

Professional Services Agreement

This is an Agreement between Ramsey County, a political subdivision of the State of Minnesota, on behalf of Property Management, 121 7th Place East, Suite 2200, St. Paul, MN 55101 ("County") and UHL Company, 9065 Zachary Lane N., Maple Grove, MN 55369, registered as a Corporation in the State of Minnesota ("Contractor").

1. Term

1.1.

The original term of this Agreement shall be from November 01, 2021 through October 31, 2026 and may not be renewed.

2. Scope of Service

The County agrees to purchase, and the Contractor agrees to furnish, services described as follows:

2.1.

Contractor shall provide the County the following for Building Automation Systems ("BAS"): supplies, equipment, material, and labor for installation, preventative maintenance, repairs; BAS software upgrades and BAS Software Service Agreements ("SSA"); BAS and component configuration, troubleshooting, maintenance, design services, and replacement; training and technical/programming support; BAS system enhancements; installation and maintenance of BAS components including controllers, control motors, relays, switches, sensors, user interfaces, and computers; and associated HVAC/R repair, maintenance, and equipment including all incidentals, on an as-needed and time and materials (T&M) basis (together, the "Services").

Services shall be provided in accordance with the following:

2.1.1. Code and Regulatory Requirements

Contractors are required to adhere to all current codes, standards, and safety rules that are in effect at the time of Service performed. These include (but are not limited to) building codes, safety codes, and Ramsey County's personnel/property protection codes. The Contractor is responsible for obtaining the County's personnel/property protection requirements from the facility in which they are performing the work. Contractor will also implement a "hot-work" and/or "impairment" safety program during the performance of its work, if applicable.

Contractor and any subcontractors must coordinate and seek approval of all telecommunications and network requirements with Ramsey County Information Services prior to any purchase or installation/implementation of a technology solution as part of the project.

2.1.2. Definitions

- A. Labor Cost per Hour: Labor cost (current union scale based upon Prevailing Wage) for all classifications identified. All hourly rates shall include wages, FICA, insurance, pension plan and sick/vacation pay in accordance with local union contracts. No additional fees will be paid for travel/set up time. The rates will be allowed to escalate based on the annual increases in prevailing wage after the initial

first year and as outlined in the respective Collecting Bargaining Agreement and/or Union Contracts. The Contractor must submit a written request for increase in hourly wage and receive approval from Ramsey County Procurement forty-five (45) days prior to the actual date of the increase. Ramsey County may require the contractor to provide additional backup documentations and justification before approval of the increase in wages.

- B. Material and Rental Mark-Up Price: Materials and rentals are to be billed to the County at verifiable cost to the Contractor plus a percentage mark-up of for overhead/profit. This mark-up will NOT be allowed to escalate during the life of the contract. Material mark-up will NOT be allowed on any applicable tax or freight charges.
- C. Subcontractor: Subcontractor labor and materials will be billed to the County at a verifiable, cost-plus subcontractor markup percentage for overhead and profit. The subcontractor markup percentage will NOT be allowed to escalate during the life of the Agreement.
- D. Hourly Rate for Project Management: This rate will be allowed to escalate by 2% or less on the anniversary date of the Agreement execution, and each succeeding year of the Agreement, with County approval. Contractor must submit a written request for increase in hourly rate and receive approval from Ramsey County Procurement forty-five (45) days prior to the actual date of the increase. County may require the contractor to provide additional backup documentations and justification before approval of the increase in wages.

2.1.3. Work Authorizations

An authorized designated facility representative (“Facility Representative”) of the County will request Services prior to the commencement of work. Contractor will provide a proposal sheet detailing the pricing for all work and materials based upon the requested services. All work shall be accomplished and invoiced on a “time and materials” basis. For any project in which a “not-to-exceed” quote (“Quote”) has been provided, the time and material total shall not exceed the quoted price. Work shall not begin until the proposal sheet has been received and approved by the Facility Representative. Completed work must be approved, in writing, by an authorized Facility Representative and meet the requirements of all governing local, state, and national code regulations.

Unless specifically requested by the Facility Representative, Contractor shall furnish only one trade person per job. All one-person services shall be performed by appropriately factory certified service personnel who have the job classification as described by industry standards. Contractor shall provide advance notification and receive prior approval from the County when work requested requires more than one service personnel per job. All work shall be authorized in advance by a Facility Representative prior to start.

Unless an emergency, Services with estimated costs in excess of \$10,000 will require a purchase order prior to start. The Contractor shall notify the Facility Representative whenever any HVAC/R equipment is being taken down prior to the start of any work.

2.1.4. Replacement Parts, Tools, Equipment, and Supplies

All products, material, supplies, and equipment offered and furnished must be new, of current manufacturer production, and must have been formally announced by the manufacturer as being commercially available as of the date of the proposal.

Contractor is to provide, at no additional cost to the County, all necessary equipment/hand power tools and supplies typically used by the assigned trade person.

Exceptions: Where it is mutually agreed by the County and the Contractor that the tools or equipment required for completing the work is abnormal.

Contractor shall carry adequate inventory applicable to the Ramsey County sites and systems in its service vehicles.

Rent vs. Purchase: If projected rental of tools or equipment equals or exceeds 80% of the purchase price of the tool or equipment, the Contractor shall inform a Facility Representative. Upon such notification, the County may opt to purchase the article in lieu of rental and retain ownership upon project completion.

All equipment/tools shall be in good mechanical condition at all times. Any equipment deemed unsafe must be replaced immediately with safe equipment that can accomplish the same tasks at no additional cost to County. Mechanical or other equipment used for the Services must be of a type that is approved by the industry and must be operated in such a manner as not to cause danger of any nature to employees or other persons, or damage to the building structure, fixtures, furnishings, etc. Any injuries or damages shall be immediately reported to a Facility Representative.

The Contractor will provide the Facility Representative a copy of the Material Safety Sheet for any products used as applicable.

Necessary precautions shall be taken at all times to protect persons, property, and equipment from injury or damage. Products deemed contaminated or hazardous shall not remain on County property and shall be disposed of in accordance with all applicable laws and regulations. The costs of disposal for contaminated or hazardous products shall be included in the Contractor's Service proposal and shall not result in extra expense to the County.

2.1.5. Brand Name or Equal

Products will be of the manufacturer(s) indicated or its equal, except where "No Substitute" is stated. "Brand name" means identification of products by manufacturer, make, and model name and/or number. If "brand name or equal" is indicated, the intent is: 1) to be descriptive, not restrictive; 2) to indicate the quality and characteristics desired; and 3) shall mean "brand name or equal". Unless authorized by a building manager, systems must be uniform throughout a BAS system.

If proposing an equal product, Contractor must indicate such on the Quote and submit information with the Quote clearly identifying the manufacturer and brand name of the product proposed.

If proposing to modify a product to make it conform to this section, Contractor must submit with the Quote a clear descriptive statement of the proposed modifications and any descriptive material clearly marked to show the proposed modifications. Product modifications proposed after the acceptance of the Quote by the County will not be considered.

Determination of equality will be made by the County at its sole discretion. It is the Contractor's responsibility to ensure that the County has sufficient information to make that determination. The Contractor must submit with its Quote all descriptive material specifically requested so that the County may determine exactly what the Contractor proposes to furnish and whether the product proposed meets the Specifications. The information furnished may include specific references to information previously furnished or to information otherwise available to the County.

Samples: If proposing a product other than that specified (i.e., an equal or modified product or a product that varies), the Contractor may be required to furnish descriptive literature and a sample of the product proposed. Failure to submit samples as required shall be cause for rejection of the Quote.

2.1.6. On-Call Support Services

Contractor must have on-call support service staffed 24-hours a day, 7-days a week, 365-days a year. This support service must have the ability to dispatch on-call technicians and connect them with the Facility Representative within 4 hours. The technicians must have the experience to provide preliminary diagnosis over the phone and, if needed, dispatch technician and equipment to the site within four (4) hours of the original call requesting the on-call support.

2.1.7. Performance, Licenses, and Permits

Contractor shall employ staff skilled and experienced for the specific task required, and work shall be of the highest quality and performed in a neat and expeditious manner. Contractor shall conform to the labor laws of the State of Minnesota and all other laws, ordinances, and legal requirements affecting its work in Minnesota. Permits required by local authorities shall be secured and paid for by Contractor. The County shall reimburse Contractor for the actual cost of permits only.

2.1.8. Employee Conduct

While providing Services, all employees of Contractor shall conduct themselves in a professional and courteous manner. Personnel conducting themselves in a manner deemed unacceptable by County shall be replaced immediately. Ramsey County reserves the right to reject any employee. For security reasons, Contractor's employees will have a uniform identifying the name of the Contractor and the employee.

2.1.9. Work Hours

During the term of this Agreement, Contractor shall maintain the capacity to provide its Services as follows:

- A. Regular Work Hours: 7:00 a.m. to 4:30 p.m. Monday through Friday.
- B. Overtime Work Hours: 4:31 p.m. to 6:59 a.m. Monday through Friday; 4:31 p.m. on Friday through 11:59 p.m. on Saturday
- C. Sunday/Holiday Hours: 12:00 a.m. to 11:59 p.m. on Sundays and Federal holidays.

In the case of an emergency the Contractor shall respond to emergency calls within four hours, 24-hours a day and seven days a week.

All labor prices in Contractor's provided rate schedule, incorporated hereto as **Attachment A**, shall include, but not be limited to, travel times, truck charges, mileage, surcharges, labor, and other incidentals required to complete the Services.

2.1.10. Modifications/Repairs

- A. Contractor shall have the capability of utilizing their employed technicians to provide standard repairs, modifications, and/or service as requested by the Facility Representative. If during an inspection it is determined that there is a malfunction or repairs are needed, the Contractor shall prepare a Quote using the defined rates in Attachment A. Such repairs must be approved in advance by the Facility Representative. The decision to have the Contractor make the repair or to solicit additional bids for the repairs will be determined by the Facility Representative.

- B. Repair work will include a one-year warranty on the work performed, including labor and materials.
- C. The Contractor shall not proceed with any repair work without written authorization from the Facility Representative, nor without a schedule agreed upon by both Contractor and the Facility Representative.
- D. The Contractor shall NOT EXCEED THE AMOUNT WHICH IS ON THE PURCHASE ORDER OR ITS PROPOSAL without written approval from the Facility Representative.
- E. If the Contractor proceeds without written approval and purchase order, or exceeds the purchase order/proposal amount without written approval from the Facility Representative, the Contractor may not be paid for the applicable Service.
- F. The Contractor shall have an available inventory of common repair parts.
- G. All repairs performed shall comply with the original equipment manufacturer's ("OEM") recommendation and include OEM parts.
- H. System modifications must be approved by the OEM or signed off by the Facility Representative.
- I. No extension of time will be given for the completion of the Services except for delays authorized by the Facility Representative. Extension of time may be granted upon a written request from the Contractor to the Facility Representative. The County will designate the length of the extension if the claim for such extension is valid. Claims for extension of time will be considered valid only under the conditions this Agreement. If the Contractor is delayed by the County, the Contractor's sole remedy for the delay shall be the right to a time extension for completion of the Service. This paragraph does not exclude the recovery by the County for damages caused by the Contractor under other provisions of the Agreement. In the event a valid cause for extension of time occurs, the Contractor shall, within ten days from the beginning of such delay, notify the Facility Representative in writing of the causes of delay. Such an extension request will be approved or denied by the County. The County reserves the right to stop work in progress at any time or for any reason, including but not limited to asking the Contractor to start another more critical project for another Ramsey County Department.

2.1.11. Reporting Requirements

At the end of each site visit for inspection service, the Contractor must complete and forward a field report with the findings to the Facility Representative. This "maintenance inspection/checklist" must include the day the inspection service was performed. Prior to commencement of Service, Contractor's contact information and email address will be provided to the Facility Representatives.

2.1.12. Subcontracting

The Contractor shall not subcontract for Services, in whole or in part, without prior written authorization by the Facility Representative. The Contractor will only be allowed to subcontract portion of the Services with prior written authorization from the County. Only factory trained and authorized service technicians will be allowed for subcontracted repair work.

The provisions of this Agreement shall apply with equal force and effect to all approved subcontractors engaged by the Contractor. Notwithstanding approval by the County, no subcontract shall serve to terminate this Agreement, or in any way affect the responsibility of the Contractor for timely and satisfactory performance of the obligations as required by this Agreement.

2.1.13. Sign-In/Out and Job Ticket Procedures

Contractor's service personnel shall notify the Facility Representative of their arrival at the job site prior to starting their activities, and again upon their departure. All Contractor personnel are required to sign-in and sign-out of a facility each time service is rendered. The Contractor's failure to sign-in and sign-out of a facility may result in non-payment of submitted invoice.

In addition to the sign-in and sign-out requirement, Contractor must complete and sign a service activity report (job ticket) and leave it with the Facility Representative upon the completion of each workday. Contractor personnel will be escorted in the facility by the Facility Representative.

2.1.14. Salvageable Items

Items identified as salvage or save for County's re-use shall be cleaned, packed or crated, clearly labeled, and stored in a secure area approved by the Facility Representative so as to protect from damage during storage. Contractor must carefully remove existing materials and equipment identified as to remain the property of the County.

When not clearly identified by the plan, instructions, or located by discovery, Contractor must consult with the Facility Representative for any salvage the County may wish to retain.

The Contractor shall not sell, trade for profit, or gift to any third party any salvaged items or materials to be recycled. Contractor will allow for costs of selective separation, temporary onsite storage, and pick-up coordination, and shall make allowance for such added care within the overhead proportion of labor rates established in Attachment A. Storage or sale of County approved salvaged items or materials by the Contractor will not be permitted.

2.1.15. Non-Salvageable Items

Contractor shall remove unsalvageable materials in a manner that will avoid damage to materials or equipment which will remain. Except for items or materials indicated to be reused, salvaged, reinstalled, or otherwise indicated to remain the County's property, demolished materials shall become Contractor's property as waste or debris, and shall be removed from the project site. Contractor shall promptly and completely remove such items and dispose of them off-site, and in legal fashion.

2.1.16. Safety and Security

The Contractor is responsible for ensuring all entries/exits to the work area are secure during the discharge of their duties (doors must not be propped open). The Contractor does not have the authority to and shall not grant access to any person requesting entry into the building or specific work area.

Any suspicious articles that may be found, or persons loitering or conducting themselves in a manner to arouse suspicion or concern, shall immediately be reported to onsite Property Management staff or building security, as directed.

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions required in connection with its work, including regulations of the Occupational Safety and Health Administration (OSHA) and other governing agencies. The County reserves the right to oversee all service work from a safety standpoint and require the Contractor to take appropriate action to ensure safety and code compliance.

The Contractor shall verify that each employee providing services under this contract has received Right-To-Know, Lock Out/Tag Out, Electrical Safe Work Practices, and Confined Space training, as applicable, in accordance with the current federal and state regulations by providing the following:

- A. A training acknowledgment indicating that the Contractor's employees have attended training on Right-To-Know, Lock Out/Tag Out, Electrical Safe Work Practices, and Confined Space.
- B. A copy of the Contractor's safety program.
- C. A list of personal protective equipment and clothing that will be used by the Contractor's employees under the terms of this Agreement.

This information (items A, B, and C, as noted above) shall be submitted prior to the effective starting date of this Agreement and shall be reviewed and updated annually by the Contractor at each anniversary date and at each subsequent renewal, indicating compliance with current state and federal regulations.

The County assumes no responsibility or liability for the Contractor's compliance with applicable federal and state regulations and safe work practices. The Contractor is solely responsible for the sufficiency of its safety program and its compliance with applicable federal and state regulations.

2.1.17. Key/Card Access Control

Key/card access control shall be the responsibility of the Contractor. The Facility Representative may issue keys or access cards on an as-needed basis. If facility keys or access cards are taken off the property by any of the Contractor's personnel, they will be required to return them immediately. Any key or access card that is lost, stolen, or broken must be reported immediately to the Facility Representative. If Contractor, for any reason, does not return a key or access card, it shall be at the expense of the Contractor to restore and/or maintain security of the facility as deemed necessary by the County. This may include, but is not limited to, rekeying of all effected locksets or reprogramming costs for the card access system.

2.1.18. Cost of Project Management

County may require the Contractor to provide project management services for a specific project. Project management supervision of on-site trade personnel shall be pre-approved by the County and invoiced at the rates established in Attachment A.

2.1.19. Cost of Project Quotes

Quotes shall be prepared by competent, professionally qualified personnel so that they can be relied upon for reasonable accuracy by County. Quotes may be used for budgeting purposes. All Quote Services shall be invoiced on a "time and materials" basis and on a "not-to-exceed" basis. Costs for the preparation a Quote, as requested by County, will be considered an expense cost of the Contractor and will not be reimbursed by the County.

2.1.20. Invoicing

All invoices will be submitted using a time and materials basis.

All invoices submitted for payment shall include:

- A. Date(s) of service.
- B. Description of goods and/or services furnished for each service date.
- C. Authorization from County for extra work.
- D. County contract number RC-000417 and applicable project number.

- E. A copy of the “job ticket(s)” and/or “delivery tickets” signed by a Facility Representative upon completion and verification of hours on the job; copies of timecards or time summary sheets (if no job ticket or delivery ticket was received). Undocumented time will not be reimbursed. Time spent running for parts shall be included in the Contractor’s overhead and profit calculation.
- F. First and last name of each person providing chargeable service.
- G. Approved labor rate of each person providing chargeable service.
- H. Job classifications and hours invoiced for person providing chargeable service.
- I. Total labor cost for all service personnel providing chargeable service.
- J. Total costs of Contractor provided material(s), (include a numbered copy of all required material invoices). Material subtotal prior to applicable taxation and freight charges.
- K. Contractor shall separate material into two categories:
 - a. Materials purchased specific to project (back-up supplier invoices).
 - b. Materials purchased from company inventory (Parts catalog with pricing per unit and extended pricing required).
- L. Percentage of Contractor’s mark-up of materials as stated in Attachment A.
- M. Dollar cost of Contractor’s mark-up of materials.
- N. Total cost of materials (Contractor material cost, markup, and total Contractor cost-plus mark-up) prior to applicable taxation and freight charges.
- O. Total of subcontractor(s) costs (include a copy of all subcontractor invoices).
- P. Percentage of Contractor’s mark-up of subcontractor(s) as stated in Attachment A (applicable tax and freight charges cannot be marked up).
- Q. Total County cost of subcontractor(s) (Contractor’s cost, plus Contractor markup).
- R. Total of Contractor’s rental equipment costs (include a copy of all rental invoices).
- S. Percentage of Contractor’s mark-up of rented equipment as stated in Attachment A.
- T. Dollar cost of Contractor’s mark-up of rented equipment.
- U. Total County cost of rented equipment (Contractor’s rental equipment cost, plus Contractor’s mark-up).
- V. Required permits and fees.
- W. Contractor’s job number.

County will only pay for charges as outlined in the Agreement (minimum charges for regular and/or overtime do not apply).

County will not pay for any “miscellaneous charges.” These shall include but are not limited to: truck or vehicle charges, trip charges, mileage reimbursement, fuel surcharges, parking charges, consumable incidental materials, shop materials, and environmental charges.

All such charges shall be included in the Contractor’s overhead. Pre-authorized and reasonable freight/courier charges incurred by Contractor from a third-party carrier for materials ordered for the County shall be reimbursed on a “pass-through” basis, that is, shall not be subjected to Contractor’s mark-up. Charges for specialty tools must be pre-approved by Ramsey County’s Facility Representative.

Overtime and Sunday/Holiday Pay: This must be pre-authorized and pre-approved by the Facility Representative. The Contractor’s overtime and Sunday/holiday pay rate for each listed job classification is provided in Attachment A. This information shall be updated at each requested contract price adjustment.

Any applicable tax on parts and materials, equipment rental, and subcontractors must not be included in the cost-plus percentage on submitted invoices. Any applicable tax and freight charges must be submitted as a separate line item on the invoice and not marked up.

Invoices for service and work performed shall be submitted to Facilities Representatives responsible for each site for their approval and processing.

The County further reserves the right to request copies of any of the Contractor's invoices regardless of the line-item amount.

2.1.21. Functional Demonstrations

Contractor shall demonstrate to County personnel that all system functions on building systems under repair, or that have been modified, are operating in accordance with the specifications of the project and applicable operations and manufacturers' manuals and specifications. If any deviations, defects, or deficiencies are identified during the demonstration, Contractor will correct the deviations, defects, and deficiencies at no cost to County.

2.1.22. Training

The Contractor shall provide the following:

- Controls: Contractor representative with complete knowledge of project-specific system installed to train County's maintenance personnel to adjust, operate, and maintain system software, graphics, and system.
- Customer Training: Base extent of training on scope and complexity of system and training requirements indicated. Provide extent of training required to satisfy requirements listed in this document even if more than minimum training requirements are indicated.
 - o Provide each attendee with a color hard copy of all training materials and visual presentations.
 - o Hard copy materials shall be organized in a three-ring binder with table of contents and individual divider tabs marked for each logical grouping of subject matter. Organize material to provide space for recipients to take handwritten notes within training manuals.
 - o In addition to hard copy materials included in training manual, provide each binder with a sleeve or pocket that includes a DVD or flash drive with PDF copy of all hard copy materials.

2.1.23. Documentation, Operation, and Maintenance Manuals

The Contractor shall provide drawings, system diagrams ('as-wired' or 'as-built') and other documentation for any installations, including a listing of all cables showing a description of the cable, the start and end of each cable, and the marking on each cable and a listing of all parts and materials. The Contractor shall also provide a copy of any instruction manuals for all equipment supplied, including original equipment manufacturer materials, a recommended spare parts inventory, parts acquisition resources listing, trouble-shooting information, and contact information. The Contractor shall also provide the County an electronic copy of all equipment configuration files and all usernames and associated passwords, as applicable, as follows:

- A. Project Record Drawings of as-built versions of submittal Shop Drawings provided in three hard copies and electronic PDF format.
- B. Testing and commissioning reports and checklists of completed final versions of reports, checklists, and trend logs.
- C. As-built versions of submittal product data.
- D. Names, addresses, e-mail addresses, and 24-hour telephone numbers of installer and service representatives for system and products.
- E. Operator's manual with procedures for operating control systems including logging on and off, handling alarms, producing point reports, trending data, overriding computer control, and changing set point and variables.

- F. Programming manuals with descriptions of the following: programming language and syntax; statements for algorithms and calculations used; point database creation and modification; program creation and modification; and of editor use.
- G. Backup copy of graphic files, programs, and database on electronic media such as DVDs.
- H. An electronic copy of all equipment configuration files, and all usernames and associated passwords (as applicable).
- I. Licenses, guarantees, and warranty documents.
- J. County training materials.

2.1.24. Shop Drawing for Projects

Contractor shall provide shop drawings as follows:

- A. General Requirements
 - a. Include cover drawing with project name, location, owner, architect, Contractor, and issue date with each shop drawing submission.
 - b. Include a drawing index sheet listing each drawing number and title, which matches information in each title block.
- B. Schematic drawings for each controlled HVAC system indicating the following:
 - a. I/O points labeled with point names shown. Indicate instrument range, normal operating set points, and alarm set points. Indicate fail position of each damper and valve if included in project.
 - b. I/O listed in table format showing point name, type of device, manufacturer, model number, and cross-reference to product data sheet number.
 - c. A graphic showing location of control I/O in proper relationship to HVAC system.
 - d. Wiring diagram with each I/O point having a unique identification and indicating labels for all wiring terminals.
 - e. Unique identification of each I/O that shall be consistently used between different drawings showing the same point.

2.1.25. Final Project Acceptance

Upon (1) successful demonstration of the system, (2) completion of training, and (3) delivery of documentation, all in accordance with the provisions of these specifications, the Contractor shall certify that the BAS is ready for final project acceptance testing.

The final project acceptance testing period (“Testing Period”) is a period of thirty (30) calendar days following completion of all three prerequisites as identified in the previous paragraph. In addition, problems found within the first thirty days (30) of the initiation of a system based on seasonal use (such as a cooling system being initiated in the Spring) shall also be covered. During the Testing Period, the County shall notify the Contractor of deviations, defects, or deficiencies in the operation of the system, including equipment and software components. The Contractor shall correct all deviations, defects, and deficiencies identified during the Testing Period. Upon correction of all deviations, defects, and deficiencies identified during the Testing Period, the County shall give written final project acceptance.

2.1.26. Warranty

- A. New Project Warranty

After final project acceptance the Contractor shall warrant that the system, including all materials, software, and equipment, shall be free from defects, and free from any imperfections in design, materials, or construction which would create hazards. The

BAS shall operate in conformity with these specifications, and any manufacturers' documentation and warranties, for a period of one year from the date of final project acceptance ("Warranty Period").

B. Warranty Services

If any defect or malfunction occurs within the Warranty Period, Contractor shall remove the malfunctioning unit(s), determine the cause of the malfunction, and repair or replace, reinstall, and connect the replaced/repared unit(s) at Contractor's sole cost and expense. Service technicians must be available to be on site within 24 hours for non-emergency situations (within two hours on emergency situations) and the service technicians shall remain on site until the needed repairs are completed and the system is operating in accordance with specifications, the manufacturers' documentation, and warranties. Exceptions may be granted upon mutual agreement by the County and Contractor. If, during the Warranty Period, any equipment or the system requires warranty services more than three times, Contractor shall be required to replace the equipment or the system at the Contractor's cost. Should the repeated failures be the result of a design defect, Contractor shall correct the defect to the satisfaction of the Facility Representative at its sole cost. All documentation shall be updated to reflect any design and/or installation.

2.2.

The Contractor shall make every reasonable effort to provide services in a universally accessible, multi-cultural and/or multi-lingual manner to persons of diverse populations.

2.3.

The Contractor agrees to furnish the County with additional programmatic and financial information it reasonably requires for effective monitoring of services. Such information shall be furnished within a reasonable period, set by the County, upon request.

3. Schedule

The Contractor shall provide services as and if requested by the County, it being understood that the County might not purchase any services under this Agreement.

4. Cost

4.1.

The County shall pay the Contractor the following unit rates: as provided in the **Attachment A** rate card.

5. General Contract/Agreement Terms and Conditions

5.1. Payment

5.1.1.

No payment will be made until the invoice has been approved by the County.

5.1.2.

Payments shall be made when the materials/services have been received in accordance with the provisions of the resulting contract.

5.2. Application for Payments

5.2.1.

The Contractor shall submit an invoice once a month as services are provided.

5.2.2.

Invoices for any goods or services not identified in this Agreement will be disallowed.

5.2.3.

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount.

5.2.4.

Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Contractor exceed the percentage of project completion, as determined by the County.

5.2.5.

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

5.2.6.

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

5.3. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners or joint ventures between the parties or as constituting the Contractor as an employee of the County.

5.4. Successors, Subcontracting and Assignment

5.4.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants and obligations contained in this Agreement.

5.4.2.

The Contractor shall not assign or transfer any interest in this Agreement without prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

5.4.3.

The Contractor shall not enter into any subcontract for performance of any services under this Agreement without the prior written approval of the County. The Contractor shall be responsible for the performance of all subcontractors.

5.5. Compliance With Legal Requirements

5.5.1.

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body acting thereunder and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

5.5.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

5.6. Data Practices

5.6.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

5.6.2.

The Contractor designates Tim Ley as its Responsible Designee, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.02 Subdivision 6, as the individual responsible for any set of data collected to be maintained by Contractor in the execution of this Agreement.

5.6.3.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services or construction are provided, at the end of the Project all County data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the County written verification that the data has been purged.

5.7. Security

5.7.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

5.7.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

5.7.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

5.7.4.

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

5.7.5.

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

5.8. Indemnification

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

5.9. Contractor's Insurance

5.9.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

5.9.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

5.9.3.

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability.

5.9.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability and XCU. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

5.9.3.2.

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, Pollution and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

5.9.4.

Professional liability of no less than \$1,000,000 per claim and \$3,000,000 aggregate limit.

5.9.4.1.

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

5.9.4.2.

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured; a separation of insureds endorsement shall be provided to the benefit of the County.

5.9.5.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

5.9.6.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts. If provided to meet coverage requirements, the umbrella or excess liability policy must follow form of underlying coverages and be so noted on the required Certificate(s) of Insurance.

5.9.7.

If the Contractor is driving on behalf of the County as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

5.9.8.

The Contractor waives all rights against Ramsey County, its officials, employees, volunteers or agents for recovery of damages to the extent these damages are covered by the general liability, worker's compensation, and employers liability, automobile liability and umbrella liability insurance required of the Contractor under this Agreement.

5.9.9.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

5.9.10.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

5.9.11.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

5.9.12.

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the policy provisions of Minn. Stat. Ch. 60A, as applicable. Further, all Certificates of Insurance to evidence that insurer will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

5.9.13.

Nothing in this Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

5.9.14.

A Crime and Fidelity Bond is required if the Contractor is handling money for the County or has fiduciary responsibilities. The required amount will be as set forth in the solicitation document.

5.10. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

5.11. Notices

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid,

when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

County:

Nick Fahey, 121 7th Place East, Suite 2200, St. Paul, MN 55101

Contractor:

Chris Jilek, 9065 Zachary Lane N, Maple Grove, MN 55369

5.12. Non-Conforming Services

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

5.13. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

5.14. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

5.15. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

5.16. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

5.17. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by

the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

5.18. Termination

5.18.1.

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

5.18.2.

If the Contractor violates any material terms or conditions of this Agreement the County may, without prejudice to any right or remedy, give the Contractor, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the Contractor fails to cure the deficiency within the seven (7) day cure period, this Agreement shall terminate upon expiration of the cure period.

5.18.3.

The County may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.

5.19. Interpretation of Agreement; Venue

5.19.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

5.19.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

5.20. Warranty

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

5.21. Infringement

5.21.1.

Complementary to other "hold harmless" provisions included in this Agreement, the Contractor shall, without cost to the County, defend, indemnify, and hold the County, its officials, officers, and employees harmless against any and all claims, suits, liability,

losses, judgments, and other expenses arising out of or related to any claim that the County's use or possession of the software, licenses, materials, reports, documents, data, or documentation obtained under the terms of this Agreement, violates or infringes upon any patents, copyrights, trademarks, trade secrets, or other proprietary rights or information, provided that the Contractor is promptly notified in writing of such claim. The Contractor will have the right to control the defense of any such claim, lawsuit, or other proceeding. The County will in no instance settle any such claim, lawsuit, or proceeding without the Contractor's prior written approval.

5.21.2.

If, as a result of any claim of infringement of rights, the Contractor or County is enjoined from using, marketing, or supporting any product or service provided under the agreement with the County (or if the Contractor comes to believe such enjoinderment imminent), the Contractor shall either arrange for the County to continue using the software, licenses, materials, reports, documents, data, or documentation at no additional cost to the County, or propose an equivalent, subject to County approval. The acceptance of a proposed equivalent will be at the County's sole discretion. If no alternative is found acceptable to the County acting in good faith, the Contractor shall remove the software, licenses, materials, reports, documents, data, or documentation and refund any fees and any other costs paid by the County in conjunction with the use thereof.

5.22. Ramsey County Master Contract

This is a Ramsey County Master Contract available to all Ramsey County departments.

5.23. Cooperative Purchasing

Public entities that have a purchasing Joint Powers Agreement with Ramsey County may purchase under this Agreement after having received written permission from the Contractor. Such public entities shall execute their own contract directly with the Contractor. Ordering and payment shall be the sole responsibility of such public entity and in no manner shall be the obligation, liability or responsibility of the County.

5.24. Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

5.24.1.

Contracts and subcontracts for more than the simplified acquisition threshold currently set at \$175,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, shall address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

5.24.2.

Resulting contracts and subcontracts in excess of \$10,000 shall address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

5.24.3.

Debarment and Suspension (Executive Orders 12549 and 12689)--A contract award at any tier (see 2 CFR 180.220) shall not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or

otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

5.24.4.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the County or the Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the County or the Contractor shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5.24.5.

Byrd Anti--Lobbying Amendment (31 U.S.C. 1352)--Contractors that apply or bid for an award exceeding \$100,000 shall provide the required Contractor Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreement form. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non--Federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to the non--Federal awardee, Ramsey County.

5.25. Debarment and Suspension

Ramsey County has enacted Ordinance 2013-330 [Ramsey County Debarment Ordinance](#) that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

5.26. Diverse Workforce Inclusion

For information and assistance in increasing the participation of women and minorities, contractors are encouraged to access the web sites below:

1. <http://www.JobConnectmn.com/>
2. <http://www.ConstructionHiringConnection.com/>

Job Connect and the Construction Hiring Connection provide a recruiting source for employers and contractors to post job openings and source diverse candidates.

Ramsey County's Job Connect links job seekers, employers, and workforce professionals together through our website, networking events and community outreach. The network includes over 10,000 subscribed job seekers ranging from entry-level to highly skilled and experienced professionals across a broad spectrum of industries.

Employers participate in the network by posting open jobs, meeting with workforce professionals and attending hiring events. Over 200 Twin Cities community agencies, all working with job seekers, participate in the network.

Ramsey County's Construction Hiring Connection (CHC) is an online and in-person network dedicated to the construction industry. The Construction Hiring Connection connects contractors and job seekers with employment opportunities, community resources and skills training related to the construction industry. Construction Hiring Connection is a tool for contractors to help meet diversity hiring goals. Over 1000 construction workers, representing all

trades, ranging from newly graduated to journey level, are subscribed to the Construction Hiring Connection.

Additional assistance is available through jobconnectmn@ramseycounty.us or call 651-266-6042.

5.27. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

5.28. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the County and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

6. Special Contract Terms and Conditions

6.1. Diverse Workforce Initiative

The County has a goal of continuing to increase participation of qualified minorities and women in each County project. **The County has established a goal of 20% women and 32% minority for site workforce utilization for this Agreement.** The Contractor will make a good faith effort towards achieving these goals.

6.2. Utilization of Certified Vendors

The County has adopted the Principles for Inclusiveness in Contracting Program (“IICP”) in order to increase the participation of CERT SBE vendors (“SBE”) in the County's purchasing activities. The SBE utilization goal for the County is 18.5%.

6.3. Special Requirements

Contractor must conform to the Special Requirements as defined in **Attachment B** to this Agreement, which is incorporated hereto by reference.

6.4. Information Security

The County's Hosting and/or Cloud Services and Security Standards is provided in **Attachment C** to this Agreement and is incorporated hereto by reference.

The Contractor, and any of its subcontractors, must coordinate and seek approval of all telecommunications and IT network requirements with Ramsey County Information Services prior to any purchase or installation/implementation of a technology solution as part of the project.

The Contractor's Remote Access Standard must be reviewed and approved by Ramsey County Information Services prior to any system implementation.