

Professional Services Agreement

DRAFT

This is an Agreement between Ramsey County, a political subdivision of the State of Minnesota, on behalf of Finance, 121 7th Place East, Suite 4000, Saint Paul, MN, 55101 ("County") and Baker Tilly Municipal Advisors, LLC, with offices at 225 South 6th Street, Suite 2300, Minneapolis, MN 55402 ("Contractor").

1. Term

1.1.

The original term of this Agreement shall be from January 01, 2021 through December 31, 2025 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.

A. General:

The Contractor must provide the full scope of financial advisory and consultant services related to meeting capital financing needs, HRA loan programs, financial market dealings, federal arbitrage, continuing and material event disclosures, and other specialized services as requested from an office in the Minneapolis-St. Paul metropolitan area.

B. Required Services – County, Housing and Redevelopment Authority (HRA) and Regional Rail Authority (RRA)

Contractor shall perform the following services upon request from the County:

1. Review existing debt structure and financial resources to determine available borrowing capacity and the desirability of refinancing any or all of the existing debt.
2. Recommend appropriate financial structure for proposed projects and provide the County with information about the structure of financing programs used by other issuers.
3. Advise on alternative financing products and mechanisms available in the marketplace.
4. Provide advice on terms and features of bonds and on timing and marketing of bond issues and provide analysis of market conditions as they relate to the future sales and advise the County of prices of outstanding bonds.
5. Advise on benefits of negotiated or competitive bid sale for each issue. Assist in dealings with designated underwriter, if a negotiated sale is selected by the County.
6. Prepare Official Statement in conjunction with bond counsel and the County.
7. Arrange for the widest possible distribution of Official Statement to bond underwriters and investors.
8. Assist the County:

- a. with the preparation of the cash flow forecasts for proposed issues addressing debt service requirements and sources of funding;
 - b. in obtaining the highest possible credit rating;
 - c. with competitive sale bids or negotiated sales with underwriters, as applicable, by advising on conditions of bond market, computing the accuracy of the bids received, and preparing a formal recommendation on the acceptability of the best offer;
 - d. in selecting paying agents and other financial intermediaries as necessary; and
 - e. in complying with changes required by Federal laws and regulations relating to tax exempt bonds, such as arbitrage rebate and SEC requirements for continuing disclosure. This will include continuous disclosure reports in 2021 for fiscal year ending 2020.
9. Coordinate bond closings, including printing, signing and delivery of bonds and other documents required before bond closing, including making arrangements with County officials and others to sign all documents.
 10. Provide a complete record of all transactions related to each bond issue, including a payment schedule, a tax levy schedule, and calculation of the permitted yield allowed under Federal arbitrage rebate regulations.
 11. Provide assistance in filing annual reporting requirements of Continuing and Material Event Disclosure rules of the Securities and Exchange Commission (SEC).
 12. Prepare arbitrage rebate calculations annually for inclusion in Ramsey County's Comprehensive Annual Financial Report. Prepare arbitrage rebate calculations and reports in a timely manner to comply with federal law for each outstanding County obligation subject to arbitrage rebate.
 13. Advise the County on proposed and actual changes in tax laws and changes in financial markets that could affect the County's bond financing plans.
 14. Participate as needed in developing the financing plan for the County's capital improvements program.
 15. Assist the County in interactions with credit rating agencies and assist in developing strategies to improve or maintain the County's credit ratings.
 14. Provide other consulting services mutually agreed upon regarding various financial projects, issues and concerns.

C. Required Services – HRA

Contractor shall perform the following services upon request from the County:

1. Meet with business loan applicant and County staff.
2. Visit sites of potential loan clients with County staff.
3. Assist County staff in analyzing the loan and grant requests. Prepare materials based on research and analysis, including recommendations for the i.e. HRA Board, Business Loan Review Committee.
4. Attend and participate in Business Loan Review Committee discussions.

5. Meet with housing developers, as needed, to advise County staff on specific issues regarding pro-formas and repayment terms.
6. Assist County staff, if requested, in conducting a cost benefit analysis before embarking on expanded community and economic development programs and resources to fund such programs.
7. Provide financial analysis, evaluations, and recommendations related to redevelopment projects including, but not limited to.
 - a. Project revenue and expenditure projections, including sources and uses.
 - b. Financial risk evaluation and assessments.
 - c. Project financing alternatives.
 - d. Debt financing tools and strategies, including loans and bond financing.
 - e. Debt services strategies and debt amortization schedules.
 - f. Grant funding opportunities available from federal, state and other sources.
 - g. Land sale approaches, development options, project financing and development proposals,
 - h. Capital project financial and cash flow projections.
 - i. Fee structures, assessment and other cost-sharing strategies.
 - j. Prepare public reports, presentation and related materials.
 - k. Attend meetings with County staff, project staff, elected officials and others.

D. Staff

1. The Contractor must have adequate employees and resources to manage multiple requests and designated timelines as requested.
2. Contractor shall designate a primary and secondary staff member to the county to provide the requested services. If at any time during the contract, one of the designated staff leave the firm, the County will be notified immediately and allowed an opportunity to interview the replacement.
3. The Contractor is expected to provide an initial verbal or written response to all inquiries or requests from the County within one business day of receiving the inquiry or request, and to adhere promptly to project timelines set by the County.

E. Additional Services

The County reserves the right throughout the term of the resulting agreement to add, delete or acquire other services that the Contractor can supply that are similar to, but not specifically called for in this solicitation. Any written contract amendments for additional services will pertain only to those requested and will not result in any further renegotiations of the existing contract terms and conditions.

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:

Costs described in Attachment A – Contractor's Cost, which is attached and made a part of this Agreement.

5. Special Conditions

5.1.

Ownership of Work Product

A. The Contractor agrees that all right, title, and interest in deliverables developed under the applicable Scope of this Agreement, either individually or jointly with others, , are the property of the County and are by this Agreement assigned to the County along with ownership of any and all copyrights in the material.

B. Where applicable, works of authorship created by Contractor for the County in performance of this Agreement shall be considered "works made for hire" as defined in the U.S. Copyright Act. Contractor shall, upon the request of the County, execute all papers and perform all other acts necessary to assist the County to obtain and register copyrights on such material.

C. Notwithstanding the foregoing, Contractor will maintain all ownership right, title and interest to all Contractor's Knowledge. For purposes of this Agreement "Contractor's Knowledge" means Contractor's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Contractor prior to the Effective Date of this Agreement or the applicable Scope Appendix or Appendices ("Contractor's Preexisting Knowledge") (2) developed or obtained by Contractor after the Effective Date, that are reusable from client to client and project to project, where County has not paid for such development; and (3) extensions, enhancements, or modifications of Contractor's Preexisting Knowledge which do not include or incorporate County's not public data as defined in Minn. Stat. 13.02, subd. 8a. . To the extent that any Contractor Knowledge is incorporated into the Deliverables, Contractor grants to County a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Contractor Knowledge for its governmental purposes, and for no other purpose without the prior written consent of Contractor. Additionally, Contractor may maintain copies of its work papers for a period of time and for use in a manner sufficient to satisfy any applicable legal or regulatory requirements for records retention.

6. General Contract/Agreement Terms and Conditions

6.1. Payment

6.1.1.

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

6.1.2.

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

6.2. Application for Payments

6.2.1.

The Contractor shall submit an invoice as mutually agreed upon by Contractor and the County.

6.2.2.

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

6.2.3.

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.

6.2.4.

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.

6.2.5.

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

6.2.6.

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.

6.3. 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.

6.4. Successors, Subcontracting and Assignment

6.4.1.

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.

6.4.2.

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.

6.4.3.

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.

6.5. Compliance With Legal Requirements

6.5.1.

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.

6.5.2.

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.

6.6. Data Practices

6.6.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement may be 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.

6.6.2.

The Contractor designates Kathleen Aho 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.

6.6.3.

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. Notwithstanding the foregoing, the Contractor (a) will be permitted to retain a copy of such County data, as may be necessary to document its consideration of the potential transaction, for the purpose of establishing compliance with applicable law or regulations (including professional standards) and for defending or maintaining any litigation (including any administrative proceeding) relating to this Agreement or the County data, provided that all such information shall continue to be protected in accordance with the terms of this Agreement; and (b) shall not be required to

delete County data from back-up, archival electronic storage maintained in accordance with the Contractor's data retention policies as long as the County data continues to be protected in accordance with the terms of this Agreement.

6.7. Security

6.7.1.

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 are listed below, complete copies will be provided upon request.

Acceptable Use of Information Technology Resources;

Access Control;

Criminal Justice Information Handling;

Mobile Devices;

HIPAA Information Security;

Information Technology Acquisition;

Records Management;

Technical Policies: Patch Management, Multi-Factor Authentication.

6.7.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information in Contractor's custody or control 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 30 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. To the extent required by law, 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

6.7.3.

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.

6.7.4.

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.

6.7.5.

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

6.8. Indemnification & Limitation on Damages

The Contractor shall indemnify and defend the County, its officials, agents, and employees (each a "Covered Person") against any and all liability, losses, costs, damages, expenses, claims or actions which are brought by a third party, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, to the extent such third party claim is finally determined to be arising out of or by reason of any negligent, grossly negligent, fraudulent or willful 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. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the County's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the County's failure to fulfill its obligation under this Contract.

Except for failure to meet requirements outlined in the Data Practices or Security sections of this Agreement, the liability (including reasonable and actual attorney's fees and all other costs) of Contractor and its present or former partners, principals, agents or employees related to any claim for damages relating to the services performed under this Agreement shall not exceed three times the total contract value, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of Contractor relating to such services. This limitation of liability is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including the negligence of either party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays, interruptions, or viruses arising out of or related to this Agreement even if the other party has been advised of the possibility of such damages.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Agreement are material bargained for bases of this Agreement and that they have been taken into account and reflected in determining the consideration to be given by each party under this Agreement and in the decision by each party to enter into this Agreement. The terms of this Section 6.9 shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort, or any form of negligence, whether of County, Contractor or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Agreement.

6.9. Contractor's Insurance

6.9.1.

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.

6.9.2.

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.

6.9.3.

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.

6.9.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability.

6.9.3.2.

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 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.

6.9.4.

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

6.9.4.1.

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.

6.9.5.

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

6.9.6.

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.

6.9.7.

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.

6.9.8.

intentionally omitted.

6.9.9.

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.

6.9.10.

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-.

6.9.11.

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.

6.9.12.

Contractor shall 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, Contractor will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

6.9.13.

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

6.9.14.

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.

6.10. 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.

6.11. 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:

Ramsey County Debt Manager, 121 7th Place East, Suite 4000, Saint Paul, MN 55101

Contractor:

Terri Heaton, 380 Jackson St, Suite 300, Saint Paul, MN, 55101

6.12. 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. County shall accept Deliverables which substantially conform to the specifications in the purchase order. County will promptly give Contractor written notification of any non-conformance of the Deliverables with such requirements ("Non-conformance") within thirty (30) days following delivery of such Deliverables, and Contractor shall have a reasonable period of time, based on the severity and complexity of the Non-conformance, to correct the Non-conformance so that the Deliverables substantially conform to the specifications. If County uses the Deliverable before acceptance or fails to promptly notify Baker Tilly of any Non-conformance within such 30-day period then the Deliverable shall be deemed irrevocably accepted by the County. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

6.13. 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.

6.14. 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. Additional disclosures are attached hereto as an exhibit and expressly incorporated herein.

6.15. 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.

6.16. 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.

6.17. 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.

6.18. Termination

6.18.1.

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.

6.18.2.

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.

6.18.3.

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.

6.19. Interpretation of Agreement; Venue

6.19.1.

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.

6.19.2.

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.

6.20. 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 substantial compliance with the provisions of this Agreement. The services performed under this Agreement do not include the provision of legal advice and Contractor makes no representations regarding questions of legal interpretation. County should consult with its attorneys with respect to any legal matters or items that require legal interpretation, under federal, state or other type of law or regulation. This section 6.20 is Contractor's only warranty concerning the services and any deliverable, and is made expressly in lieu of all other warranties and representations, express or implied, including any implied warranties of merchantability, accuracy, title, non-infringement, or fitness for a particular purpose, or otherwise.

6.21. Infringement

6.21.1.

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 work product provided by Contractor 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.

6.21.2.

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 enjoinder is imminent), the Contractor shall either arrange for the County to continue using the work product 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.

6.22. Ramsey County Master Contract

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

6.23. 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.

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

6.24.1.

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.

6.24.2.

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.

6.24.3.

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.

6.24.4.

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.

6.24.5.

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.

6.25. 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.

6.26. 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.

6.27. 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.

6.28. 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.