shall cause the Source Code for all Customizations (and Updates and Enhancements thereof) to be delivered to the County within ten days

Section 8

Exhibit A – Contract Sample

after delivery of the Customization. Company shall cause the Source Code for all Company Software (including Updates and Enhancements) to be delivered to the source code escrow agent identified in the Source Code Escrow Agreement. The County shall be given the Source Code under the conditions stated in the Source Code Escrow Agreement.

2. DELIVERY, TESTING AND ACCEPTANCE

- 2.1. *DELIVERY.* The Company shall cause the Software to be delivered, configured and integrated at the times set forth in Exhibit C, the Project Schedule and the Project Plan. Any breach by the Company under the MCSI shall constitute a breach of this License.
- 2.2. *ACCEPTANCE.* The Software shall not be deemed to have been accepted by the County until System Acceptance has occurred
- 2.3. *ENHANCEMENTS AND UPDATES.* Company shall provide Enhancements and Updates to the County for so long as the Maintenance Services are in effect. Upon delivery to the County, such Enhancements and Updates of the Company Software and Third Party Software shall be deemed incorporated into and made part of the Company Software or the Third Party Software (as the case may be).

Exhibit G
REQUIREMENTS

AGREEMENT

These Requirements are incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and **[INSERT COMPANY NAME]** (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI.

Exhibit B – Sample Confidentiality and Non-Disclosure Agreement**EXHIBIT B - SAMPLE CONFIDENTIALITY AND
NON-DISCLOSURE AGREEMENT**

This Confidentiality and Non-Disclosure Agreement (the "Confidentiality Agreement") is made and entered into as of this ____ day of _____, 2005 (the "Effective Date"), by and between Mecklenburg County, a political subdivision of the State of North Carolina (the "County") and _____ a company doing business in North Carolina, (the "Company").

RECITALS

WHEREAS, the County and Company are contemplating or have entered into certain business relationships; and

WHEREAS, the Company has obtained or may need to obtain confidential information of the County or its licensors, contractors or suppliers in connection with discussions of such relationships; and

WHEREAS, the County and Company desire to stipulate and agree that any disclosure of confidential information in connection with such relationships has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information.

NOW, THEREFORE, in consideration of the pursuit of current discussions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

AGREEMENT

1. **DEFINITIONS.** As used in this Confidentiality Agreement, the following terms shall have the meanings set forth below:
 - 1.1. *Confidential Information.* The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, obtained from the County or any of its suppliers, contractors or licensors which falls within any of the following general categories:
 - 1.1.1. *Trade secrets.* For purposes of this Confidentiality Agreement, trade secrets consist of information of the County or the Company or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
 - 1.1.2. *Information of the County or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."*
 - 1.1.3. *Information relating to criminal investigations conducted by the County, and records of criminal intelligence information compiled by the County.*
 - 1.1.4. *Information contained in the County's personnel files, as defined by N.C. Gen. Stat. 160A-168.* This consists all information gathered by the County about

Exhibit B – Sample Confidentiality and Non-Disclosure Agreement

employees, except for that information which is a matter of public record under North Carolina law.

- 1.1.5. *Citizen or employee social security numbers collected by the County.*
- 1.1.6. *Computer security information of the County, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.*
- 1.1.7. *Local tax records of the County that contain information about a taxpayer's income or receipts.*
- 1.1.8. *Any attorney / client privileged information disclosed by either party.*
- 1.1.9. *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*
- 1.1.10. *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*

Categories 1.1.3 through 1.1.10 above constitute "Highly Restricted Information," as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Confidentiality Agreement, and agrees that: (a) all provisions in this Confidentiality Agreement applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the County from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Confidentiality Agreement, the Confidential Information shall include information disclosed or revealed within one 2007 prior to the date of this Confidentiality Agreement.

- 2. **RESTRICTIONS.** Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:
 - 2.1. Company shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the County in writing.
 - 2.2. Company shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an agent, subcontractor or vendor of the County or Company having a need to know such Confidential Information for purpose of performing work contemplated by written agreements between the County and the Company, and who has executed a confidentiality agreement incorporating substantially the form of this the Confidentiality Agreement. Company shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted to any third party without the County's prior written consent.
 - 2.3. Company shall not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Confidentiality

Exhibit B – Sample Confidentiality and Non-Disclosure Agreement

Agreement or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.

- 2.4. Company shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- 2.5. Company shall use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, vendors, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Confidentiality Agreement.
- 2.6. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, Company shall assert this Confidentiality Agreement as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- 2.7. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the County or destroyed upon satisfaction of the purpose of the disclosure of such information.
- 2.8. Company shall restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
- 2.9. Company shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Confidentiality Agreement. The Company shall have each of its employees who will have access to the Confidential Information sign a confidentiality agreement which provides the County and its vendors, licensors, subcontractors, employees and taxpayers the same level of protection as provided by this Confidentiality Agreement.
3. **EXCEPTIONS.** The County agrees that Company shall have no obligation with respect to any Confidential Information that the Company can establish:
 - 3.1. Was already known to Company prior to being disclosed by the County;
 - 3.2. Was or becomes publicly known through no wrongful act of Company;
 - 3.3. Was rightfully obtained by Company from a third party without similar restriction and without breach hereof;
 - 3.4. Was used or disclosed by Company with the prior written authorization of the County;
 - 3.5. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Company shall first give to the other party notice of such requirement or request;
 - 3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take reasonable steps to obtain an agreement or protective order providing that this Confidentiality Agreement will be applicable to all disclosures under the court order or subpoena.
4. **REMEDIES.** Company acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the proprietary interests therein. Accordingly, it is

Exhibit B – Sample Confidentiality and Non-Disclosure Agreement

agreed that if Company breaches its obligations hereunder, the County shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

5. NOTICES. Any notice, consent or other communication required or contemplated by this Confidentiality Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below:

For the Company:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

PHONE:

FAX:

E-MAIL:

For the County:

Kay Elmore
Mecklenburg County
Procurement Services Division
600 East Fourth Street, CMGC 9th Floor
Charlotte, NC 28202-2850
PHONE: 704-336-2524
FAX: 704.336-2258
E-MAIL: kelfmore@ci.charlotte.nc.us

With Copy To

With Copy To

Cindy White
Mecklenburg County
Office of the County Attorney
600 East Fourth Street, CMGC 15th Floor
Charlotte, N.C. 28203-2841
PHONE: 704-336-3012
FAX: 704-336-6644
E-MAIL: cwhite@ci.charlotte.nc.us

Notice shall be effective upon the date of receipt by the intended recipient provided that any notice, which is sent by telefax or electronic mail, shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

6. MISCELLANEOUS.

- 6.1. *AMENDMENT*. No amendment or change to this Confidentiality Agreement shall be valid unless in writing and signed by both parties to this Confidentiality Agreement.
- 6.2. *GOVERNING LAW AND JURISDICTION*. North Carolina law shall govern the interpretation and enforcement of this Confidentiality Agreement, and all other matters relating to this Confidentiality Agreement (all without regard North Carolina conflicts of laws principles). Any and all legal actions or proceedings relating to this Confidentiality Agreement shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Confidentiality Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections, which they may have with respect to venue in any of the above courts.
- 6.3. *BINDING NATURE AND ASSIGNMENT*. This Confidentiality Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign this Confidentiality Agreement without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

Exhibit B – Sample Confidentiality and Non-Disclosure Agreement

6.4. *SEVERABILITY*. The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Confidentiality Agreement shall not affect the validity of the remaining portion of the Confidentiality Agreement so long as the material purposes of the Confidentiality Agreement can be determined and effectuated. If any provision of this Confidentiality Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Confidentiality Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

6.5. *WAIVER*. No delay or omission by either party to exercise any right or power it has under this Confidentiality Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Confidentiality Agreement shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Confidentiality Agreement shall be effective unless in writing and signed by the party waiving the rights.

Nothing in this Confidentiality Agreement shall be deemed to eliminate or lessen any obligation either party may have at law with respect to protecting the confidentiality of Confidential Information.