

# Contract Review Sheet

CS-1960-18 (3)

Information Technology Agreement #: CS-1960-18 Amendment #: 3

Contact: Krista Ulm Department: Community Services Department

Phone #: (503) 373-4447 Date Sent: Wednesday, June 14, 2023

Title: Dog - ShelterBuddy Animal Management Software

Contractor's Name: ShelterBuddy

Term - Date From: August 10, 2018 Expires: June 30, 2028

Original Contract Amount: \$103,163.00 Previous Amendments Amount: \$98,140.00

Current Amendment: \$0.00 New Contract Total: \$201,303.00 Amd% 95%

Incoming Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: 20-0261 Multi Step RFP RFP# CS136-17

### Description of Services or Grant Award

Dog Shelter operational/management software. Amend1 added funds for additional shelter staff training; Amend2 added funds for data migration from IAMS as actual costs were more than estimated; This Amend3 adds renewal costs and extends contract term for an additional five years.

Desired BOC Session Date: 7/8/2023 BOC Planning Date: 7/6 6/22/2023

Files submitted in CMS: 6/14/2023 Printed packet & copies due in Finance: 6/20/2023

BOC Session Presenter(s) \_\_\_\_\_

### FOR FINANCE USE

Date Finance Received: \_\_\_\_\_ Date Legal Received: 6

Comments: Y

### REQUIRED APPROVALS

DocuSigned by:  
Camber Schlay  
C5B2E3DE257E444  
6/21/2023  
Date

Finance - Contracts

DocuSigned by:  
Krista Ulm  
6DDA704ABED7421  
6/21/2023  
Date

Contract Specialist

DocuSigned by:  
Jane E Vetto  
D0CEC5B04B9E483  
6/22/2023  
Date

Legal Counsel

DocuSigned by:  
Jan Fritz  
DC16351248DE4EC  
6/26/2023  
Date

Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: July 6, 2023

Department: Community Services Agenda Planning Date: 6/22/23 Time required: 5

Audio/Visual aids

Contact: Chris Eppley Phone: 503-566-3963

Department Head Signature: [Signature]

TITLE ShelterBuddy Animal Management Software Contract Extension

Issue, Description & Background In 2018, a five year software contract with Shelter Management Pty Ltd (dba ShelterBuddy) for Marion County Dog Services was executed. ShelterBuddy replaced the county's aging Integrated Animal Management Software (IAMS) and it added additional functionality for dog licensing and increased efficiencies in operations and management of the shelter. This amendment adds funds and extends the contract term for an additional five years for a total term of 10 years as stated in the RFP.

Financial Impacts: funding is included in Dog Services adopted budget.

Impacts to Department & External Agencies none

Options for Consideration: 1. Approve the amendment. 2. Do not approve the amendment. 3. Approve the amendment with edits.

Recommendation: 1. Approve the amendment.

List of attachments: Amendment #3, Original Contract, and Amendment #1-2

Presenter: Chris Eppley, Lauren Theilke

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: kulm@co.marion.or.us

## REQUEST FOR AUTHORIZATION OF CONTRACT CS-1960-18

**Date:** 6/14/23  
**To:** Chief Administrative Officer  
**Cc:** Contract File  
**From:** Krista Ulm

### I. Subject: Reinstatement

The Marion County Community Services Department is requesting approval to reinstate a contract as described in Section 10-0570 of the Marion County Public Contracting Rules. The contract is with ShelterBuddy for ShelterBuddy Animal Management Software with a value of \$201,303.00 and upon approval will be reinstated and in full force and effect, as if it had not expired with a new expiration date of 6/30/2028.

#### A. BACKGROUND

In FY17, CIP 16-13 was approved in the Information Technology budget to purchase/replace the dog shelter's aging shelter management system. A competitive Request for Proposal (RFP) was issued and ShelterBuddy was selected to provide the new software. The original contract amount was \$103,163. Amendment #1 added \$3,300 for additional hands-on training for shelter staff; Amendment #2 increased the data migration estimate by \$8,880 as the data migration from IAMS to ShelterBuddy was initially underestimated. Amendment #3 adds annual renewal costs and extends contract term for an additional five years.

- B. As required by MCPCR, a concise written statement must be submitted meeting the requirements of 10-0570(1).

Getting contracts renewed/executed in a timely manner has been a challenge due to a heavy workload. The reinstatement is within 90 days of contract expiration and there is no change in the statement of work.

### II. Subject: Amendment Exceeds 25%

**DIPS CODE:** 230-50-00-4502-525450-00000-000

**Budget Authority:**  Yes  No

**CIP:** see below

The Marion County Community Services Department is requesting approval to amend a contract as described in Section 20-0265, 20-0270, 30-0320, 40-0160, and 40-0910 of the Marion County Public Contracting Rules. The contract is with ShelterBuddy for ShelterBuddy Animal Management Software with a value of \$114,543 and an additional \$86,760 will be added to the contract for a new contract total of \$201,303.00 upon approval.

#### A. BACKGROUND

*See Section I.A for background information.*

**B. CURRENT AMENDMENT PURPOSE**

The purpose of Amendment #3 is to add funds and extend the contract term for an additional five years.

**C. JUSTIFICATION**

For formal procurements, indicate why the need for adding more than 25% of the total contract cost:

The RFP stated that the contract term is renewable up to a total of 10 years. The original contract term was for five years, and this amendment is for the remaining five years. Funding for this renewal will be paid out of the Dog Services budget.

**D. BUDGET IMPACTS**


1. Are the expected expenditures for the current fiscal year under the contract, including any additional funds being requested with this action, already included in the current year's adopted budget?  Yes  No
2. If yes, amount \$86,760 Program / Account 230-50-00-4502-525450-00000-000

Submitted by:

DocuSigned by:  
  
8DDA794ADE97421...

Krista Ulm  
Community Services Department

Reviewed by:

DocuSigned by:  
  
C5B2F3DF257E444...

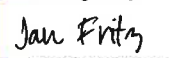
Contracts & Procurement

Acknowledged by:

DocuSigned by:  
  
C54889DD24B041A

Department Head

Acknowledged by:

DocuSigned by:  
  
DE16351248DE4E8...

Jan Fritz, CAO



**AMENDMENT 3 to CS-1960-18**  
**INFORMATION TECHNOLOGY PRODUCTS AND SERVICES CONTRACT**  
**between**  
**MARION COUNTY and SHELTERBUDDY**

This Amendment No. 3 to the Information Technology Products and Services Contract (as amended from time to time, the “Contract”), dated August 10, 2018 between Marion County, a political subdivision of the State of Oregon, hereafter called County, and ShelterBuddy Software DBA Shelter Management Pty Ltd., hereafter called Contractor.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by brackets):

The Table on page 1 of the original contract with Marion County Community Services and Marion County IT and Contracts is hereby replaced with:

Marion County Community Services	Marion County IT and Contracts
Chris Eppley Department Director 503-588-7975 ceppley@co.marion.or.us	Sara Brooks IT Project Manager 503-576-7160 sbrooks@co.marion.or.us
Tiffany Wallace Dog Shelter Staff 503-566-6989 twallace@co.marion.or.us	Kathleen George Contracts & Procurement Analyst 503-373-4388 kgeorge@co.marion.or.us
Lauren Thielke Dog Shelter Director 503-316-6655 lthielke@co.marion.or.us	Krista Ulm Community Services- Contract Specialist 503-373-4447 kulm@co.marion.or.us
<b>Invoices to: CSReporting@co.marion.or.us</b>	

RFP: C25102-CS-136-17  
 Marion County Contract: CS-1960-18  
 Contract Amount: \$103,163.00  
Amend 1: \$106,463.00  
Amend 2: \$114,543.00  
Amend 3: \$201,303.00  
 Effective Dates: August 1, 2018 to June 30, 2028 [2023]

The following exhibit item is hereby added to the Contents Table on page 1:

Exhibit H – Contract Renewal Cost Proposal 2023-2028 52

4. TERM. This Contract shall be effective upon execution and shall expire June 30, 2028 [2023].

**5. COMPENSATION.**

**5.1 Maximum Payment Amount.** Notwithstanding any other provision of this Contract to the contrary, the maximum, not-to-exceed compensation that County will pay to Contractor is \$201,303.00 [114,543.00] (the “Maximum Not-To-Exceed Compensation”), which includes payment for any allowable expenses for the Contractor under this Contract including the first five (5) years of hosted software service, maintenance and service as detailed in the cost proposal contained in Exhibit A. The cost proposal for the second five (5) years of service is contained in Exhibit H.

## **EXHIBIT A STATEMENT OF WORK**

### **2. COMPENSATION**

The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$201,303.00 [114,543.00].

#### **A. METHOD OF PAYMENT FOR SERVICES**

County shall pay Contractor amounts not to exceed \$201,303.00 [114,543.00] for completing all Services and delivering all Goods required under this Contract over the duration of this agreement.

#### **B. BASIS OF PAYMENT FOR SERVICES**

##### **Cost Proposal Submission Form.**

The costs provided in the table below are based on Contractor’s revised quote where the software is hosted on ShelterBuddy™’s Software form as a Service (SaaS) and with a throughput of animals up to 4,000 per year.

The Contract Renewal Cost Proposal for the period of July 1, 2023 – June 30, 2028 is hereby attached as Exhibit H.

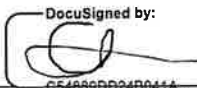
Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Commissioner Date

\_\_\_\_\_  
Commissioner Date

Authorized Signature:  DocuSigned by:   
654899DD24B041A... 6/21/2023  
Department Director or designee Date

Authorized Signature:  DocuSigned by:   
DC16361248DE4EC... 6/26/2023  
Chief Administrative Officer Date

Reviewed by Signature:  DocuSigned by:   
D0CF65B04B9F403... 6/22/2023  
Marion County Legal Counsel Date

Reviewed by Signature:  DocuSigned by:   
65B2F3DF267F444... 6/21/2023  
Marion County Contracts & Procurement Date

**SHELTERBUDDY SIGNATURE**

Authorized Signature: \_\_\_\_\_  
Date

Title: \_\_\_\_\_



**Shelter Buddy**

# ShelterBuddy Renewal

## **EXHIBIT H**

**Contract Renewal Cost Proposal  
2023-2028**

**Alex K James**

Shelter Solutions Manager

alex@shelterbuddy.com

+1-603-531-9658

**Prepared for:**

**Marion County**

**Contract Start Date: Jul 1, 2023**



**Pet Loyalty**

...makers of Adopters and  
ShelterBuddy Software™





**Shelter Buddy**

### Standard Business Terms



60 Month Term Length, Monthly Fees Paid Annually, in **USD**



**Pet Loyalty**

*...makers of Adopters and  
ShelterBuddy Software™*

**Annual Software License & Services Subscription**

✓	ShelterBuddy Pro Hosting	Monthly	\$428
✓	ShelterBuddy Pro Maintenance	Monthly	\$276
✓	Ad Hoc Reporting	Monthly	\$229
✓	Lost & Found Public Site Maintenance	Monthly	\$114
✓	Online Licensing	Monthly	\$228
✓	Adoption Management System / Shelter Donation Drivers	Monthly	\$0*
✓	<b>Total Investment</b>	<b>All-in</b>	<b>\$76,500 (\$15,300 Per year)</b>
✓	<b>Total Investment w/ AMS/Donation Drivers</b>	<b>All-in</b>	<b>\$70,000 (\$14,000 per year)</b>

\*We have an Adoption Management System / Express Checkout that is free when used through Stripe as a way to streamline adoption payments while increasing donation at checkout numbers with donation at checkout features - Adopters are charged a small \$5 convenience fee for an amazing paperless adoption experience so the shelter doesn't have to pay for the service. ~60% of transactions result in an ~\$17 donation to the shelter. This is just one of our Donation Drivers to help further financially support our shelter partners.

Please sign below to accept this quote and agree to our [Terms of Service](#) & [Service Level Agreement](#)

Marion County opts into all Donation Drivers to save \$6,500 in total while increasing donations

Name:

Date:

Signature:

**Pet Loyalty**

...makers of Adopets and  
ShelterBuddy Software™



AMENDMENT #2 to the  
INFORMATION TECHNOLOGY PRODUCTS AND SERVICES CONTRACT  
(Software and related Services)  
between  
MARION COUNTY and SHELTERBUDDY SOFTWARE

This Amendment No. 2 to the Information Technology Products and Services Contract (as amended from time to time, the "Contract"), dated August 10, 2018 between Marion County, a political subdivision of the State of Oregon, hereafter called County, and ShelterBuddy Software DBA Shelter Management Pty Ltd., a limited liability company, hereafter called Contractor.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by brackets):

**5. COMPENSATION.**

**5.1 Maximum Payment Amount.** Notwithstanding any other provision of this Contract to the contrary, the maximum, not-to-exceed compensation that County will pay to Contractor is \$114,543.00 [106,463.00 (One-Hundred Six Thousand Four Hundred Sixty-Three Dollars)] (the "Maximum Not-To-Exceed Compensation"), which includes payment for any allowable expenses for the Contractor under this Contract including the first five (5) years of hosted software service, maintenance and service as detailed in the cost proposal contained in Exhibit A.

**C. SPECIAL REQUIREMENTS**

**2. COMPENSATION**

The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$114,543.00 [106,463.00].

**A. METHOD OF PAYMENT FOR SERVICES**

County shall pay Contractor amounts not to exceed \$114,543.00 [106,463.00] for completing all Services and delivering all Goods required under this Contract over the duration of this agreement.

**EXHIBIT A  
STATEMENT OF WORK**

**1. STATEMENT OF SERVICES**

Contractor shall perform Services as described below

**C. SPECIAL REQUIREMENTS**

**2. COMPENSATION.** The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$114,543.00 [106,463.00].

**A. METHOD OF PAYMENT FOR SERVICES**

County shall pay Contractor amounts not to exceed \$114,543.00 [106,463.00] for completing all Services and delivering all Goods required under this Contract over the duration of this agreement.

**B. BASIS OF PAYMENT FOR SERVICES**

County shall pay Contractor milestone payments for Services completed and accepted by County and upon the approval of Contractor’s invoice by the County:

Milestone #2: Upon successful implantation and “Go-Live” and County’s receipt of the Contractor’s invoice to County, County shall pay contractor \$29,828.00 [21,748.00]. The second milestone payment includes the full payment for completed data migration, software licenses and monthly hosting, maintenance for year one commencing “Go-Live” date.

**Cost Proposal Submission Form.** The costs provided in the table below are based on Contractor’s revised quote where the software is hosted on ShelterBuddy™’s Software form as a Service (SaaS) and with a throughput of animals up to 4,000 per year.

**Section 5 Data Migration:** Estimated cost \$8,500.00  
Actual cost \$16,580.00

**Total Price for year one with 24/7/365 support, and in-person training \$58,251.00**

**Total Price with 5 years \$114,543.00 [106,463.00]**

**EXHIBIT C  
CONTRACTOR PERSONNEL**

Contractor and County agree that each individual specified below is an individual whose special qualifications and involvement in Contractor’s performance of Services form part of the basis of agreement between the parties for this Contract and is an individual through whom Contractor shall provide to County the expertise, experience, judgment, and personal attention required to perform Services (“Key Person”). Each of the following is a Key Person under this Contract:

Authorized Representative:

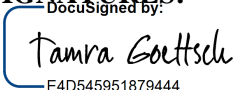
Harry Schechter [Mark Townend]  
Chief Executive Officer  
harry@shelterbuddy.com [mtownend@rspcaqlld.org.au]  
1 Washington Mall, #1241, Boston, MA 02108 [Locked Bag 3000, Archerfield BH QLD 4108 Australia]  
Phone 202-615-3950 [001-07-3426-9935]

Project Manager:

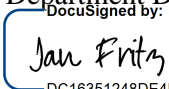
Sheila Collecott  
Project Manager  
1 Washington Mall, #1241, Boston, MA 02108 [139 Wacol Station Rd Wacol QLD 4076 Australia]  
Phone 781-583-3400 [1-866-886 3397]  
scollecott@shelterbuddy.com [scollecott@rspcaqlld.org.au]

Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

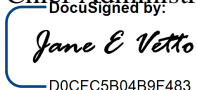
**MARION COUNTY SIGNATURES:**

Authorized Signature:  DocuSigned by:  
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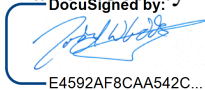
Department Director or designee Date

Authorized Signature:  DocuSigned by:  
DC16351248DE4EC... 5/19/2022

Chief Administrative Officer Date

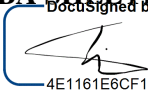
Reviewed by Signature:  DocuSigned by:  
D0CFC5B04B9F483... 5/19/2022

Marion County Legal Counsel Date

Reviewed by Signature:  DocuSigned by:  
E4592AF8CAA542C... 5/10/2022

Marion County Contracts & Procurement Date

**SHELTER BUDDY DBA SHELTER MANAGEMENT PTY LTD.**

Authorized Signature:  DocuSigned by:  
4E1161E6CF1542C... 5/20/2022

Date

Title: CEO



AMENDMENT 1 to the  
INFORMATION TECHNOLOGY PRODUCTS AND SERVICES CONTRACT  
(Software and related Services)  
between  
MARION COUNTY and SHELTERBUDDY SOFTWARE

This Amendment No. 1 to the Information Technology Products and Services Contract (as amended from time to time, the "Contract"), dated August 10, 2018 between Marion County, a political subdivision of the State of Oregon, hereafter called County, and ShelterBuddy Software DBA Shelter Management Pty Ltd., a limited liability company, hereafter called Contractor.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by brackets):

**5. COMPENSATION.**

**5.1 Maximum Payment Amount.** Notwithstanding any other provision of this Contract to the contrary, the maximum, not-to-exceed compensation that County will pay to Contractor is \$106,463.00 One-Hundred Six [Three] Thousand Four [One] Hundred Sixty Three Dollars [(\$103,163.00)] (the "Maximum Not-To-Exceed Compensation"), which includes payment for any allowable expenses for the Contractor under this Contract including the first five (5) years of hosted software service, maintenance and service as detailed in the cost proposal contained in Exhibit A.

**C. SPECIAL REQUIREMENTS**

**2. COMPENSATION**

The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$106,463.00 [\$103,163.00].

**A. METHOD OF PAYMENT FOR SERVICES**

County shall pay Contractor amounts not to exceed \$106,463.00 [\$103,163.00] for completing all Services and delivering all Goods required under this Contract over the duration of this agreement.

**EXHIBIT A  
STATEMENT OF WORK**

**1.B.4.3.4 Task – Training (pg23)**

c. Contractor shall provide additional ShelterBuddy Pro software training, in-person, during the summer of 2019 to Dog Services staff at the dog shelter. Goals for this training are: (1) Refine and address training gaps with online licensing; (2) Ensure Marion County data entry is placed in appropriate modules and retrain as needed, especially in the area of dispatch and medical data entry; (3) Review and retrain staff in regards to staff-generated question/issue list; and (4) Review and retrain all dog services staff to improve online lost and found navigation.

**Cost Proposal Submission Form.** The costs provided in the table below are based on Contractor's

revised quote where the software is hosted on ShelterBuddy™'s Software form as a Service (SaaS) and with a throughput of animals up to 4,000 per year.





**Section 4 Training:** In person training \$3,300.00 [\$0.00].  
Training Sub-Total \$3,300.00 [\$0.00].

**Total Price with 5 years** \$106,463.00 [\$103,163.00]


Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

**MARION COUNTY SIGNATURE**

**BOARD OF COMMISSIONERS:**

Chair	_____	Date	_____
Commissioner	<del>_____</del>	Date	_____
Commissioner	<del>_____</del>	Date	_____
Authorized Signature:		Date	7/2/19
	Department Director or designee	Date	_____
Authorized Signature:		Date	7/9/19
	Chief Administrative Officer	Date	_____
Reviewed by Signature:		Date	7/10/19
	Marion County Legal Counsel	Date	_____
Reviewed by Signature:		Date	7/8/19
	Marion County Contracts & Procurement	Date	_____

**SHELTER BUDDY DBA SHELTER MANAGEMENT PTY LTD.**

Authorized Signature:  MARK TOWNEND Date: 7/12/19  
Title: CEO

**Shelter Buddy Software- Animal Management Software  
Marion County Dog Shelter, Community Services Department**

Marion County Community Services	Marion County IT and Contracts
Tamra Goettsch Department Director 503-589-3200 tgoettsch@co.marion.or.us	Sara Brooks IT Project Manager 503-576-7160 sbrooks@co.marion.or.us
Tiffany Wallace Dog Shelter Staff 503-566-6989 twallace@co.marion.or.us	Justin Ford Contracts & Procurement Analyst 503-589-3280 ford@co.marion.or.us
Ann Jorgensen Dog Shelter Staff 503-566-6992 ajorgensen@co.marion.or.us	Krista Ulm Community Services- Contract Specialist 503-588-7975 kulm@co.marion.or.us
Danielle Gonzalez Management Analyst 503-589-3235 dgonzalez@co.marion.or.us	
<b>Invoices to: CSReporting@co.marion.or.us</b>	

RFP: C25102-CS-136-17  
Marion County Contract: CS-1960-18  
Contract Amount: \$103,163.00  
Effective Dates: August 1, 2018 to June 30, 2023

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**INFORMATION TECHNOLOGY PRODUCTS AND SERVICES CONTRACT  
(Software and related Services)**

This Information Technology Products and Services Contract (this "Contract") is entered into on the date of execution by and between the Marion County, a political subdivision of the state of Oregon, acting by and through its Information Technology Department ("County"), and ShelterBuddy Software DBA Shelter Management Pty Ltd., a limited liability company ("Contractor").

**RECITALS**

- A. Agency desires to engage a Contractor to provide the Software and Services to enable County to achieve specific business and County mission objectives defined in this Contract. To that end, County issued RFP # C25102-CS-136-17 (defined below).
- B. Contractor is the successful Proposer to the RFP # C25102-CS-136-17 and County desires to engage the Contractor to deliver the Software and perform the Services.
- C. Contractor desires to deliver the Software to and perform the Services for the County.

**AGREEMENT**

In consideration of the foregoing recitals and the mutual terms and conditions set forth below, County and Contractor agree as follows:

**1. DEFINITIONS.**

"Acceptance" means written confirmation by County that Contractor has completed a Deliverable according to the Acceptance Criteria and accepted for purposes of interim payment. The term is distinct from "Final Acceptance".

"Acceptance Criteria" means the criteria for accepting Deliverables required by this Contract, including but not limited to all specifications and requirements in the Statement of Work, and the Performance Warranties set forth in Article 8.2

"Acceptance Tests" means those tests which are intended to determine compliance of Software and Services with the Acceptance Criteria of this Contract.

"County Intellectual Property" means any intellectual property that is owned by County. County Intellectual Property includes any derivative works and compilations of any County Intellectual Property.

"Authorized Representative" means a person representing a party to this Contract who is authorized to make commitments and decisions on behalf of the party regarding the performance of this Contract. Contractor's Authorized Representative is the person so identified in Exhibit C. County's Authorized Representative is the person so identified in Exhibit D.

"Confidential Information" is defined in Section 7.1.

"Contract" means all terms and conditions herein and all Exhibits attached hereto.

"Contractor Intellectual Property" means any intellectual property that is owned by Contractor and contained in or necessary for the use, or optimal use, of the Deliverables. Contractor Intellectual Property includes Documentation, Work Product, and derivative works and compilations of any Contractor Intellectual Property. Contractor Intellectual Property does not include COTS Software.

"Deliverables" means the Services and all Software that Contractor is required to deliver to County under this Contract, including Work Product.

"Delivery Schedule" means that attribute of the Statement of Work setting forth the completion date of each Milestone and the delivery date for each Deliverable.

"Documentation" means all documents, including documents that are Deliverables described in the Statement of Work and includes, but is not limited to, any and all operator's and user's manuals, training materials, guides, commentary, listings, requirements traceability matrices and other materials for use in conjunction with and for the operation of Software and Services that are to be delivered by Contractor under this Contract.

"Effective Date" means the date on which this Contract is fully executed and approved in according to applicable laws, rules and regulations.

"Final Acceptance" is defined in Section 2.3.2.

"Software Retention Amount" is defined in Section 5.3.2.

"Intellectual Property Rights" is defined in Section 10.2.

"Key Persons" means Contractor's Authorized Representative, the Project Manager and all other Contractor personnel designated as key persons in Exhibit C.

"Maximum Not-To-Exceed Compensation" is defined in Section 5.1.

"Milestone" means the completion date for a specific group of Tasks or Deliverables identified as a Milestone in the Statement of Work.

"Project Manager" means Contractor's representative who manages the processes and coordinates the Services with County's Authorized Representative to ensure delivery of the Product or Service. Contractor's Project Manager is the person so identified in Exhibit C.

"Proposal" means Contractor's proposal in response to the RFP.

"RFP" means the Request for Proposal # C25102-CS-136-17.

"Software" means the Software identified in Exhibit A, and all related Documentation, that the Contractor will deliver to County.

"Schedule of Deliverables" means that attribute of the SOW that describes each Deliverable, measurable attributes of each Deliverable, Milestones with identification of the Services activities that are associated with them and a planned completion date for each Milestone and Deliverable.

"Services Retention Amount" is defined in Section 5.3.1.

"Services" means all effort to be expended by Contractor as set forth in the Statement of Work and the Maintenance and Support Agreement including but not limited to delivery, installation, configuration, implementation (collectively "installation"), warranty, maintenance and support of the Software.

"Software" means an all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including Operating Software, Programming Aids, Application Programs, and Application Programming Interfaces.

"Statement of Work" means the means a document that describes each Task, Deliverable and Milestone, the measurable attributes of each Deliverable, identification of the Deliverables and Services that are associated with each Task, and a completion date for each Milestone and Deliverable, the Payment Schedule for each Deliverable and Milestone, and any other items as agreed by the parties including Amendments pursuant to section 17.15, all attached hereto as Exhibit A.

"Task" means a segment of the Services to be provided by Contractor under this Contract.

"Third Party Intellectual Property" means any intellectual property owned by parties other than County or Contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS Software owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.

"Third Party Software" includes Software not published by Contractor or County and which are supplied by Contractor to County under this Agreement.

"Warranty Period" means the period that begins on the date the Software is delivered, and ends 365 calendar days after date of Final Acceptance.

"Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's subcontractors or agents (either alone or with others) pursuant to the Contract. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any County Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

## 2. SOFTWARE AND SERVICES.

### 2.1 PERFORMANCE AND DELIVERY.

2.1.1 Contractor shall perform the Services and deliver the Deliverables according to this Contract including the Acceptance Criteria (Appendix 1) and the Statement of Work. (Exhibit A)

2.1.2 All Software to be supplied by Contractor shall be the most recent commercially available version unless otherwise expressly authorized by County.

2.1.3 Contractor shall deliver the Software to the County F.O.B. to the destination specified in Exhibit A according to the Delivery Schedule set forth in Exhibit A. During the period that Software is in transit, and until the time that the Software is tendered to enable the County to take delivery of the Software, Contractor and its insurers, if any, relieve the County and the State of Oregon of the responsibility for all risk of loss of, or damage to, the Software. Thereafter, all risk of loss of, or damage to, the Software shall be borne by the County.

2.1.4 Contractor shall have all publisher warranties covering the Software transferred to the County at time of delivery at no additional charge. Contractor shall also furnish to the County the details of the third party publisher warranties.

2.2 If this Contract requires County to provide any resources, and County fails to provide the requisite quality or quantity of such resources, or fails to provide such resources in a timely manner but for a period not to exceed 30 days, Contractor's sole remedy shall be an extension of the applicable delivery dates corresponding to the delay caused by County's failure. If County's failure to provide such resources exceeds thirty (30) days and Contractor can show to the reasonable satisfaction of County, which the County's failure has resulted in an unavoidable increase in the cost of the Services required for the Statement of Work then Contractor shall be entitled to recover from County the reasonable amount of such increased costs. Contractor's right to delay applicable delivery dates may be exercised only if Contractor provides County with reasonable notice of County's failure and Contractor uses Commercially Reasonable Efforts to perform notwithstanding County's failure to perform.

## 2.3 REVIEW OF SOFTWARE AND SERVICES / FINAL ACCEPTANCE

2.3.1 Contractor shall deliver Deliverables and complete Milestones as set forth in the Statement of Work by no later than the date or dates set for delivery in the Statement of Work. Delivery dates, both critical and non-critical, are set forth in the Statement of Work and are subject to County performing its responsibilities in a timely manner.

2.3.2 SOFTWARE INSPECTION. Contractor shall provide written notice to the County upon full and complete delivery, installation, configuration and implementation of the Software as required by the SOW. Within thirty (30) business days after receipt of such notice, County shall perform Acceptance Tests as set forth in the SOW to determine whether the Software and Services meet Acceptance Criteria. If the Acceptance Tests establish that the Software and Services conform to the Acceptance Criteria, then County shall issue written notice to Contractor of Final Acceptance of the Software and Services. Final Acceptance does not include Acceptance of ongoing maintenance and support. If County determines that the Software or Services do not materially meet the Acceptance Criteria, then the parties shall follow the process set forth in section 2.3.3 for nonconforming Deliverables.

2.3.3 If the County determines that a Deliverable does not meet in all material respects the Acceptance Criteria (Appendix 1), the County shall notify Contractor in writing of County's rejection of the Software and Services, and describe in with reasonable detail the nonconformance that forms the County's basis for rejection of the Deliverable. Upon receipt of notice of non-acceptance, Contractor shall, within a 15-day period, modify or improve the Software and Services at Contractor's sole expense so that the Deliverable meets, in all material respects the Acceptance Criteria, and notify the County in writing that it has completed such modifications or improvements and re-tender the Deliverable to the County. County shall thereafter review the modified or improved Software and Services within 15-days of receipt of the Contractor's re-delivery of the Deliverable. Failure of the Deliverable to meet in all material respects, the Acceptance Criteria after the second set of Acceptance Tests shall constitute a default by Contractor. In the event of such default, County may either (i) notify Contractor of such default and instruct Contractor to modify or improve the Deliverable as set forth in this section 2.3.3, or (ii) notify Contractor of such default and in which case Contractor shall comply with section 2.4.

2.4 REMOVAL/REIMBURSEMENT. If the Software or Services are rejected or acceptance is revoked, the Contractor shall refund any Contract payments that have been made with regard to the Software or Services, and shall (at Contractor's sole cost and expense) remove the Software within seven (7) calendar days of receiving notice of rejection or revocation of acceptance.

2.5 REMEDIES NOT EXCLUSIVE. No provision of this Article 2 precludes County from other remedies to which it may be entitled upon rejection or revocation of acceptance.

### 2.6 Warranty Period/Post Warranty Maintenance and Support.

2.6.1 Contractor shall, at no charge to County, furnish such materials and Services as shall be necessary to correct any defects in the Software and Services that prevent the Software and Services from meeting the Acceptance Criteria provided in the Contract. During the Warranty Period Contractor shall provide maintenance and support of the Software consistent with the Contractor's obligations of Post Warranty Maintenance and Support as set forth in Exhibit F. Notwithstanding the expiration of the Warranty Period, Contractor shall be obligated to cure defects discovered during the Warranty Period that prevent the Software and Services from meeting the Acceptance Criteria of this Contract.

2.6.2 Post Warranty Maintenance and Support. Contractor shall provide post Warranty Maintenance and Support of the Software in accord with Maintenance and Support Agreement a copy of which is attached hereto Exhibit F.

## 3. CONTRACTOR'S PERSONNEL.

3.1 Project Manager. Contractor shall designate one of the Key Persons as Project Manager for the Services. The Project Manager shall be familiar with County's business operations and objectives as necessary for the successful completion of this Contract. The Project Manager shall participate with County in periodic review sessions and shall provide at County's request detailed progress reports that identify completed tasks and the status of the remaining Services as set forth in the Statement of Work.

3.2 Contractor's Employees and Subcontractors. Contractor shall not use subcontractors to perform the Services unless specifically authorized to do so by County. Contractor represents that any employees assigned to perform the Services, and any authorized subcontractors performing the Services shall perform the Services according to the warranties set forth in Article 8 of this Contract.

3.3 Key Persons. Contractor acknowledges and agrees that County selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's Key Persons identified in Exhibit C. Contractor's Key Persons shall not delegate performance of their powers and responsibilities they are required to provide under this Contract to another Contractor employee(s) without first obtaining the written consent of the County. Further, Contractor shall not re-assign or transfer the Key Persons to other duties or positions such that the Key Persons are no longer available to provide the County with their expertise, experience, judgment, and personal attention, without first obtaining the County's prior written consent to such re-assignment or transfer, which County shall not unreasonably withhold or delayed Notwithstanding the foregoing, Contractor may replace Key Persons without County's consent in the event any Key Persons are no longer available due to death, illness or termination of employment with Contractor. In the event Contractor requests that the County approve a re-assignment or transfer of the Key Persons, or if Contractor must replace Key Persons due to death, illness or termination of employment with the Contractor, the County shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Persons. Any such replacement shall have substantially equivalent or better qualifications than the Key Person being replaced. Any replacement personnel approved by County shall thereafter be deemed a Key Person for purposes of this Contract and Exhibit C shall be deemed amended to include such Key Person.

4. TERM. This Contract shall be effective upon execution, and shall expire June 30, 2023. An additional term of agreement of up to five (5) years may be authorized under consent of both parties through an amendment to this agreement. Notwithstanding the foregoing, the term for any License Agreement, Maintenance and Support Agreements attached hereto shall be as specified in those agreements.

## 5. COMPENSATION.

5.1 Maximum Payment Amount. Notwithstanding any other provision of this Contract to the contrary, the maximum, not-to-exceed compensation that County will pay to Contractor is One-Hundred Three Thousand One Hundred Sixty Three Dollars (\$103,163.00) (the "Maximum Not-To-Exceed Compensation"), which includes payment for any allowable expenses for the Contractor under this Contract including the first five (5) years of hosted software service, maintenance and service as detailed in the cost proposal contained in Exhibit A.

### 5.2 Payments.

5.2.1 Payment of Fixed Prices. Subject to the requirements of Sections 5.3 and 5.5, County shall pay to Contractor the fixed price for each Deliverable completed, delivered to and Accepted by County according to the Statement of Work.

5.2.2 Maintenance / Support Services. Subject to sections 5.5 and 5.6, No later than 30 days prior to the expiration of the Warranty Period, Contractor shall invoice County for the annual fees for Maintenance and Support. Thereafter, Contractor shall no later than 30 days from the expiration of any Maintenance or Support period invoice County for the next period of Maintenance and Support in accord with the pricing set forth in Exhibit A.

### 5.3 Retention Amount.

5.3.1 Retention Amount for Services. County shall in all events be permitted to hold back an amount (the "Services Retention Amount") of not more than ten percent (10%) of any amount that is payable by County to Contractor, other than amounts attributable to the purchase licenses of COTS Software, if any. County shall pay the then accrued Services Retention Amount to Contractor within thirty (30) days following Final Acceptance.

5.3.2 Retention Amount for Software. County shall in all events be permitted to hold back an amount (the "Software Retention Amount") of not more than ten percent (10%) of any amount payable to Contractor pursuant to Section 5.2 for Software. County shall pay the accrued Software Retention Amount for the applicable Product within 30 days of County's Final Acceptance of the Product according to Acceptance Criteria and processes set forth in this Contract.

5.4 Expenses. County will not pay or reimburse any expenses incurred by Contractor during the completion of the Service except as authorized in the Statement Work.

5.5 Invoices. County shall pay Contractor not more than once each month upon Contractor's submission of detailed invoices that set forth the Software and Services accepted by County. Such invoices shall comply with the requirements of Sections 5.2, 5.3, and 5.4 and shall identify the Software Delivered and the Services completed and Accepted by County for which Contractor seeks compensation and shall itemize and explain all authorized expenses for which reimbursement is claimed. Contractor shall request payment only for Deliverables accepted by County. The invoices also shall include the total amount invoiced to date by Contractor prior to the current invoice. Contractor shall submit invoices to County's Authorized Representative. County will have the right to review each such invoice for compliance with the requirements of this Section 5.5 and any other relevant provisions of this Contract. All payments to Contractor are subject to ORS 293.462

5.6 Limit on Payments. Contractor shall not submit invoices for, and County shall not pay, any amount in excess of the Maximum Not-To-Exceed Compensation. If this maximum amount is increased by amendment of this Contract, pursuant to Section 17.15, the amendment must be fully effective before Contractor performs Services or delivers goods subject to the amendment. No payment will be made for any Services performed or Software delivered before the Effective Date or after termination of this Contract

## 6. OWNERSHIP AND LICENSE IN PRODUCT OR SERVICES.

6.1 Contractor retains ownership of all Contractor Intellectual Property that Contractor delivers to County pursuant to this Contract. Contractor grants County a license to Contractor Intellectual Property as set forth in Exhibit E.

6.2 Work Product. Contractor owns all Work Product. Contractor grants County a perpetual, non-exclusive, irrevocable, royalty-free, world-wide license to use, copy, display, distribute, transmit and prepare derivative works of Work Product, and to authorize others to do the same on County's behalf.

6.3 Third Party Intellectual Property. Unless otherwise specified in Exhibit A that County, on its own, will acquire and obtain a license to Third Party Intellectual Property, Contractor shall secure on County's behalf, in the name of County and subject to County's approval, a license to Third Party Intellectual Property sufficient to fulfill the business objectives, requirements and specifications identified in this Contract.

6.4 County Intellectual Property; Data and Background Information. County owns all County Intellectual Property and County data and background information provided to Contractor pursuant to this Contract. County grants Contractor a non-exclusive, royalty-free, world-wide license to use, copy, display, distribute, transmit and prepare derivative works of County Intellectual Property and County data and background information only to fulfill the purposes of this Contract. County's license to Contractor is limited by the term of the Contract and the confidentiality obligations of this Contract.

6.5 No Rights. Except as expressly set forth in this Contract, nothing in this Contract shall be construed as granting to or conferring upon Contractor any right, title, or interest in any intellectual property that is now owned or subsequently owned by County. Except as expressly set forth in this Contract, nothing in this Contract shall be construed as granting to or conferring upon County any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by Contractor.

6.6 Competing Services. Subject to the provisions of this Article 6, and Contractor's obligations with respect to Confidential Information, as defined in Article 7 nothing in this Contract shall preclude or limit in any way the right of Contractor to: (i) provide the services similar to those contemplated in this Contract, or, consulting or other services of any kind or nature whatsoever to any individual or entity as Contractor in its sole discretion deems appropriate, or (ii) develop for Contractor or for others, deliverables or other materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Deliverables. Each party shall be free to utilize any concepts, processes, know-how, techniques, improvements or other methods it may develop during the course of performance under this Contract free of any use restriction or payment obligation to the other.

6.7 Neither party grants the other the right to use its trademarks, trade names, servicemarks or other designations in any promotion or publication without prior written consent. Each party grants only the licenses and rights specified in this Contract

## 7. CONFIDENTIALITY AND NON-DISCLOSURE.

7.1 CONFIDENTIAL INFORMATION. Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to County or County's clients. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known; (b) is furnished by County to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than County without the obligation of confidentiality, (e) is disclosed with the written consent of County, or; (f) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

7.2 NON-DISCLOSURE. Contractor agrees to hold Confidential Information in confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties (other than its subcontractors, or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except according to this Contract, and that upon termination of this Contract or at County's request, Contractor will turn over to County all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality Assurance, audits and evidence of performance of the Services.

7.3 Identity Theft. In the performance of the Agreement or Purchase Order Contract, Contractor may have possession or access to documents, records or items that contain "Personal Information" as that term is used in ORS 646A.602(11), including Social Security numbers. Personal Information is a type of Confidential Information that is highly sensitive and subject to additional protection. Therefore, prior to the receipt of, and during the period in which Contractor has possession of or access to, any Personal Information, Contractor shall have in place, a formal written information security program that provides safeguards to protect Personal Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600-646A.628.

7.3.1 Contractor shall not breach or permit breach of the security of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Contract. Contractor shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any such Personal Information. Contractor shall not use, distribute or dispose of any Personal Information other than expressly permitted by County, the Authorized Purchaser, required by applicable law, or required by an order of a tribunal having competent jurisdiction.

7.3.2 Contractor shall promptly report to the Authorized Purchaser, as promptly as possible, any breach of security, use, disclosure, theft, loss, or other unauthorized access of any document, record, compilation of information or other item that contains Personal Information to which the Contractor receives access, possession, custody or control in the performance of this Contract.

7.3.3 Contractor shall require the compliance of its employees and agents with this section

7.4 Security Policies/Non-Disclosure Agreement. Contractor at all times shall comply with County's security policies is attached as Exhibit G. Contractor shall upon County's request provide a written non-disclosure agreement and obtain such from Contractor's employees or subcontractors performing Services under this Contract including the Maintenance and Support Agreement included as Exhibit G.

7.5 Injunctive Relief. Contractor acknowledges that breach of this Article 7, including disclosure of any Confidential Information, will cause irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of County and are reasonable in scope and content.

7.6 Publicity. Contractor agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of County.

## 8. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES.

8.1 GENERAL REPRESENTATIONS AND WARRANTIES. In addition to all other Contractor representations and warranties in this Contractor also represents and warrants to County that:

8.1.1 Contractor has the power and authority to enter into and perform this Contract;

8.1.2 This Contract, when executed and delivered, will be a valid and binding obligation of Contractor enforceable according to its terms;

8.1.3 The Contractor warrants that the recommendations, guidance and performance of any person assigned under the AGREEMENT shall be in accordance with professional standards and the requirements of the AGREEMENT.



8.1.4 Contractor's performance under this Contract to the best of Contractor's knowledge creates no potential or actual conflict of interest, as defined by ORS 244, for either Contractor or any Contractor personnel that will perform the Services under this Contract.

**8.2 CONTRACTOR'S PERFORMANCE WARRANTIES. Contractor represents and warrants to County that:**

8.2.1 Contractor has the skill and knowledge possessed by well-informed members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors perform the Services described in this Contract according to the highest standards prevalent in the industry or business most closely involved in providing the Software or Services that Contractor is providing to County pursuant to this Contract

8.2.2 Through the expiration of the Warranty Period, all Product and Services delivered by Contractor to County shall materially conform to the Acceptance Criteria set forth in this Contract, including the Statement of Work and any Documentation provided by Contractor and shall be free from error or defect that materially impairs their use, and shall be free from defects in materials, workmanship and design.

8.2.3 Except as otherwise permitted or provided in this Contract including as provided in Article 6, all Software or Services supplied by Contractor to County shall be transferred to County free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind.

8.2.4 Except as otherwise set forth in this Contract, any subcontractors performing work for Contractor under this Contract have assigned all of their rights in the Product or Services to Contractor or County and no third party has any right, title or interest in any Product or Services supplied to County under this Contract.

8.2.5 Contractor represent and warrants that it will maintain, operate and enforce, prior to the receipt of, and during the period in which Contractor has possession of or access to, any Personal Information, an active and effective information security program to preserve the security and confidentiality of all Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control.

8.2.6 The Contractor represents and warrants that, at the time of delivery and installation of the Software provided pursuant to this Contract and Statement of Work, those Products shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the software, collect unlawful personally identifiable information on users, or prevent the software from performing as required under the terms and conditions of this Contract. Notwithstanding the foregoing, this representation and warranty does not include a disabling device that limits, suspends or ends use of the Software expressly permitted by the terms and conditions by the license under which it was provided.

**8.3 WARRANTIES EXCLUSIVE; DISCLAIMERS. THE WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. CONTRACTOR DOES NOT WARRANT THAT THE COUNTY' S USE OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.**

8.4 The warranties stated above will not apply to the extent that there has been misuse (including, but not limited to, any use of the Software capacity or capability, other than that authorized by Contractor in writing), accident, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, improper maintenance by County or a third party, or failure or damage caused by a product for which Contractor is not responsible

## 9. LIMITATION OF LIABILITY.

9.1 EXCEPT FOR LIABILITY TO THIRD PERSONS ARISING OUT OF OR RELATED TO (i) SECTION 10.1, (ii) SECTION 10.2, (iii) ARTICLE 7 OR (iv) CLAIMS FOR PERSONAL INJURY, INCLUDING DEATH, OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY ARISING FROM THE NEGLIGENCE, RECKLESS CONDUCT OR INTENTIONAL ACTS OF CONTRACTOR, ITS OFFICERS, EMPLOYEES OR AGENTS, NEITHER PARTY WILL BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOST DATA, PUNITIVE, INDIRECT, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES.

## 10. INDEMNITIES.

10.1 GENERAL INDEMNITY. The Contractor shall save harmless, indemnify, and defend the County for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this Contract to the extent same are caused by the negligence or misconduct of Contractor or its employees or agents.

10.2 IP INDEMNITY. In addition to and without limiting the generality of Section 10.1, Contractor expressly agrees to, indemnify, defend and hold the County and its directors, employees and agents harmless from any and all third party claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to any claims that the Product or Services or use thereof infringe or violate any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right (collectively, "Intellectual Property Rights") of any third party. If Contractor believes at any time that the Product or Services infringe a third party's Intellectual Property Rights, Contractor may upon receipt of County's prior written consent, which County shall not unreasonably withhold, (i) replace an infringing item with a non-infringing item that meets or exceeds the performance and functionality of the replaced item; or (ii) obtain for County the right to continue to use the infringing item; or (iii) modify the infringing item to be non-infringing, provided that, following any replacement or modification made pursuant to the foregoing, the Software continue to function in conformance with the Acceptance Criteria set forth in this Contract. Contractor's failure or inability to accomplish any of the foregoing shall be deemed a material breach of this Contract, and County may pursue any rights and remedies available to it under this Contract, including termination. Contractor shall not be liable under this Article 10.2 for any claim for infringement based solely on the following:

- County's modification of the Software other than as contemplated by this Contract or the Software specifications; or as otherwise authorized by Contractor in writing.
- Use of the Software in a manner other than as contemplated by this Contract or the Software's specifications; or, as otherwise authorized in writing by Contractor
- Use of the Software in combination, operation, or use of with other software other than as contemplated by this Contract or the Software's Specifications; or, as otherwise authorized in writing by Contractor

10.3 CONTROL OF DEFENSE AND SETTLEMENT. Contractor's obligation to indemnify County as set forth in Sections 10.1 and 10.2 is conditioned on the County providing to Contractor prompt notification of any claim or potential claim of which County becomes aware that may be the subject of those Sections. Contractor shall have control of the defense and settlement of any claim that is subject to Section 10.1 or Section 10.2; however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the County, nor purport to act as legal representative of the County, without the approval of the County, nor shall Contractor settle any claim on behalf of the County without the approval of the County. The County may, at its election and expense, assume its own defense and settlement in the event that the County determines that Contractor is prohibited from defending the County, is not adequately defending the County's interests, or that an important governmental principle is at issue and the County desires to assume its own defense.

10.4 DAMAGES TO COUNTY PROPERTY AND EMPLOYEES. Contractor shall be liable for all claims, suits, actions, losses, damages, liabilities, costs and expenses for personal injury, including death, damage to real property and damage to tangible personal property of the County or any of its employees resulting from, arising out of, or relating to the intentional, reckless or negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Contract.

10.5 Insurance. Contractor shall provide and maintain insurance as required by Exhibit B.

## 11. EVENTS OF DEFAULT.

11.1 DEFAULT BY CONTRACTOR. Contractor shall be in default under this Contract if:

11.1.1 Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings which are not dismissed within 60 days of their commencement, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or

11.1.2 Contractor no longer holds a license or certificate that is required for Contractor to perform the Services and Contractor has not obtained such license or certificate within thirty (30) business days after delivery of County's notice or such longer period as County may specify in such notice; or

11.1.3 Contractor commits any material breach of any covenant, warranty, obligation or certification under this Contract, fails to perform the Services in conformance with the specifications and warranties provided herein, or clearly manifests an intent not to perform future obligations under this Contract, and such breach or default is not cured, or such manifestation of an intent not to perform is not corrected by reasonable written assurances of performance within thirty (30) business days after delivery of County's notice or such longer period as County may specify in such notice.

11.2 DEFAULT BY COUNTY. County shall be in default under this Contract if:

11.2.1 County fails to pay Contractor any amount pursuant to the terms of this Contract, and County fails to cure such failure within thirty (30) business days after delivery of Contractor's notice or such longer period as Contractor may specify in such notice; or

11.2.2 County commits any material breach or default of any covenant, warranty, or obligation under this Contract, fails to perform its commitments hereunder within the time specified or any extension thereof, and County fails to cure such failure within thirty (30) business days after delivery of Contractor's notice or such longer period as Contractor may specify in such notice.

## 12. REMEDIES FOR DEFAULT.

12.1 County's Remedies. In the event Contractor is in default under Section 11.1, County may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, which include, without limitation:

12.1.1 termination of this Contract under Section 13.2;

12.1.2 withholding all monies due for Services that Contractor is obligated but has failed to perform within thirty (30) days after County has notified Contractor of the nature of Contractor's default;

12.1.3 with respect to Software and Services for which County has paid before Acceptance, returning the Software to Contractor for which County has paid in exchange for a return of all moneys previously paid for such Software and Services, and

12.1.4 initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief;

12.1.5 exercise of its right of setoff.

12.2 REMEDIES CUMULATIVE. These County remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If it is determined for any reason that Contractor was not in default under Section 11.1, the rights and obligations of the parties shall be the same as if this Contract was terminated pursuant to Section 13.1.

12.3 CONTRACTOR'S REMEDIES. In the event County terminates this Contract as set forth in Section 13.1, or in the event County is in default under Section 11.2 and whether or not Contractor elects to exercise its right to terminate the Contract under Section 13.3, Contractor's sole monetary remedy shall be a claim for (i) any unpaid invoices for Software delivered and Services completed and accepted; and, (ii) for incomplete Deliverables an amount calculated by determining the percentage of Services completed on each unpaid Deliverable and applying that percentage to the price for the Deliverable set forth in the Statement of work, not to exceed amount for the Deliverable set forth in the Statement of Work, and authorized expenses incurred. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 12.3, Contractor shall pay any excess to County upon written demand.

13. Termination. This Contract may be terminated under the following conditions:

13.1 By written mutual agreement of both parties. Termination under this provision may be immediate.

13.2 Upon thirty (30) calendar days written notice by either Party to the other of intent to terminate.

13.3 The COUNTY may terminate all or part of this agreement, at its sole discretion, for the following reasons:

13.3.1 If the Contractor fails to provide services, or fails to meet the performance standards as specified in this agreement (or subsequent modifications of this contract), within the time specified herein or any extension thereof. Termination under this provision may be immediate.

13.3.2 If the Contractor fails to start services on the date specified by the County in this contract or subsequent modifications to this contract. Termination under this provision may be immediate.

13.3.3 Failure of the Contractor to comply with the provisions of this Contract and all applicable federal, state, and local laws and rules may be cause for termination of this contract.

13.3.4 If County fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the Software or Services;

Such termination shall be without prejudice to any obligations or liabilities of either party accrued to such termination.

If this Contract is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the Contractor all costs and expenses associated with services satisfactorily provided to the effective date of termination.

13.4 COUNTY'S RIGHT TO TERMINATE FOR CAUSE. In addition to any other rights and remedies County may have under this Contract, County may terminate this Contract, in whole or in part, immediately upon Contractor's default under Section 11.1.

13.5 CONTRACTOR'S RIGHT TO TERMINATE FOR CAUSE. Contractor may terminate this Contract upon County's default under Section 11.2.

13.6 RETURN OF PROPERTY. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to County all of County's property (including without limitation County's Confidential

Information or any Product or Services for which County has made payment in whole or in part) that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such County property is expressed or embodied at that time. Any property or Product or Service returned or delivered to County pursuant to this Section shall be provided without the warranties set forth in Article 8.2, unless, with respect to Product or Services, County has accepted the Product or Service pursuant to Section 2.3.

#### 14. INDEPENDENT CONTRACTOR; TAXES AND WITHHOLDING.

14.1 INDEPENDENT CONTRACTOR. The Contractor is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out the Contractor's activities and responsibilities for the purpose of implementing the provisions of this Contract, and maintains the appropriate license/certifications, if required under Oregon Law. Notwithstanding the preceding sentence, County reserves the right to determine schedule for the work to be performed and to evaluate the quality of the completed performance. This Contract shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other than that of independent parties. The Contractor is acting as an "independent contractor" and is not an employee of COUNTY, and accepts full responsibility for taxes or other obligations associated with payment for services under this Contract. As an "independent contractor", Contractor will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Contractor is free to contract with other parties for the duration of the Contract.

14.2 DECLARATION AND CERTIFICATION. Contractor by execution of this Contract declares and certifies that (i) its performance of the Services creates no potential or actual conflict of interest as defined by ORS Chapter 244, for Contractor or any Contractor personnel who will perform Services under this Contract, and (ii) in the event that Contractor or its personnel are either employed by or performing services for the federal government, that no rules or regulations of the County for which Contractor or its personnel work or are employed prohibit Contractor or its personnel from providing the Services under this Contract. Contractor also declares and certifies by execution of this Contract that it is not an "officer," "employee," or "agent" of County, as those terms are used in ORS 30.265.

14.3 RESPONSIBLE FOR TAXES. Contractor shall be responsible for all federal and state taxes applicable to compensation and other payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, County will not withhold from such compensation and payments any amount to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

15. COMPLIANCE APPLICABLE LAW. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated.

#### 16. DISPUTE RESOLUTION.

16.1. Both parties further agree to exercise their best efforts in good faith to resolve all disputes.

16.2. VENUE. Any claim, action, suit, or proceeding (collectively, "Claim") between County and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

16.3 GOVERNING LAW. This Contract shall be governed by the laws of the State of Oregon.

## 17. MISCELLANEOUS PROVISIONS.

17.1. ORDER OF PRECEDENCE. This Contract consists of the following documents that are listed in descending order of precedence: (a) the terms and conditions of this Contract, less its Exhibits; (b) the Statement of Work, Exhibit A; (c) the RFP, Attachment 1; (d) the Proposal, Attachment 2; and (e) Exhibits B - G. The aforementioned Exhibits are by this reference incorporated in the Contract.

17.2 Reserved.

17.3 SUBCONTRACTS AND ASSIGNMENT. Contractor shall not enter into any subcontracts for any of the Services required by this Contract or assign or transfer any of its interest in this Contract without County's prior written consent. Any proposed use of a subcontractor which is located outside the United States or use of subcontract labor or facilities located outside the United States must be called to the specific attention of County. County's consent to any subcontract or assignment shall be timely and not unreasonably withheld. County consent to a subcontract or assignment shall not relieve Contractor of any of its duties or obligations under this Contract. The assignment of this Contract, in whole or in part to a successor organization by merger or acquisition does not require the consent of the other. Contractor is also permitted to assign its rights to payments without obtaining County's consent

17.4 SUCCESSORS AND ASSIGNS. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

17.5 NO THIRD-PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

17.6 FUNDS AVAILABLE AND AUTHORIZED. In the event the Board of Commissioners of the County reduces, changes, eliminates, or otherwise modifies the funding for any of the services identified, the Contractor agrees to abide by any such decision including termination of service. Contractor understands and agrees that County's payment of amounts under this Contract is contingent on County receiving appropriations, limitations, or other expenditure authority sufficient to allow County, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

17.7. RECORDS MAINTENANCE; ACCESS. Contractor shall maintain all financial records and other records relating to its performance under this Contract according to generally accepted accounting principles and in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that County, the State of Oregon and the federal government and their duly authorized representatives shall have reasonable access, at their own cost and expense and only following reasonable notice to Contractor, to such records, in paper or electronic form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such records for a minimum of three (3) years, or such longer period as may be required by Oregon Administrative Rule 166-150-0005 or other applicable law, following

termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.

17.8. RESERVED.

17.9. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations and declarations set forth in Articles V, VI, VII, VIII, X, IX, XII, XV, XIV and XVI, and Sections 14.3, 17.1, 17.4, 17.5, 17.7, 17.9, 17.12, 17.13, 17.17, 17.18, 17.19, 17.20 and 17.21.

17.10. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract for critical path Deliverables or Milestones as set forth in the Statement of Work..

17.11. FORCE MAJEURE. Neither County nor Contractor shall be liable to the other for any failure or delay of performance of any obligations hereunder when such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control, including without limitation acts of God, acts of civil or military authority, fires, floods, earthquakes or other natural disasters, war, riots or strikes. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

17.12. NOTICES. Any notice of termination or other communication having a material effect on this AGREEMENT shall be served by U.S. Mail on the signatories listed.

17.13 SEVERABILITY. The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular term or provision held to be invalid.

17.14 COUNTERPARTS. This Contract may be executed in several counterparts, all of which when taken together shall constitute one contract binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed shall constitute an original.

17.15. AMENDMENTS. Generally. This Contract may be amended, modified, or supplemented only by a written amendment signed by County and Contractor that has been approved by the Board of Commissioners. Any amendment that provides for additional Software or Services may only provide for Software or Services directly related to the scope of Software and Services described in the RFP, and no amendment shall be effective until all requisite signatures and approvals are obtained.

17.16. ORDER OF PRECEDENCE. In the event of an inconsistency or conflict between this Agreement and a Schedule or an attachment or exhibit thereto, the order of precedence shall be as follows and all documents are incorporated herein by this reference;

- This Agreement
- Exhibit A- Statement of Work
- Appendix 1-Key Measures of Performance, Effectiveness and Requirements
- Exhibit G- Contractor's Non-Disclosure Agreement
- Exhibit B- Insurance Requirements
- Exhibit C- Contractor Personnel
- Exhibit D- County Personnel
- Exhibit E- Contractor's License Agreement
- Exhibit F- Post Warranty, Maintenance and Support Agreement

17.17. WAIVER. The failure of either party to enforce any provision of this Contract or the waiver of any violation or nonperformance of this Contract in one instance shall not constitute a waiver by the party of that or any other provision nor shall it be deemed to be a waiver of any subsequent violation or nonperformance. No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and

signed by both parties and, with respect to County's waiver or consent all necessary Board of Commissioners approvals have been obtained. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

17.18. HEADINGS. The headings in this Contract are included only for convenience and shall not control or affect the meaning or construction of this Contract.

17.19. INTEGRATION. This Contract including attached Exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Contract.

17.20. NO PARTNERSHIP. This Contract is not intended, and shall not be construed, to create a partnership or joint venture between County and Contractor. Nothing in this Contract shall be construed to make County and Contractor partners or joint venture participants.

17.21. PUBLICITY. Contractor agrees that it will not disclose the form, content or existence of this Contract or any Product or Service in any advertising, press releases or other materials distributed to prospective customers, or otherwise attempt to obtain publicity from its association with County or the State of Oregon, whether or not such disclosure, publicity or association implies an endorsement by County or the State of Oregon of Contractor's services, without the prior written consent of County.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED BEFORE NECESSARY COUNTY APPROVALS.

**MARION COUNTY SIGNATURE  
BOARD OF COMMISSIONERS:**

Not Present At Meeting

Chair \_\_\_\_\_ Date \_\_\_\_\_

*Kiri Canan*

8-8-18

Commissioner \_\_\_\_\_ Date \_\_\_\_\_

*Paul A. Burt*

8-3-18

Commissioner \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

*Janna Swetts*

Department Director or designee

May 24, 2018

Date

Authorized Signature: \_\_\_\_\_

N/A

Chief Administrative Officer

Date

Reviewed by Signature: \_\_\_\_\_

*James E. Vetto*

Marion County Legal Counsel

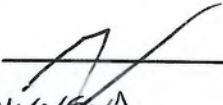
7/29/18

Date



Reviewed by Signature: Camber Sehlaj July 27, 2018  
Macon County Contracts & Procurement Date

**SHELTER BUDDY DBA SHELTER MANAGEMENT PTY LTD.**

Authorized Signature:  Date: August 10, 2018  
Title: MARK TOWNSEND  
CEO

**EXHIBIT A  
STATEMENT OF WORK**

**1. STATEMENT OF SERVICES**

Contractor shall perform Services as described below.

**A. GENERAL INFORMATION**

County Dog Shelter is a public shelter that accepts dogs that are lost, stray, dangerous and neglected throughout the County. The County attempts to return dogs to their families whenever possible. If this is not possible, the County returns healthy dogs to the community through shelter adoption or through the transfer of dogs to rescue partners.

County Dog Shelter is also responsible for ensuring county-wide public safety by enforcing local and state ordinances, dog rabies vaccinations requirements, and dog licensing as required under ORS 609.100. The County provides dog enforcement activities through a dispatch module with two field based Dog Officers.

**B. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE**

Contractor shall provide the County the services, resources, and tools to implement ShelterBuddy Pro, a comprehensive animal shelter management software system as proposed in proposal received in response to RFP C25102-CS-136-17 dated July 28, 2017. ShelterBuddy Pro is expected to replace the general functions of the County's current animal management system. ShelterBuddy Pro is expected to expand and enhance performance and functional offerings for Marion County's Dog Shelter now and in the near future. The community based end user experience, the staff user experience, data compilation and analysis, data protection, and disaster recovery are of the utmost importance to this Agreement.

**B.1. SCOPE OF WORK**

Contractor shall install and configure ShelterBuddy Pro software on a Contractor owned and operated server and configure the software for authorized Marion County personnel access and use. County employees will use County owned mobile and desktop devices.

The contractor, working with County staff, will migrate the last three (3) years of data including: Licensing, Hearing Records, Complaints, and Impounds as well as Accounts and Impound Scheduling from the County's current Animal Management System to ShelterBuddy Pro.

Contractor will provide training to select Marion County authorized personnel. The training will have a minimum of two components: a) training for system administrators and b) training for typical users, e.g. shelter managers, staff, and volunteers. Training will be conducted by in-person, video conferencing, or WebEx demonstrations. Training will cover ShelterBuddy Pro's basic module and other add-on modules the County purchases.

Future staff training will be conducted by Marion County staff using the train-the-trainer model and the deliverable materials in section B.4.3.4.

**B.2. DEFINITIONS**

**U.S. Business Day (Project Management):** is considered every official U.S. work day of the week. Standard County business hours are Monday through Friday, 0800-1700 (Pacific Standard Time)

**Business Day (Shelter Operations):** the Marion County shelter operates seven (7) days per week.

**Project Manager:** the individual in overall charge of the planning and execution of this particular project.

**WebEx:** on-demand collaboration, online meetings, web conferencing, and videoconferencing applications.

### **B.3. COORDINATION**

#### **B.3.1. ShelterBuddy Software Project Manager Responsibilities**

Contractor shall provide a project manager to be the Contractor's focal point during performance of this statement of work (SOW). The Contractor's project manager will:

- a. review the SOW, and any associated documents, with the County's project manager;
- b. establish and maintain communications through the County's project manager;
- c. create and administer an agreed upon project change control procedure with the County's project manager; and
- d. coordinate and manage the technical activities of the contractor's assigned personnel.

#### **B.3.2. Marion County Project Manager Responsibilities**

Prior to the start of the project, Marion County will appoint a person to serve as the County's project manager. County's project manager will serve as a communication conduit relative to the work the Contractor will provide and will have the authority to act on the County's behalf in all matters regarding this SOW. County's project manager will:

- a. serve as an interface between the Contractor's team and all County departments or offices participating in the work;
- b. attend status meetings;
- c. obtain and provide applicable information, data, consents, decisions, and approvals as required by the contractor to perform the work; and
- d. help resolve issues and escalate issues within the County's organization, as necessary.

### **B.4. TASKS**

#### **B.4.1. Project Initiation**

##### **B.4.1.1 Project Kickoff**

The purpose of this task is to facilitate a high-level project kickoff conference between County and the Contractor. The call will last up to two (2) hours and be held on a mutually agreed date and time. Contractor will provide the conference call system.

##### **Task – Conduct a Planning Session Conference Call**

Contractor's project team will:

- a. define the ShelterBuddy Pro team roles and responsibilities;
- b. explain the overall implementation process;
- c. review objectives, goals, and critical success factors;
- d. review completion criteria and critical dates;
- e. provide the County's project team with the implementation spreadsheet for review and completion;
- f. review implementation plans and identify the tasks to be completed;
- g. schedule the planning session; and
- h. discuss and determine the need and scope of the data migration.

##### **Completion Criteria:**

This task will be complete when the Contractor has conducted the planning session conference call.

##### **Deliverable Materials:**

- a. A draft copy of the conference call notes provided to the County's project manager within five (5) U.S. business days of call completion. Draft notes will be provided electronically using Microsoft Word 2007 or later.

- b. A final copy of the conference call notes provided to the County's project manager ten (10) days after receipt of Marion County comments to the draft notes. The final copy will be provided electronically in portable document format (.pdf).

#### **B.4.2. Project Planning**

The purpose of these tasks are to gather information from the County so that a detailed project plan for software implementation and training can be created.

##### **B.4.2.1. Task – Conduct a Planning Session**

Contractor shall conduct a planning session (up to four [4] hours) with County's staff in order to create a project plan. Topics should include:

- a. reviewing of the implementation spreadsheet provided during the planning session conference call;
- b. providing sufficient information so that the Contractor can create a detailed timeline for the project;
- c. identifying many of the system localization settings;
- d. identifying required reports, localization needs, and detailed requirements;
- e. identifying integration and process options;
- f. reviewing identified data from the County's current system to be imported into the application;
- g. identifying training dates, venues, times, and invitation lists;
- h. identifying project metrics and required checklists in preparation for "GO LIVE"; and
- i. selecting a tentative "GO LIVE" date based on information available.

##### **Completion Criteria:**

This task will be complete when Contractor has conducted the planning session.

##### **Deliverable Materials:**

- a. A draft project plan that identifies the critical path between the tasks provided to the County's project manager within ten (10) U.S. business days of planning session completion. The plan will be provided electronically using Microsoft Project 2013 or other mutually agreed office productivity software, e.g. Microsoft Excel.
- b. A draft staff resource plan within ten (10) U.S. business days of planning session completion. The list will be provided electronically in Microsoft Word 2007 or later.
- c. A draft list of the reports and localization needs within ten (10) U.S. business days of planning session completion. The list will be provided electronically in Microsoft Word 2007 or later.
- d. A draft list of training dates and proposed venues within ten (10) U.S. business days of planning session completion. The list will be provided electronically in Microsoft Word 2007 or later.

##### **B.4.2.2. Task – Configuration Planning**

Contractor shall conduct a configuration planning session (up to four [4] hours) with County staff to ensure County hardware, infrastructure, and security practices meets ShelterBuddy Pro prerequisites. The following topics will be discussed:

- a. County owned computers and mobile devices intended for use with the software have the necessary licensed software installed and meet minimum hardware specifications;
- b. configuration of ancillary access devices, such as signature pads, printers, wireless networking (Wi-Fi), cameras, tablets, and mobile devices as provided by the County;
- c. the final list of all selected fields in the County's current animal management system that will be migrated into ShelterBuddy Pro;
- d. synching requirements with other systems such as Adopt-a-pet and Petfinder;
- e. county staff roles and access privileges;
- f. integration with the County's point-of-sale system; and
- g. compatibility with County security policies and practices (see RFP C25102-CS-136-17, page 5 for an abbreviated list of network requirements).

**Completion Criteria:**

This task will be complete when Contractor has conducted the configuration planning session.

**Deliverable Materials:**

- a. A draft copy of the configuration meeting notes provided to the County project manager within five (5) U.S. business days of call completion. Draft notes will be provided electronically using Microsoft Word 2007 or later.
- b. A final copy of the configuration meeting notes provided to the County project manager ten (10) U.S. business days after receipt of County comments to the draft notes. The final copy will be provided electronically in portable document format (.pdf).
- c. A report providing information on the configuration of ancillary access devices. The report will be provided within ten (10) U.S. business days of configuration session completion. The report will be provided electronically in Microsoft Word 2007 or later.
- d. A report confirming the list of all fields that will be migrated. The report will be provided electronically in Microsoft Word 2007 or later within 15 U.S. business days of completion of the Configuration Planning session
- e. A letter or memorandum describing synching requirements with identified systems. The letter will be provided electronically in Microsoft Word 2007 or later within 20 U.S. business days of completion of the Configuration Planning session.
- f. A letter or memorandum describing the requirements to integrate with the County's point-of-sale system. The letter will be provided electronically in Microsoft Word 2007 or later within 20 U.S. business days.
- g. A letter or memorandum describing any improvements to the County's security practices to ensure County staff can access ShelterBuddy Pro at fixed or mobile locations. The letter will be provided electronically in Microsoft Word 2007 or later within 20 U.S. business days of completion of the Configuration Planning session.

**B.4.3. Project Execution**

The purpose of these tasks is to install, configure, and test the system; migrate data from the existing system to ShelterBuddy Pro; and provide training to County staff.

**B.4.3.1. Task – Install and Configure the System**

The purpose of this task is to install and configure ShelterBuddy Pro to meet County needs.

- a. Contractor shall install ShelterBuddy Pro and any additional modules purchased by the County on a Contractor provided server;
- b. Contractor shall configure the software based on initial inputs from the configuration planning session, participate in subsequent design sessions between the Contractor and County, or direction from the County's project manager;
- c. Contractor shall fine tune the localizations to reflect U.S. North American language in the systems administration module, as required;
- d. Contractor shall review firewall/security settings that may block ShelterBuddy Pro access; any ports are found blocked that are necessary for ShelterBuddy Pro access, the Contractor will inform the County's project manager. County's project manager will work to arrange the unblocking of ports;
- e. Contractor shall adjust user profiles, as required;
- f. Contractor shall ensure API connections with identified applications;
- g. Contractor shall work with the County's project team to ensure the ShelterBuddy Pro website, public facing, and back end interface functionality; and
- h. Contractor shall test backup and recovery systems.

**Completion Criteria:**

This task will be complete when Contractor has completed the installation and configuration of the software.

**Deliverable Materials:**

- a. A report describing the backup and recovery tests attempted or completed and the results of those tests. The letter will be provided electronically in Microsoft Word 2007 or later within 20 U.S. business days of the last test.
- b. An architecture description organized in a way that supports reasoning about the structures and behaviors of the system. The description will be provided electronically in Microsoft Word 2007 or later within 30 U.S. business days of configuration completion.
- c. A report describing ShelterBuddy Pro's ability to interface with identified County applications. The report should contain the required subroutine definitions, protocols, software libraries, tools, and other information necessary to create an application programming interface.

**B.4.3.2. Task – Migrate and Load Data**

The purpose of this task is to transfer identified data from the County's current animal management system to ShelterBuddy Pro.

- a. County will provide Contractor sample migration data. Contractor shall review the sample data and provide an estimated time to successfully migrate the data from the County's current system to ShelterBuddy Pro.
- b. At County's direction, Contractor shall transfer data from the County's current system to ShelterBuddy Pro.
- c. Contractor, working with the County's project team, will validate the data migration.

**Completion Criteria:**

This task will be complete when Contractor has completed the data migration and County verifies the migrated data was accurately translated, is complete, and supports processes in ShelterBuddy Pro.

**Deliverable Materials:**

- a. A mapping report showing where data in the County's old system was mapped into ShelterBuddy Pro. The report will be delivered prior to the County project team's validation effort. The report may be delivered in Microsoft Word 2007 or later or Microsoft Excel 2010 or earlier.

**B.4.3.3. Task – Reports**

The purpose of this task is for Contractor to develop or identify key reports requested by County.

- a. Contractor, working with the County's project team, shall identify key reports and work with the County's project team to determine if the reports should be ad hoc or prerecorded.
- b. Within the capabilities of the software, Contractor may be required to create report templates to support any unique day-to-day animal shelter functions, e.g. information on animal control hearings.
- c. Contractor shall train County personnel on creating ad hoc reports.
- d. Contractor shall train County personnel on creating and storing prerecorded reports.
- e. Contractor shall support testing prerecorded reports.

**Completion Criteria:**

This task will be complete when identified prerecorded reports are successfully tested.

**Deliverable Materials:**

- a. A list of all prerecorded reports created for County. The list will include definitions, as appropriate, for each field in each report. The report will be delivered in Microsoft Word 2007 or later prior to start of User Acceptance Testing.

**B.4.3.4. Task – Training**

The purpose of this task is for Contractor to train select County staff on the use and maintenance of the ShelterBuddy Pro software. County expects that the software will be installed and configured to a mutually agreed state before training begins.

The County requests on-site initial training, as allocated in the budget. The date and time of training will be agreed upon by both parties. County will provide in-house computer training facilities for training purposes.

- a. Contractor shall provide ShelterBuddy Pro software training to identified County staff and volunteers. Using Bloom's Taxonomy, training shall be to the application level, i.e. the student is able to use the software to perform his or her job, submit trouble tickets, and produce necessary reports.
- b. Contractor shall provide ShelterBuddy Pro software administration training for identified system administrators. Using Bloom's Taxonomy, training will be to the analysis level, i.e. the student understands the content and structural form of the ShelterBuddy Pro system and can analyze problems.

**Completion Criteria:**

This task will be complete when identified County managers, staff, volunteers, and system administrators have completed training, demonstrate required position level proficiency in the ShelterBuddy Pro software and selected modules and all training materials have been delivered.

**Deliverable Materials:**

- a. A copy of the training plan(s). The material may be delivered in Microsoft Word 2007 or later or Microsoft PowerPoint 2010 or earlier.
- b. A copy of the lesson plans, if available. The material may be delivered in Microsoft Word 2007 or later or Microsoft PowerPoint 2010 or earlier.
- c. Contractor shall provide quick reference sheets for use by staff in their day-to-day work assignments. The reference sheets will serve as an ad hoc memory aid for trained users. The material will be delivered in Microsoft Word 2007 or later.
- d. Video recordings of all training for future use. The videos will be delivered on USB flash drives. Media format will be compatible with VLC Media Player, e.g. AVI, MPEG-2, DVD-Video, MP4, etc.

**B.4.3.5. Task – User Acceptance Testing**

The purpose of this task is to ensure the Contractor's project team works closely with County's project team during acceptance testing. County will test the system using the key performance parameters (KPP), measures of effectiveness (MOE), and measures of performance (MOP) listed in Appendix 1 to this SOW.

- a. Contractor shall provide feedback on County's proposed test cases outlined in Appendix 1.
- b. At the request of the County's test team, a project team member from Contractor shall be on-call during specified acceptance tests. County will provide Contractor at least three (3) U.S. business days' notice.
- c. County will provide Contractor a list of deficiencies discovered during acceptance testing. Contractor shall provide a recommended remediation for each issue.

**Completion Criteria:**

This task will be complete when County's user acceptance testing is completed.

**Deliverable Materials:**

- a. If requested, a report providing feedback on use cases intended to test the system. The report will be delivered in Microsoft Word 2007 or later or Microsoft Excel 2010 or earlier.

- b. A written response to County's user acceptance test report. The response will include a recommended remediation for each issue reported. The report will be delivered in Microsoft Word 2007 or later.

#### **B.4.3.6. Task – Deployment Conference**

Contractor shall participate in a pre-deployment conference at a time and place agreed upon with County. Contractor will:

- a. confirm that:
  - (1) all three (3) key performance parameter questions (see Appendix 1) are answered "Yes"; any KPP answered "No" automatically stops deployment;
  - (2) not more than 1 of the 12 measures of effectiveness (MOE) is answered as "No." The contractor will explain the impact the deficient MOE will have on software deployment; and
  - (3) a measure of performance deficiency (MOP) does not adversely impact a MOE and that sufficient alternatives are in place to ensure no adverse impact to business operations.
- b. if applicable, provide data integrity reports listing user errors and recommendations for correction;
- c. recommend deployment or further actions that should be accomplished prior to final deployment, based on information available.

#### **Completion Criteria:**

This task will be complete when the pre-deployment conference concludes.

#### **Deliverable Materials:**

- a. A report of outstanding defects. The report will be delivered in Microsoft Word 2007 or later or Microsoft Excel 2010 or earlier.

#### **B.4.3.7. Task – Deployment**

Contractor shall deploy the ShelterBuddy Pro software on Contractor provided hardware. The deployed software will be configured as requested by County. In addition, selected data from the County's existing animal management system will be available to County in the deployed version. The software will be accessible through County supported web browser software.

#### **Completion Criteria:**

This task will be complete at the conclusion of a successful deployment.

#### **Deliverable Materials:**

- a. None.

#### **B.4.3.8. Task – Deployment Acceptance**

The contractor will provide a 30-day acceptance period before transitioning support to the support team.

#### **Completion Criteria:**

This task will be complete 30 days after successful deployment.

#### **Deliverable Materials:**

- a. None

#### **B.4.4. Project Monitor and Control**

The purpose of this task is to track, review, and report the overall progress of the project to meet the performance objectives defined in the project management plan.

##### **B.4.4.1. Task – Periodic Meetings**

- a. Contractor's project manager shall participate in weekly teleconferences with the County's project team. The intent of the teleconference is to review project progress, discuss risks



and issues, discuss upcoming tasks, and discuss other topics of interest to the project teams. Project managers from both parties will mutually agree on the day of the week, meeting start time, and meeting duration for these recurring teleconferences.

- b. Contractor's project manager shall participate in a monthly briefing to County executives. County's project manager will provide topics of interest from County executives to the Contractor's project manager they may prepare for the meeting.

**Completion Criteria:**

This task will be complete when the pre-deployment conference concludes.

**Deliverable Materials:**

- a. Contractor shall provide feedback on meeting notes within five (5) U.S. business days of receipt. Feedback may be embedded in the document provided.

**B.4.5. Project Close**

The purpose of this task is to finalize all activities for the project.

**B.4.5.1. Task – Post Deployment Conference**

- a. Contractor shall participate via teleconference in a post-deployment conference at a time and place agreed upon with County.

**Completion Criteria:**

This task will be complete when the post-deployment conference concludes.

**Deliverable Materials:**

- a. None.

**B.4.6. Custom Deliverable Tasks**

County may request Contractor perform additional customized deliverable tasks in relation to this software implementation. Any request will be coordinated with Contractor to ensure the requested tasks are within its capability and that the cost to fulfill the tasks does not exceed the County's budgeted amount.

**B.4.6.1. Task – Animal Control Hearings**

If County decides to exercise this optional task, Contractor shall provide a module designed to support animal control hearings. The module will:

- (a) support retention of local, County, and state codes that apply specifically to animal care and ownership;
- (b) support issuance of a citation for violation of applicable animal control codes;
- (c) allow select shelter staff to schedule animal control hearings, send citations, or hearing requests;
- (d) track the disposition of the hearing;
- (e) track bonds, fines, or conditions levied during a hearing;
- (f) retrieve animal behavior data from other ShelterBuddy Pro modules; and
- (g) dispose related citations based on hearing results.

**Completion Criteria:**

This task will be complete at the successful completion of user acceptance testing.

**Deliverable Materials:**

- a. To be determined when this task is authorized.

<b>General Tasks</b>	<b>Preliminary Completion Date</b>
Kick-off meeting	Within ten (10) U.S. business days of executed contract
Planning conference	Within ten (10) U.S. business days of completion of the kick-off meeting
Project schedule	Ten (10) U.S. business days after completion of the planning conference
Test and training environment available	Ten (10) U.S. business days after completion of configuration planning
System configuration	Ten (10) U.S. business days after completion of configuration planning
Data conversion uploaded and complete	No later than operational deployment of the software

<b>General Tasks</b>	<b>Preliminary Completion Date</b>
Training support	No later than 15 U.S. business days before planned deployment
Software Deployment	"Go-Live" on or about November 1, 2018
Deployment Acceptance	Thirty (30) U.S. business days after completion of deployment
Post deployment conference	No later than 20 U.S. business days after software deployment

### **C. SPECIAL REQUIREMENTS**

Contractor shall be solely responsible for and shall have control over the means, methods, techniques, sequences, and procedures of performing the work. Subject to the plans and specifications under this Contract, Contractor shall be solely responsible for the errors and omissions of its employees, subcontractors and agents.

Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession, and Contractor will apply that skill and knowledge with care and diligence to perform Services in a timely, professional and workmanlike manner in accordance with standards applicable to Contractor's industry, trade or profession.

## **2. COMPENSATION**

The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$103,163.00

### **A. METHOD OF PAYMENT FOR SERVICES**

County shall pay Contractor amounts not to exceed \$103,163.00 for completing all Services and delivering all Goods required under this Contract over the duration of this agreement.

### **B. BASIS OF PAYMENT FOR SERVICES**

County shall pay Contractor milestone payments for Services completed and accepted by County and upon the approval of Contractor's invoice by the County:

Milestone #1: Upon effective execution of this Agreement and receipt of the Contractor's invoice to County, County shall pay Contractor \$28,423.00. The first milestone payment includes the full payment for ShelterBuddy software for up to 30 concurrent users, ADHOC Reporting Module, Lost/Found Adoption Website, Online Licensing Module, Electronic Signature Capture, Virtual Shelter, and the Animal Training Module as detailed below.

Milestone #2: Upon successful implementation and "Go-Live" and County's receipt of the Contractor's invoice to County, County shall pay Contractor \$21,748.00. The second milestone payment includes the full payment for completed data migration, software licenses and monthly hosting, maintenance for year one commencing "Go-Live" date.

Additional Milestones: Subsequent milestone payments are based upon monthly hosting and module maintenance fees for year two through five as set forth in the following page of this agreement.

### **Cost Proposal Submission Form**

The costs provided in the table below are based on Contractor's revised quote where the software is hosted on ShelterBuddy™'s Software form as a Service (SaaS) and with a throughput of animals up to 4,000 per year.

**Cost for Animal Management Software Solution**

No.	Category	Description	Mths.	Price per month	Year	Year	Year	Year	Year
					1	2	3	4	5
1	<b>Software User</b>	ShelterBuddy software for up to 30 concurrent users	one time	\$0.00	\$12,750.00	\$0.00	\$0.00	\$0.00	\$0.00
		<b>Software User Sub-Total</b>			\$12,750.00	\$0.00	\$0.00	\$0.00	\$0.00
2	<b>Services</b>	Mthly hosting fee for Software based on adopted animal numbers of 1,600-3,200	12	\$240.00	\$2,880.00	\$2,880.00	\$2,880.00	\$2,880.00	\$2,880.00
		Mthly maintenance fee for ShelterBuddy Software	12	\$372.00	\$4,464.00	\$4,464.00	\$4,464.00	\$4,464.00	\$4,464.00
		ADHOC Reporting Module	one time	\$0.00	\$3,730.00	\$0.00	\$0.00	\$0.00	\$0.00
		Mthly maintenance fee for ADHOC Reporting	12	\$199.00	\$2,388.00	\$2,388.00	\$2,388.00	\$2,388.00	\$2,388.00
		Lost/Found and Adoption Website	one time	\$0.00	\$2,950.00	\$0.00	\$0.00	\$0.00	\$0.00
		Mthly maintenance fee for L/Found & Adoption Website	12	\$95.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00
		Online Licensing Module	one time	\$0.00	\$4,700.00	\$0.00	\$0.00	\$0.00	\$0.00
		Mthly maintenance fee for Online Licensing	12	\$198.00	\$2,376.00	\$2,376.00	\$2,376.00	\$2,376.00	\$2,376.00

		Electronic Signature Capture	one time	\$0.00	\$1,395.00	\$0.00	\$0.00	\$0.00	\$0.00
		Virtual Shelter	Est. cost only	\$0.00	\$1,200.00	\$0.00	\$0.00	\$0.00	\$0.00
		Animal Training Module	one time	\$0.00	\$1,698.00	\$0.00	\$0.00	\$0.00	\$0.00
		<b>Services Sub-Total</b>			<b>\$41,671.00</b>	<b>\$13,248.00</b>	<b>\$13,248.00</b>	<b>\$13,248.00</b>	<b>\$13,248.00</b>
3	<b>24/7 Support</b>	The charge for these services is included in the maintenance fee for ShelterBuddy Software		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	<b>After Hrs. Support</b>			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	<b>Saturday Support</b>			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	<b>Sunday Support</b>			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		<b>Support Sub-Total</b>			<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
4	<b>Training</b>	In person training			\$0.00				
		<b>Training Sub-Total</b>			<b>\$0.00</b>				
5	<b>Data Migration</b>	Estimated cost only			\$8,500.00	\$0.00	\$0.00	\$0.00	\$0.00
		<b>Data Migration Sub-Total</b>			<b>\$8,500.00</b>				
6	<b>Other</b>				\$0.00				
Total Price for year one with 24/7/365 support, and in-person training \$50,171.00									
Total Price with 5 years \$103,163.00									

**C. EXPENSE REIMBURSEMENT**

County will not reimburse Contractor for any expenses not specifically delineated under this Contract.

**D. GENERAL PAYMENT PROVISIONS**

Notwithstanding any other payment provision of this contract, failure of the Contractor to submit required reports when due, or failure to perform or document the performance of contracted services, may result in withholding of payments under this contract. Such withholding of payment for cause shall begin thirty (30) days after written notice is given by the County to the Contractor, and shall continue until the Contractor submits required reports, performs required services or establishes, to the County's satisfaction, that such failure arose out of causes beyond the control, and without the fault or negligence of the Contractor.

**E. INVOICES**

Contractor shall send all invoices to County's Contract Administrator at the **email address** specified below or to any other address as County may indicate in writing to Contractor.

Marion County  
Attn: Community Services Department  
Krista Ulm  
P.O. Box 14500, Suite 3120  
Salem, OR 97309  
[csreporting@co.marion.or.us](mailto:csreporting@co.marion.or.us)

## Exhibit B INSURANCE REQUIREMENTS

### INSURANCE.

A. REQUIRED INSURANCE. Contractor shall obtain at Contractor's expense the insurance specified in this section prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

i. WORKERS COMPENSATION. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

ii. PROFESSIONAL LIABILITY. Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

Required by County     Not required by County.

- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

iii. CYBER LIABILITY. Covering network security, breach of data, and coverage for regulatory fines and fees imposed against County due to failures in products and services provided under this Contract. Cyber Liability coverage must include errors, omissions, negligent acts, denial of service, media liability (including software copyright), dishonesty, fraudulent or criminal acts by a person or persons whether identified or not, intellectual property infringement, computer system attacks, unauthorized access and use of computer system, regulatory actions, and contractual liability.

Required by County     Not required by County.

- \$2,000,000 Per occurrence limit for any single claimant; and
- \$5,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Information Technology Director and Risk Manager

iv. COMMERCIAL GENERAL LIABILITY. Covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

Required by County     Not required by County.

**Bodily Injury/Death:**

- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager
- \$500,000 Per occurrence limit for any single claimant
- \$1,000,000 Per occurrence limit for multiple claimant

v. AUTOMOBILE LIABILITY INSURANCE. Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

- Required by County**     **Not required by County.**

**Bodily Injury/Death:**

- Oregon Financial Responsibility Law, ORS 806.060 (*\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury*).
- \$500,000 Per occurrence limit for any single claimant; and
- \$1,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

B. ADDITIONAL INSURED. The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. NOTICE OF CANCELLATION OR CHANGE. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days written notice from this Contractor or its insurer(s) to County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by County.

D. CERTIFICATE(S) OF INSURANCE. Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**EXHIBIT C**  
**CONTRACTOR PERSONNEL**

Contractor and County agree that each individual specified below is an individual whose special qualifications and involvement in Contractor's performance of Services form part of the basis of agreement between the parties for this Contract and is an individual through whom Contractor shall provide to County the expertise, experience, judgment, and personal attention required to perform Services ("Key Person"). Each of the following is a Key Person under this Contract:

Authorized Representative:

Mark Townend  
Chief Executive Officer  
mtownend@rspcaqld.org.au  
Locked Bag 3000, Archerfield BH QLD 4108 Australia  
Phone 001-07-3426-9935

Project Manager:

Sheila Collecott  
Project Manager  
139 Wacol Station Rd Wacol QLD 4076 Australia  
Phone 1-866-886 3397  
scollecott@rspcaqld.org.au

Neither Contractor nor any Key Person of Contractor shall delegate performance of Services that any Key Person is required to perform under this Contract to others without first obtaining County's written consent. Further, Contractor shall not, without first obtaining County's prior written consent, re-assign or transfer any Key Person to other duties or positions so that the Key Person is no longer available to provide County with that Key Person's expertise, experience, judgment, and personal attention. If Contractor requests County to approve a re-assignment or transfer of a Key Person, County shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person. Any individual County approves as a replacement for a Key Person is deemed a Key Person under this Contract.



**EXHIBIT D  
COUNTY PERSONNEL**

Authorized Representative:

Tamra Goettsch  
Director of the Community Services Department  
P.O. Box 14500, Suite 3120, Salem, Oregon 97309  
503-589-3200  
tgoettsch@co.marion.or.us

IT Project Manager:

Sara Brooks  
IT Systems Analyst  
P.O. Box 14500, Suite 4130, Salem, Oregon 97309  
503-576-7160  
sbrooks@co.marion.or.us

Tiffany Wallace  
Dog Shelter Contact  
P.O. Box 14500, Dog Shelter, Salem, Oregon 97309  
503-566-5989

Danielle Gonzalez  
Management Analyst  
P.O. Box 14500, Suite 3120, Salem, Oregon 97309  
503-589-3235  
dgonzalez@co.marion.or.us

The County reserves the right to alter or substitute personnel available as necessary.

**EXHIBIT E  
CONTRACTOR'S LICENSE AGREEMENT**

**Software Licensing Agreement**

This Software Licensing Agreement is dated August 1, 2018

**BETWEEN:**        **Shelter Management Pty Ltd ("Licensor")**  
                         **109-139 Wacol Station Road, Wacol, Qld, 4076**

**AND: Marion County, a political subdivision of the state of Oregon**  
                         **("Licensee")**

**(Together the "parties")**

**Recitals:**

- A.     The Licensor is a proprietary company, registered in the State of Queensland, Australia and is primarily involved with the development, maintenance and marketing of software and database services for the not for profit industry, specializing in the animal welfare industry. The Licensor has developed certain software, as described in annexure 1 ("Software"), which it supplies to users for the administration and management of animal shelters, and provides certain services related thereto, as described in annexure 2 ("Services").
- B.     The Licensee is based in the Marion County, in the State of Oregon of the United States of America and is charged with the responsibility, amongst other things, of promoting the welfare of animals. The Licensee wishes to be licensed by the Licensor to use the Software and for Licensor to provide the Services, which the Licensor has agreed to do subject to the terms and conditions set out in this Agreement.

**THE PARTIES AGREE AS FOLLOWS:**

**1.     Definitions and Interpretation**

1.1    For the purposes of this Agreement, unless the context otherwise requires -

**"Chief Executive Officer"** means the most senior executive officer, by whatever name called;

**"Confidential Information"** includes all business, commercial, technical and other information of a confidential or private nature, in whatever form. In the case of the Licensee, the term includes any and all information that is not in the public domain concerning its customers, operations, procedures, suppliers, officers, employees, contractors, benefactors, revenue, costs of carrying on its operations and assets and liabilities;

**"Contract Consideration"** means Contract Price and Reimbursable;

**"Contract Price"** means the amount to be paid by the Licensee to the Licensor for the provision of the Software and, where applicable, for Services, as specified or described in annexure 2;

**"Intellectual Property Rights"** includes copyright, trademark, design, patent, semiconductor and circuit layout rights;

**"Reimbursables"** means the expenses incurred by the Licensor in meeting its obligations under this Agreement, for which the Licensee is responsible, as specified or described in annexure 2;

**"Services"** means the services (if any) specified in annexure 2, which are to be provided by the Licensor to the Licensee;

**"Software Licence"** means the licence granted hereunder by the Licensor to the Licensee to use the Software;

**"Term"** means the period (if any) specified in annexure 2 for the provision by the Licensor of the Services.

## 1.2 In this Agreement:

- (a) headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
- (b) a reference to any party includes that party's executors, administrators, successors, substitutes and assigns, including any person taking by way of novation;
- (c) a reference to this Agreement or to any other agreement or document includes, respectively, this Agreement or that other agreement or document as amended, novated, supplemented, varied or replaced from time to time;
- (d) the term "including" means "including without limitation";
- (e) words importing the singular include the plural (and vice versa), words denoting a given gender include all other genders, and words denoting individuals include corporations (and vice versa);
- (f) a reference to a clause or an annexure is a reference to a clause of or annexure to this Agreement; and
- (g) references to currency are references to currency of the United States of America unless otherwise specifically provided.

## 2. Intellectual Property

- 2.1 The Licensor will upon payment therefor by the Licensee (as specified elsewhere in this Agreement) supply the Software to the Licensee in the form specified in Annexure 1 to this Agreement. The Parties acknowledge and agree that:
  - (a) the Licensor will remain the sole owner of the Software and all Intellectual Property Rights associated with the Software;
  - (b) subject to the other provisions of this Agreement, the Licensor hereby will in supplying the Software grant to the Licensee a non-exclusive worldwide perpetual licence to use the Software for the number of concurrent users and in the manner specified in Annexure 2;
  - (c) the Licence does not extend to, and the Licensee will not receive, any source code;
  - (d) the Licensee must not assign or sublicense the Software or any part thereof without the prior written approval of the Licensor, which may be withheld or granted, with or without conditions, in the absolute discretion of the Licensor.
- 2.2 The Licensor will own the Intellectual Property Rights in any training materials supplied by it but the Licensee will have the perpetual right to use that material for the purpose of further training its personnel.
- 2.3 All work processes, procedures and methodologies introduced and developed by the Licensor in carrying out the Services will be proprietary to the Licensor but the Licensor grants to the Licensee a non-exclusive worldwide perpetual royalty free licence to use the same.
- 2.4 In the event that the Licensor makes any general modifications or improvements to the Software, it will offer to make such general modifications or improvements to the Licensee for no additional consideration (except for the Licensor's actual costs incurred in making the same available to the Licensee). This does not affect the Licensor's right to charge an agreed consideration for modifications or improvements to the Software made at the request of the Licensee. The Licensee is not permitted to

make any amendments or changes to the Software except for that allowed via the Administration module (as described in Annexure 1).

- 2.5 The Licensor warrants that the Software does not infringe the Intellectual Property Rights of any third party. The Licensor must fully indemnify the Licensee against any loss, costs, expenses, demands or liability, whether direct or indirect, which arise out of a claim by a third party that the Software infringes any Intellectual Property Rights of that third party. In the event of such a claim –
- (a) without prejudice to the Licensee's right to defend a claim alleging infringement of the Intellectual Property Rights of any person, the Licensor will if requested by the Licensee conduct the defence of a claim alleging an infringement at the Licensor's expense;
  - (b) the Licensee will observe the reasonable directions of the Licensor relating in any way to that defense or to negotiations for settlement of the claim; and
  - (c) the Licensee will provide the Licensor with reasonable assistance in conducting the defence of a claim if requested to do so, at the Licensor's expense.

### **3. Services**

- 3.1 The Licensor will provide the Services in accordance with that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced Australian, Canadian or American recognized operations engaged in the same type of undertaking under the same or similar circumstances and conditions.
- 3.2 The Licensor will consult as reasonably necessary with the Licensee in order to provide the Licensee with such information as it reasonably requires concerning the current and anticipated future performance of the Software.
- 3.3 The Licensee will make available to the Licensor all third party software licences, and supporting documents if such material is necessary, for the Licensor to perform its obligations under this Agreement.

### **4. Other things to be supplied by the Licensor**

- 4.1 The Licensor will in conjunction with the supply of the Software supply to the Licensee such other items or things as are specified in annexure 2.

### **5. Assignment by the Licensor**

- 5.1 The Licensor may by written notice to the Licensee at any time, assign both its rights and its obligations under this Agreement, in which case the assignee will be novated to this Agreement in place of the Licensor. Any such assignment without such written notice shall be null and void.

### **6. No implied warranties**

- 6.1 Except as expressly provided in this Agreement, the Licensor gives no warranty whatsoever in respect of the Software or its suitability for the Licensee's use, and except to the extent otherwise required by applicable law, all implied warranties are hereby excluded.
- 6.2 The Licensor will under no circumstances whatsoever be liable for consequential or indirect loss or damage of any kind arising out of or in any way connected with the Software or the Services or the performance of or failure to perform the provisions of this Agreement.

### **7. Payments**

- 7.1 The Licensee must pay to the Licensor the Contract Price and any Reimbursables upon receipt of duly issued invoices therefor. Such payments must be made the amount within thirty (30) days of receipt of an invoice.

- 7.2 If the Licensee disputes the whole or any portion of the amount claimed in an invoice submitted by the Licensor, the Licensee must pay the portion of the amount stated in the invoice which is not in dispute and notify the Licensor in writing within seven (7) days of becoming aware of such dispute, of the reasons for disputing the remainder of the invoice. The Licensee must pay the remainder of the invoice (or such other amount as is determined to be the correct amount) within seven (7) days of the settlement of the dispute by agreement of the parties or otherwise in accordance with this Agreement.
- 7.3 If any withholding tax must be withheld from the Contract Consideration or if value added tax or other tax (other than a tax that relates to income) is payable on the Contract Consideration, then the Licensor may increase the Contract Consideration or the relevant part thereof by the amount of such withholding tax or value added or other tax which must be withheld by the Licensee or paid by the Licensor.
- 7.4 Notwithstanding the other provisions of this clause 7, in the event that the Licensee is unable during the first three years of the Term for a period of not less than five (5) consecutive days to operate the Software substantially in the manner described in Annexure 1, and such inability is the direct result of the non-performance by the Licensor of its obligations to provide the Software or the Services (whether or not arising from Force Majeure, as described in clause 11), then the Licensor must refund a percentage of the Contract Price, calculated as being 10% of the Contract Price (excluding any part of the Contract Price that relates to the ongoing provision of Services) for each period of five (5) consecutive days of non-performance by the Licensor of its obligations to provide the Software and the Services. The monthly monitoring and maintenance fees will also be waived for the corresponding period.

## **8. Confidentiality**

- 8.1 Neither party may access or have possession or control of the Confidential Information of the other unless and to the extent that this is necessarily required for the purposes of this Agreement. Each party acknowledges that it there may be times where access to or possession or control of Confidential Information of the other is necessarily required for the purposes of this Agreement, and the provisions of this clause 8 will apply thereto.
- 8.2 Neither party will at any time before or after the termination of this Agreement disclose, furnish or make accessible to any person, firm or corporation in any manner whatsoever or use for its own benefit, except in accordance with the terms and conditions of this Agreement, Confidential Information of the other or any part thereof unless the other party has given its prior written consent or unless required by applicable law. Where one party has possession or control of Confidential Information of the other, it must ensure that it does not violate, or cause the other party to violate, applicable privacy legislation in respect of the Confidential Information in its possession or under its control.
- 8.3 Each party will cause its employees, agents and any other persons permitted access to any Confidential Information for the purposes of this Agreement to observe and comply with the confidentiality and non-disclosure requirements of the Agreement as if in each case they were the party concerned. If required by the other party, a party that has possession or control of Confidential Information of the other will cause any of its employees, agents or other persons that it permits to have access to such Confidential Information to execute and deliver an acknowledgment and undertaking for the purposes of this clause reasonably acceptable to the other party.
- 8.4 Each party must ensure all Confidential Information and materials of the other party that are in its custody for purposes concerned with this Agreement will be:
- (a) protected at all times from unauthorized access or use by a third party, or misuse, damage or destruction by any person; and
  - (b) to the extent that they are not authorized by, or required to be retained for the purposes of, this Agreement, returned, upon request, to the other party, along with evidence reasonably acceptable to the other party that it no longer has any of such Confidential Information in its possession or control.

## **9. Disputes**

- 9.1 Any dispute arising in connection with this Agreement, which cannot be settled by negotiation between the parties or their representatives, must be referred to the parties' Chief Executive Officers for consideration and attempted resolution.
- 9.2 If the parties' Chief Executive Officers cannot resolve the dispute after five (5) business days (or such other period as is agreed between the parties) from the date of referral, the parties may only commence legal proceedings once an arbitration process involving an independent arbitrator mutually agreeable to the parties has failed to resolve the dispute.
- 9.3 Nothing in this clause will prevent a party from seeking urgent equitable relief before any appropriate court.

## **10. Termination**

- 10.1 Where Services are to be provided by the Licensor (as specified in annexure 2), they will be supplied for the Term.
- 10.2 Without prejudice to any other rights either party may have under this Agreement or at law, and notwithstanding any other provision herein, either party ("Non-Defaulting Party") may terminate this Agreement immediately by notice in writing, if the other party ("Defaulting Party") is in breach of any material term and every endeavour is not made to ensure such breach is remedied to the reasonable satisfaction of the Non-Defaulting Party within 30 days of receipt of written notice by the Defaulting Party.
- 10.3 Either party may terminate this Agreement as follows:
- (a) upon the other party becoming insolvent, bankrupt, or making an assignment, proposal or an arrangement for the benefit of its creditors or becoming the subject of liquidation or winding up proceedings (other than for the purposes of re-organization or amalgamation); or
  - (b) upon a receiver, trustee, liquidator, administrator or custodian being appointed over the undertaking or assets of the other Party.
- 10.4 This Agreement may be terminated at any time by the express mutual written agreement of both Parties.
- 10.5 The termination of this Agreement for whatever cause will not affect any obligations or rights that have been incurred or accrued at the time of the termination or the provisions of clauses 2.1, 2.2, 2.3, 2.5, 6, 8 and 10.5, which will continue in operation.

## **11. Force Majeure**

- 11.1 Subject to the provisions of clause 11.2, except for circumstances of its own negligence neither party will be liable for its failure to perform any of its obligations under this Agreement due to a cause beyond its reasonable control (except those caused by a lack of funds) including, but not limited to Acts of God, fire, flood, explosion, strikes, lock outs or other industrial disturbances, laws, rules and regulations or orders of any duly constituted government authority or non-availability of materials or transportation (each a "**Force Majeure Event**").
- 11.2 All time limits imposed by this Agreement will be extended by a period equal to the period of delay resulting from a Force Majeure Event.

## **12. General**

- 12.1 The Parties must sign all documents and do all things necessary or desirable to give effect to this Agreement and will procure its officers, employees and agents to declare, make or sign all documents and do all things necessary or desirable to give full effect to this Agreement.

- 12.2 This Agreement constitutes the entire Agreement and supersedes all previous understandings, expectations, communications, representations and agreements, whether verbal or written, between the parties with respect to the subject matter.
- 12.3 Any modification to this Agreement to be effective must be in writing and signed by the parties.
- 12.4 If any provision of this Agreement is for any reason declared or held invalid under any applicable statute or rule of law, that provision is to be severed from this Agreement and its invalidity will not affect the validity of any remaining portion of this Agreement.
- 12.5 This Agreement will enure to the benefit of and be binding upon the Licensor and the Licensee and their respective successors.
- 12.6 This Agreement is to be exclusively governed, construed and enforced in accordance with the laws of the State of Oregon. Each of the parties hereby irrevocably submits to the exclusive jurisdiction of the courts of that State and of courts that may hear appeals therefrom.
- 12.7 No consent or waiver, expressed or implied, by either party to or of any other breach or default by the other party in the performance by the other party of its obligations hereunder is to be deemed or construed to be a consent or waiver to or if any other breach or default in the performance by the other party hereunder.
- 12.8 All notices, requests, demands or directions to one party by another must be in writing indicating that such notice, request, demand or direction is being given pursuant to this Agreement and delivered or sent by registered second day mail or receipted courier service.

**IN WITNESS WHEREOF** the parties have entered into this Agreement on the date described above.

**Signed** for and on behalf     )  
of the Licensor before me:    )

**Signed** for and on behalf     )  
of the Licensee before me:    )

## ANNEXURE 1 – SOFTWARE

- The Software is a relational database designed specifically for the Animal Welfare and Animal Management Industries.
- The Software has been developed utilizing the expertise of people within the animal industry from one of the largest Animal Welfare organizations in Australia.
- The Software uses some of the latest Internet technology to display information stored on a central server to any computer with Internet access and required security access. ASP security ensures only people with a username and password can use the system. If a person attempts to log in without these necessary details, they will be locked out of the system. By using ASP Cookies, the IP address of the terminal is saved, allowing the user to be tracked.
- The database is written in SQL and is designed to operate on Microsoft SQL Server.
- Users can access the database via a Web Browser, which sends ASP commands to the server. The ASP commands then use SQL programming language to connect to the database and make the required changes or perform the requested action.
- The fact that the SQL based database uses ASP commands means the database can utilize any number of other browser based applications. It is this technology that provides the web-enabled capacity of the software allowing it to integrate in real-time with such applications as a public access Lost and Found website.
- The package includes the following Department modules:
  - Shelter Operations
  - Cruelty Complaint Investigation – Dispatch
  - Veterinary Services
  - Fundraising and Membership
  - Human Resource Management
  - Volunteers
  - Foster Care and Wildlife
  - Dog Obedience
- The Software is also provided preloaded with:
  - A minimum of 150, department specific, reports as well as numerous various forms and printable histories.
  - A section for generating receipts.
  - A section for administrator access and control referred to as the Administration module.
  - A comprehensive online Help manual.



## ANNEXURE 2 – CONTRACT SPECIFICATIONS

- 1. Software configuration:** The Software will be loaded onto the local server of the Licensee's choice and deployed from that location.
- The Software will be deployed at an ISP reasonably acceptable to the Licensor ("Host ISP"), being an ISP having the expertise and capability to provide a hosting service reliably and professionally.
- The licence is for a maximum of 30 concurrent users.
- There is no limit to the number of registered users.
- 2. Services to be provided by Licensor and Host ISP:** The Licensor must ensure that a reputable, reliable ISP, reasonably acceptable to the Licensee, is nominated as the Host ISP and must use all reasonable endeavours to ensure that the Host ISP continues to carry out the Services set hereunder in this section 2. The Licensor will be responsible for the supply and deployment of the Software (using third party contractors supplied by the Licensor at its expense) on the server located at the Host ISP.
- The hosting fee is at the level reasonably determined by the Host ISP, currently for the recommended Host ISP \$240.00 per month based on the estimation of 1,600-3,200 animals per year. The Licensor must use reasonable endeavours to procure that the Host ISP will charge hosting fees of a magnitude that is not materially greater than the current fee (adjusted for inflation and any material change in the magnitude of the Software deployment).
- 3. Other things to be provided by Licensor:** The Licensor must supply the Shelter Buddy Information and Training Materials.
- The Licensor must ensure access to a toll free phone number for support, with support to be provided via telephone and the internet.
- The Licensor must procure (using third party contractors supplied by the Licensor at its expense) the personal training of all staff at Licensee's site, as set out in attachment 1.
- The Licensor must procure (using third party contractors supplied by the Licensor at its expense) the personal intensive training for all staff that have full administrative access at Licensee's site, as set out in attachment 1.
- The Licensor must ensure access to a training/development website.

**4. Contract Price:** The negotiated purchase price for the selected Software, modules and initial set up on the site when hosted by the provider/ISP recommended by the Licensor is \$28,423.00. Data migration by the Licensor of selected Licensee data is \$8,500.00.

An ongoing annual maintenance and support fee of \$13,248.00 for the Services and for the other things provided or procured by the Licensor as set forth in Section 3.

The maintenance and support fee is annually invoiced by the Licensor and paid by the Licensee by check or ACH transaction commencing after the first full month post the successful "Go Live" date as evidenced by Licensee's acceptance of the Software in writing. The Licensor's invoice must be an itemized invoice that provides dates of the Services to be provided. Please see page 30-31 of this agreement for invoicing.

**5. Reimbursables:** No items such as sustenance, accommodation and travel incurred by the Licensor or Licensor's third party contractors will be reimbursed under this agreement.

**6. Term:** The agreement runs for **5 years** from the date both parties have signed this Agreement.

For the purposes of clause 7.4, the Term runs from the date agreed as the commissioning date ("Commissioning Date"), being the date the parties agree that the Software should be installed and operating according to agreed parameters, as indicated in the preceding agreement.

The Commissioning Date is August 1, 2018, provided that the parties must consult together and amend this date where circumstances beyond the Licensor's control reasonably require.

The Licence for use of the Software is perpetual.

**7. Nominated details for notices-** **Licensor:** Shelter Management Pty Ltd [ShelterBuddy]

109-139 Wacol Station Road, Wacol, Qld, 4076

**Licensee:** Marion County, a political subdivision of the state of Oregon, United States of America

**EXHIBIT F  
MAINTENANCE, SUPPORT AND SERVICE AGREEMENT**

SERVICE LEVEL AGREEMENT



**The Animal Shelter Database System**

SERVICE LEVEL AGREEMENT (SLA)  
SHELTERBUDDY HOSTING

SHELTER MANAGEMENT PTY LTD

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## Agreement Overview

This Agreement represents a Service Level Agreement (“SLA” or “Agreement”) between Shelter Management Pty Australian Company Number 107 488 620 and County for the provisioning of IT services required to support and sustain the hosting of the ShelterBuddy® system.

This Agreement is to come into effect on August 1, 2018 (“Effective Date”) and remains valid until the contractual obligation terminates.

This Agreement outlines the parameters of all IT services covered as they are mutually understood by the primary stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

## Stakeholders

The following Service Provider and Customer are hereby entering into the Agreement and represent the primary stakeholders associated with this SLA:

Service Provider: Shelter Management Pty Ltd (“Service Provider”)

Customer: Marion County (“County”)

## Goals and Objectives

The purpose of this Agreement is to ensure that the proper elements and commitments are in place to provide a consistent hosting service and support to the Customer by the Service Provider, it being intended that IT service provision by the Service Provider will be upon a mutually agreed basis.

Without limitation, it is intended to:

- Provide clear reference to service ownership, accountability, roles and/or responsibilities;
- Present a clear, concise and measurable description of service provision to the Customer; and
- Match perceptions of expected service provision with actual service support and delivery.

## Periodic Review

This Agreement is valid from the Effective Date outlined above and is valid until further notice. This Agreement should be reviewed at a minimum once per fiscal year; however, in the event that it is not reviewed during any period specified, the current Agreement will remain in effect.

Contents of this Agreement may be amended as required, provided mutual agreement is obtained in writing from the primary stakeholders and communicated to all affected parties. The Agreement will incorporate all such revisions once they have been mutually agreed in writing by the Service Provider and the Customer.

## Service Agreement

The following detailed service parameters are hereby agreed:

### Service Scope

The following services are to be supplied by the Service Provider:

- Manned telephone support;
- Monitored email support;
- Remote assistance using Remote Desktop and a Virtual Private Network where available; and
- Ongoing vendor security patches and system health check.

### Customer Requirements

The responsibilities and/or requirements of the Customer under this Agreement include:

- Payment for all support costs at the agreed interval;
- Reasonable availability of customer representative(s) when resolving a service related incident or request; and
- Responsibility for isolating and rectifying technical faults within their own Network infrastructure, equipment and software.

### Service Provider Requirements

The responsibilities and/or requirements of the Service Provider under this Agreement include:

- Meeting response times associated with service related incidents.
- Appropriate notification to Customer for all scheduled maintenance.
- Target service availability of 99.95%

### Service Assumptions

Assumptions related to in-scope services and/or components include:

- Changes to services will be communicated to all stakeholders.

### Service Management

Effective support of in-scope services is a result of maintaining consistent service levels. The following sections provide relevant details on service availability, monitoring of in-scope services and related components.

#### Planned Service Outage Notifications

The ShelterBuddy® license includes a regular software maintenance plan. Routine maintenance is performed every week in the following schedule:

Region	Window
US / CA	Every Tuesday 9.00pm to 1.00am PST
AU / NZ	Every Tuesday 9.00pm to 1.00am AEST

This is a planned service outage to conduct necessary maintenance and upgrades to ShelterBuddy® software and any vendor released non critical updates (e.g. Microsoft windows patches). The Service Provider will notify the customer in a reasonable time frame on all planned service outages.

In circumstances where an emergency service outage is required, the Service Provider reserves the right to undertake the service outage without notice. In such cases, the Service Provider will endeavour to notify the Customers prior to any service outage. An example of such case is where a vendor has released a security patch that is a critical security concern to be applied as soon as possible.

### Service Availability

Coverage parameters specific to the service(s) covered in this Agreement are as follows:

- Telephone support: 24 hours a day / 7 days a week for all urgent / critical issues via the ShelterBuddy® support line (for contact number see <http://shelterbuddy.com/support.htm>).
- Email support for non-urgent / critical issues to support@shelterbuddy.com.

### Service Credits

Service credits are calculated as a percentage of the monthly hosting charges paid by the Customer in the affected monthly billing cycle in which the unavailability occurred (outside of the normal maintenance windows) in accordance with the schedule below:

Monthly Uptime Percentage	Service Credit Percentage
Less than 99.95% but equal to or greater than 99.0%	10%
Less than 99.0%	20%

### Service Requests

In support of services outlined in this Agreement, the Service Provider will respond to service related incidents and/or requests submitted by the Customer within the following time frames:

Incident Severity	Definition	Required Time To Respond	Status Reports	Target Resolution Time
<b>Catastrophic</b>	Defects that could (or did) cause disastrous consequences for the system. E.g. critical loss of data, critical loss of system availability, critical loss of security, critical loss of safety, etc.	1 Hour	Every Hour	4 Hours or less
<b>Major</b>	Incident that could (or did) cause very serious consequences for the system. E.g. Long load times forcing or intermittent errors where the system is still available but difficult to use.	2 Hour	Every Hour	8 hours or less
<b>Minor</b>	Incidents that could (or did) cause small or negligible consequences for the system. Easy to recover or workaround.	1 Week	Upon request	
<b>No Effect</b>	Trivial incident that can cause no negative consequences for the system and the system is usable.	1 Week	Upon request	

## Data Storage, Backup & Security

### Backup

The Service Provider takes a daily snapshot and does rolling 5 minute transaction logging. The Service Provider stores 35 days of backups, and can restore to any point between the last transaction log (worse case is 5 minutes prior to the current time) and the oldest snapshot (35 days). With regards to uploads / documents / shared files, the Service Provider will copy these to multiple servers, so there are duplicate copies at any point in time.

### Security

Externally the network can only be accessed via the load-balancer which exposes only web and secure web connections. There is a dedicated VPN from the Service Provider's head-office set up so that the Service Provider's staff can connect internally. However, this can only be done from the Service Provider's network.

### Data storage

The Service Provider will provide 100GB of storage (including revisions) for the Customer's site. The usage is monitored, and if required more storage can be provided as part of the regular system health check.

### Ownership of Data

Client data remains the property of the Client at all times. Client data cannot be accessed by any other third party unless prior consent is arranged. Access to the client data is required from time to time by the Service Provider's staff for the purpose of upgrades to software or fault diagnosis / resolution.



# EXHIBIT G CONTRACTOR NON-DISCLOSURE CERTIFICATION



## MARION COUNTY

555 Court Street NE, Suite 4250 • Salem, OR 97301 • PO Box 14500 • Salem, OR 97309

### MUTUAL CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT BETWEEN MARION COUNTY AND SHELTER MANAGEMENT PTY LTD

This Mutual Confidentiality and Nondisclosure Agreement ("Agreement") is entered into by and between the MARION COUNTY, an county of Oregon State government, and SHELTER MANAGEMENT PTY LTD ("VENDOR"). VENDOR and MARION COUNTY are sometimes referred to individually as a "Party" and collectively as the "Parties."

The Parties acknowledge that each has certain confidential or sensitive information and/or material and each may require access to the other's information or material for the purpose of installing ShelterBuddy Pro and migrating data from Marion County's current animal management system to ShelterBuddy Pro beginning 12 March 2018. Each Party warrants that it has the right to make the disclosure under this agreement.

Each Party agrees that if any confidential information is released during this meeting, the information will be managed pursuant to the terms and conditions contained in this Agreement. The Parties agree to the terms and conditions herein.

NOW THEREFORE, in consideration of the above premises and the promises contained herein, the Parties agree as follows:

1. Whenever used in this Agreement, the term "Confidential Information" will mean (i) information exempt from disclosure to the public or other unauthorized persons under either chapter ORS 192.501 or other state or federal statutes; or (ii) information related to the security and composition of the MARION COUNTY, and the state of Oregon statewide network, unless otherwise identified as non-confidential at the time of disclosure; or (iii) any other information which either Party has identified to the other as confidential at the time of disclosure; or (iv) information that would ordinarily be considered confidential or proprietary in the light of the circumstances surrounding disclosure, whether or not so marked. Notwithstanding the foregoing, the term "Confidential Information", shall not be construed to include information that (i) is or becomes readily available in public records or documents, or (ii) is known by Recipient prior to receiving it from Discloser through no fault of the Recipient, or (iii) is independently developed by Recipient or other third parties without breach of this Agreement (iv) is disclosed pursuant to applicable law, judicial action or government regulations, including without limitation the Oregon State Public Records Law, ORS 192.410, et seq.
2. The Parties acknowledge that the protection of their Confidential Information is essential. The purpose of this Agreement is to enable the Parties to make disclosure of Confidential Information to the other while still maintaining rights in and control over the Confidential information. The purpose is also to preserve confidentiality of the Confidential Information and to prevent its unauthorized disclosure. It is understood that this agreement does not grant a Recipient an express or implied license or an option on a license, or any other rights to or interests in the Discloser's Confidential Information.
3. The Recipient shall require its employees, officers, independent contractors, and subcontractors, and any other entities acting on its behalf (collectively "Affiliates") to:
  - (a) copy, reproduce or use Confidential Information only for the purpose of the Project and not for any other purpose unless specifically authorized to do so in writing by the Discloser; and
  - (b) not permit any other person to use or disclose the Confidential Information for any purpose other than the Project; and
  - (c) disclose such Confidential Information only to those of its Affiliates who require knowledge of the same for the purpose of the Project; provided such Affiliates are obligated to maintain the confidentiality of the Confidential Information and otherwise comply with the terms of this Agreement; and
4. The acts or omissions of a Recipient's Affiliates with respect to the Confidential Information shall be deemed to be acts or omissions of the Recipient.
5. Recipient will not remove, obscure or alter any confidentiality or trade secret notation from the Confidential Information without the Discloser's prior written authorization.
6. Confidential Information will remain the exclusive property of the Discloser. Upon completion of the Project, or whenever requested by the Discloser, Recipient will promptly destroy or return to Discloser all Confidential Information and all copies thereof, including summaries, reports or notes based thereon, unless otherwise expressly authorized by the Discloser in writing, or unless to



Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

KPP#	Key Performance Parameters	MOE#	Measures of Effectiveness	MOP#	Measures of Performance	Technical Performance Measures
1	Does ShelterBuddy provide necessary Financial Management tools and information?	1.1	ShelterBuddy performs required accounting functions	1.1.1	Can record financial transactions associated with Hearings (Money received for Hearings Transactions)	see 1.1.4
				1.1.2	Can report financial transactions associated with Hearings transactions	- Report of transactions - Receipts
				1.1.3	Allow for payment plan options from owners, adopters, etc.	
				1.1.4	Processes payments	- Cash - Check - Credit card - Debit card
				1.1.5	Records and assigns accounting information to adoption transactions, and to see this information on reports	
				1.1.6	Records financial transactions associated with Adopting Dogs (Money received for Adoption Transactions)	see 1.1.4
				1.1.7	Reports financial transactions associated with Adoption transactions	- Structured report - Ad hoc query
		1.2	ShelterBuddy successfully manages day-to-day business transactions	1.2.1	Export financial transaction data in a form that can be readily used for importing into external systems	- Export formats to include CSV and/or Excel
				1.2.2	Sufficient cash and electronic payment management controls to meet all Marion County, Oregon Administrative Policy #493 (revised June, 2013) including, but not limited to, Payment Card Industry Data Security standards.	
				1.2.3	Secured encrypted payment processing interface and data collection that complies with all federal, state and county regulations regarding payment turnaround and privacy compliance.	

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				1.2.4	Ability to interact with existing Point-of-Sale software using standard web service or API's on fees, payments, voids, refunds, details from receipt, donations, etc.	
				1.2.5	Protection of cardholder, electronic payment and customer data information against outside theft and/or improper usage.	
				1.2.6	Comply with all credit and banking industry security regulations related to payment card processing and reporting.	- assignment to applicant - schedule for follow up - record rabies information - license if applicant a citizen of Marion County
				1.2.7	Maintain proper financial controls in the receipt and processing of payment card transactions.	
				1.2.8	Advanced search functions in database, including but not limited to keyword searches for owners, dogs, addresses, dog characteristics, etc.	
				1.2.9	Show credits for customers	
				1.2.10	Display activity for a person in all modules	- Activity log
				1.2.11	Display Transaction History for person, or date, type, and/ or description	
				1.2.12	Authorized personnel to edit Transaction History	- Transaction changes recorded/logged
				1.2.13	Capture and record transactions when selling store items over the counter, including issuing receipts.	
				1.2.14	Record and assign accounting information to license transactions, and to see this information on reports	see 1.1.4
				1.2.15	Record financial transactions associated with Licensing Dogs (Money received for Licensing Transactions)	see 1.1.4
				1.2.16	Report financial transactions associated with Licensing Dogs (Receipts)	
				1.2.17	Able to invoice veterinary services (custody dogs, additional medical care for lost dogs)	
				1.2.18	Record and assign accounting information to shelter operations transactions, and to see this information on reports	
				1.2.19	Record financial transactions associated with Sheltering Dogs (Money received for Shelter Transactions)	

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				1.2.20	Report financial transactions associated with shelter transactions (Receipts)	
				1.2.21	Financial and in-kind donation recording and reporting	
2	Does ShelterBuddy provide necessary Animal Management tools and information?	2.1	ShelterBuddy successfully manages adoptions	2.1.1	Processes the Adoption of a dog	
				2.1.2	Prints Adoption information via reports	
				2.1.3	Allows review and printing of Adoption Applications	
				2.1.4	Public user may enter an adoption application online	
				2.1.5	Permits scheduling adoption follow up appointment	
				2.1.6	Sends appointment reminders to shelter staff for adoption schedules.	
				2.1.7	Assigns adoptability category or Asilomar category	- Caller information - Owner information - Call date and time - Complaint category - Nature of complaint
		2.2	ShelterBuddy tracks animal behavior	2.2.1	Allows creation and storage of notes about animal behavior	
				2.2.2	Provides a capability to print behavior information via reports	
				2.2.3	Permits scheduling for behavior assessments and evaluations	
		2.3	ShelterBuddy manages animal complaints	2.3.1	Permits entry of dog complaint information	- by owner name - include owner address
				2.3.2	Attach documents to a complaint	
				2.3.3	Displays prior complaints	
				2.3.4	Creates a Hearing from a Complaint	
				2.3.5	Tracks Hearing Dispositions through ad hoc reports	- Examples: Complaints by Owner address, Complaint count by year, month, category, nature, officer, complaints by owner name, complaints by caller name, complaints by caller address and by zip code)

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				2.3.6	Prints hearing docket information for hearings officer	(Examples: Conditions Compliance, Expired Fines, Hearing Docket, Hearing Report for hearing number) *
				2.3.7	Print Complaint information via reports	
				2.3.8	Print Hearing information via reports	
				2.3.9	Display owner information in a Geographic Information Systems (GIS) map format	
				2.3.10	Connects complaints to impounds	- Senior citizen
		2.4	ShelterBuddy supports animal licensing	2.4.1	Displays licenses by Owner address.	- Stipulated disposition - Needs determination - Owner information - Animals and infractions - Conditions - Fines (compliant, non-compliant) - Infraction - Orders - Compliance days - Compliant - Emergency contact information
				2.4.2	Creates owner records and associates animals to owners	- Altered - Late fees - Validates address information to county addresses - Entry of mailing address and physical location address
				2.4.3	Allows entry of other owners and animal information	- Owner mailing address - other Phone Numbers - Senior Citizen - Animal Secondary Breed - Secondary Color
				2.4.4	Associates license fee levels to owners who meet specific criteria	- Duration - Replace license
				2.4.5	Associates license fee levels to animals who meet criteria	
				2.4.6	Associates license fee levels to licenses based on license criteria	
				2.4.7	Issue/renew licenses to multiple dogs belonging to the same owner having differing durations in the same transaction	
				2.4.8	Enter and assign license lots to different licensing facilities and report by location	

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				2.4.9	Assign license numbers to animals based on licensing facility and license lots assigned to that facility	
				2.4.10	Find owner information based on dog license number, or owner information	
				2.4.11	Transfers a dog from one owner to another	
				2.4.12	Report on expired license status by zip code for license enforcement / license events	
				2.4.13	Print license renewal notices on pre-printed forms using mailing address where exists	
				2.4.14	Print Licensing information via reports	- Expired Licenses - Owners of "Current" Licenses - Owners of "Current" Licenses with Dog
				2.4.15	Search license records and display owner information in a Geographic Information Systems map format	
				2.4.16	Automatically send email notices to dog owners for dog license renewal.	
				2.4.17	Automated dog license lists of renewal notices for dog owners.	
				2.4.18	Define license status and any fees associated with status	- Service dog - Marion County K9 - Puppy
		2.5	ShelterBuddy tracks animal medical information	2.5.1	Scheduling of regular or repeated events by animal displayed and reported, including follow-up type events	
				2.5.2	Special alerts for vaccine reactions/medications	
				2.5.3	Able to print medical reports for follow-up vaccines, deworming, flea control, etc.	
				2.5.4	Able to track/schedule medical exams	
		2.6	ShelterBuddy provides shelter management functionality	2.6.1	Transfer a dog from one owner to another or to a Rescue or into Foster	
				2.6.2	Kennel card builder	
				2.6.3	Enter basic/minimal information for animal being admitted to shelter	- Incoming Date - how animal Brought to shelter - City where animal was picked up - Kennel Number animal put in - Name for dog while in shelter

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				2.6.4	Enter required animal information for animals admitted to shelter	- Gender - Primary Breed - Primary Color
				2.6.5	Enter other animal information for animals admitted to shelter	- Secondary Breed - Secondary Color - Care instructions - Weight - special medical considerations - medicines given
				2.6.6	Medicines given from prior impound, linked to current impound	
				2.6.7	Enter impound information for animal being admitted to shelter	- Incoming Date - how animal Brought to shelter - City where animal was picked up - Kennel Number where animal housed - Name for dog while in shelter - Gender - Breed - Color
				2.6.8	Identify and process a dog out of the shelter and assign fees based on outgoing action, number of days in shelter, repeat offender, rabies charge, and/or chip implanted	- Adoption - DOA - Foster - PTD - Rescue - Transfer - Return to Owner (RTO)
				2.6.9	Define business days for shelter; set shelter holidays, including rotating (used to determine number of days in shelter for boarding fees and stray status)	
				2.6.10	Determine stray status based on number of business days in the shelter, and if animal has owner identification	
				2.6.11	Process multiple dogs out of the shelter to same owner (Return to Owner (RTO))	
				2.6.12	Enter care instructions, weight, special medical considerations for each animal in shelter	
				2.6.13	Enter medicines given to animal in shelter (Rabies Vaccines require administration by a Veterinarian)	
				2.6.14	Print care instructions, medicines received, etc for dogs that are leaving the shelter	
				2.6.15	Enter and maintain dog walking schedule	



Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				2.6.16	Enter and maintain animal duration information in various states/status	
				2.6.17	Enter PTD information	- Which animal - Medicines used
				2.6.18	Print Shelter information via reports	- All Animal Status - Specific Animal Status - Daily Schedule - Phone Follow Up schedule - vaccination / medicine scheduling - Daily transactions by location)
				2.6.19	Ability to enter information via tablet for daily animal assessments	
				2.6.20	Visual map showing location of animal inventory with basic information	
				2.6.21	Surrenders enter information on previous owner	- keep in shelter - reason for surrender - reason for adoption return - report on details of surrenders
				2.6.22	Enter and maintain ARE (Animal Rescue Entity) information	
				2.6.23	Enter and maintain Foster Care people/organization information	
		2.7	ShelterBuddy provides lost and found functionality	2.7.1	Manage Lost and Found Dog information	
3	Does ShelterBuddy provide adequate System Management functionality?	3.1	Information Management	3.1.1	Retains all County records for a required duration of five (5) years.	
				3.1.2	Manages Shelter Staff (system users) information, and assigns Shelter Staff the ability to access the different functions via group membership or access level	
				3.1.3	Data successfully migrated from current animal management system	
				3.1.4	Captures pictures via mobile device and post/associate with animal/person/owner	-Tablet -Mobile Phone

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				3.1.5	Generates fillable forms	Includes: - medical - adoptions - inventory - licensing - hearings records - enforcement citations - redemptions - payment plans - receipts - invoicing
		3.2	Web Presence	3.2.1	Provides an interactive public web interface which allows for data verification by uploading of any required documentation or photos	- including but not limited to: -- lost and found dogs -- dog adoption -- donation acceptance -- rabies verification -- new and renewed dog licensing
				3.2.2	Web interface that is accessible through mobile devices via WiFi and LTE	- mobile phones - tablets - laptop computers
				3.2.3	Web based full access to software database for authenticated internal users with internet connection.	
				3.2.4	Ability for public to request new and renewal licenses for Animals that have rabies certificate information online.	
				3.2.5	Ability for public to obtain a new and renewal license for Animals that have rabies certificate from a participating licensing facility	
				3.2.6	Public can search for, or submit, Lost/Found Dog information online	
				3.2.7	Public can view Adoptable dogs online	
				3.2.8	Shelter Staff can search and view Dog Licensing history online	
				3.2.9	Veterinary Clinics can Certify Rabies vaccinations online	
				3.2.10	Veterinary Clinics can issue Dog Licenses online	
				3.2.11	Public can submit a completed Adoption Application online	
		3.3	Other Information	3.3.1	Audit features for each action in the database identifying individual user or internet protocol (IP) address of user.	

Appendix 1: Key Performance Measures, Measure of Performance, Measure of Effectiveness Requirements

				3.3.2	Hosted software support via phone 8:00 am to 6:00 pm, Monday-Saturday, Pacific Standard Time.	
				3.3.3	Automation of daily, weekly, monthly and annual functions/reports	
				3.3.4	Online help within system for internal and external users	