

Request for Proposals

Offeror represents that it has carefully read the terms and conditions of this RFP, including all attachments and addenda, and agrees to be bound by them.

OWNER:

Elkhart County, Indiana
Elkhart County Administrative Office Building
117 North Second Street
Goshen, IN 46526

PROJECT:

Audio/Video Information Technology for the New Elkhart County Courts Campus
1905 Reliance Rd
Goshen, Indiana 46526

OWNER CONTACT PERSON:

All communications with respect to this RFP must be in writing through the Owner's Technology Contact:
Elkhart County Network Administrator
Tony Peffley
tpeffley@elkhartcounty.com

DELIVER PROPOSAL TO:

Elkhart County Commissioners
117 N. Second Street
Goshen, IN 46526

With a notice of submittal via email to:

Elkhart County Network Administrator
Tony Peffley
tpeffley@elkhartcounty.com

PROPOSAL DUE DATE AND TIME:

Proposals shall be submitted no later than:

Date: July 10, 2023
Time: 9:00 A.M. Eastern Daylight Savings Time

All Proposals must be submitted pursuant to the instructions below. It is the Offeror's sole responsibility to ensure that the Proposal is delivered in the manner required in this RFP by the Due Date and Time. Owner has the right to reject any Proposals not properly delivered. Owner further reserves the right to accept or reject any or all Proposals and to waive informalities or irregularities in the RFP and selection process. Withdrawal of Proposals will be allowed only in those cases in which a written request to withdraw a Proposal is received by the Commissioner's Office prior to the date and hour for receiving and opening Proposals. In such cases, the same will be returned to Offeror unopened.

SECTION 1: GENERAL INFORMATION

1.1 General

1.1.1 Offerors must submit their Proposals pursuant to the schedule and process set forth in this RFP. This RFP is not an offer to enter into a Contract but is a solicitation of entities interested in fulfilling the Owner needs and requirements for the Project.

1.1.2 Owner will identify the Offeror submitting the Proposal that earns the Technology Acceptable-Best Value

Offer, determined under the RFP evaluation factors, and enter into Contract Negotiation.

- 1.1.3** Owner is exempt from the payment of federal excise and transportation taxes levied under the provision of the Internal Revenue Code. Owner is also exempt from the Indiana State Gross Retail Tax (sales tax). Owner will furnish the successful Bidder with any certificate of exemption required.

1.2 Procurement Schedule

The following is the Procurement Schedule current at the time of issuing the RFP. The Owner reserves the right to modify the RFP and the schedule via Addenda. Offerors should notify Owner Technology Contact, by sending an email to tpeffley@elkhartcounty.com if an Offeror is interested in submitting a Proposal. Any Addenda issued will be sent to Offerors known to have specifically received this RFP or have submitted notice of an intent to submit a Proposal. Additionally, any Addenda will be posted on the County’s website at <https://elkhartcounty.com/en/business/do-business-here/bid-opportunities/>. All times indicated are Eastern Time Zone (Daylight Savings Time) and are subject to change with notice given to Offerors.

Date	Event
July 10, 2023 9:00 A.M.	<p>Proposals Due</p> <p>Board of Commissioners Regularly Scheduled Meeting <i>Elkhart County Administration Building Room 104 117 North Second Street Goshen, IN 46526</i></p> <ul style="list-style-type: none"> Announce Offeror names and refer Proposals to representatives for recommendation to determine the Technology Acceptable-Best Value Offer
TBA if required	<p>Offerors will be Notified of Proposal Interview Time Slot Assignments- <i>If Required</i></p>
TBA if required	<p>Proposal Interviews <i>Elkhart County Commissioners’ Conference Room 117 N 2nd St Goshen, IN 46526</i></p>
July 24 – 28, 2023 (TBD)	<p>Pre-Award confirmation meeting between Owner and Owner’s Technology Contact and Offeror submitting apparent Technology Acceptable-Best Value Offer</p>
July 31, 2023 9:00 AM	<p>Board of Commissioners Regularly Scheduled Meeting <i>Elkhart County Administration Building Room 104 117 North Second Street Goshen, IN 46526</i></p> <ul style="list-style-type: none"> Receive Recommendation for Technology Acceptable-Best Value Offer Approve entering into Contract Negotiations with Offeror submitting Technology Acceptable-Best Value Offer
August 1 – 4, 2023 (TBD)	<p>Contract Negotiations</p>
August 7, 2023 9:00 AM	<p>Award of Contract and proceed with securing an executed contract and supporting contract documents (e.g., performance bond)</p>
	<p>Notice to Proceed</p>

Upon receipt of a Notice to Proceed, Offeror will complete the Project in accordance with the Contract Award and the approved Project Schedule included and will be Substantially Complete within 90 days from the date Elkhart County grants Offeror access to the building, currently under construction with an estimated access date of July

2024. Offeror will only have access to the building during designated site hours. Offeror agrees, by submitting a Proposal, to perform all work therein contemplated by the above substantial completion date. The parties agree that time is of the essence. The parties stipulate that the substantial completion date is of substantial importance to Owner, and that the failure of Offeror to complete all work contemplated under the Proposal by said date will cause substantial harm and/or difficulty to the Owner, the precise amount thereof or loss caused thereby being difficult to ascertain. Therefore, Offeror and Owner stipulate and agree that for each day beyond the substantial completion date, Contractor will owe liquidated damages in the amount of \$500.00 per day. It being further acknowledged that this liquidated damage amount is fair and reasonable under the circumstances. Contractor's final payment will be reduced by any applicable liquidated damages as a set-off.

- 1.2.1 All submittals from Offerors in response to this RFP must be consistent with and designed to achieve the goals and objectives set forth in the Criteria Package. Offerors are responsible for examining all instructions, drawings, specifications, notices, addendums, proposals, supporting materials, and all other terms and provisions relevant to this RFP.
- 1.2.2 Offerors may reasonably rely on the accuracy of the information set forth in the Plans and Specification and the Criteria Package for the purposes of developing the Offeror's Price Proposal. However, the selected Offeror will be required to perform an independent evaluation of all information. The Offeror is also responsible to notify the Owner's Technology Contact of any inconsistencies, conflicts, ambiguities, or other issues.

Any Offeror who knowingly contacts any Owner representative or member of Elkhart County's Design-Build Team, other than Owner's Technology Contact, during the formal RFP and selection process for this Project will be subject to declaration of disqualification.

Provided the selected Offeror complies with all requirements set forth in the Awarded Contract, including but not limited to those regarding notice of claims to the Owner and identification of differing conditions, and only to the extent that the Contract allows the selected Offeror to an adjustment in the Contract Price and Project Schedule, the selected Offeror may be entitled to an adjustment in the Contract Price and Project Schedule. Such adjustment shall be limited to the extent Offeror's actual documented costs, or the critical path of the Service Schedule, has been adversely impacted by conditions that could not have been foreseen.

- 1.2.3 The Owner assumes no responsibility for conclusions or interpretations made by the Offeror based on the information provided by the Owner. Oral statements made by the Owner representatives or Owner's Technology Contact are not binding on the Owner unless the Owner confirms the statements by written Addendum to the RFP. In the event of a conflict between codes, industry standards, or the Criteria Package, and the Plans and Specifications, the most stringent requirements will apply, and Offerors must submit their Proposals based on the most stringent requirements.

1.3 Contract Documents

This RFP will be incorporated into the Awarded Contract between the Owner and Offeror. The Awarded Contract includes the following documents for this Project: All documents are available via email from the Owner's Technology Contact.

- 1.3.1 Work Order Incorporating the Criteria Package for the Project.
- 1.3.2 Electrical and Technical Plans and Specifications for the Project.
- 1.3.3 Master Services Agreement between Owner and Offeror.

1.4 Price Proposal

- 1.4.1 Offerors will submit their Price Proposal pursuant to the RFP. Price Proposals must be based on the RFP and Contract Documents as amended by any Addenda. Offerors must keep their Price Proposals open for 45 days after submission of their Price Proposal. Offerors may reasonably rely on the written information provided by the Owner in the RFP and any Addenda in developing their Price Proposal; however, the

selected Offeror will be required to validate all information for the Project to be achieved within the Price Proposal submitted. Price Proposal must be submitted with identification of manufacturer and model information of all proposed equipment and with an itemized price breakdown of such equipment and accompanying services. Offeror must be willing to invoice by a means and in a format acceptable to Owner and applicable state or federal agency, and comply with all such additional requirements, necessary for Owner to submit and be awarded grant reimbursement for certain Project costs.

- 1.4.2** The Offeror has carefully examined the RFP and ascertained the nature, scope, and location of the work prior to submitting its Price Proposal. In completing the Price Proposal, the selected Offeror has investigated and assured itself as to the general and local conditions that can affect the work or its cost, all existing site conditions, any and all Contract Documents, and the Additional Information under Section 3.1. The submittal of the Price Proposals shall be conclusive evidence that the Offeror has made such examinations and understands all the requirements for the performance of the completed work. Failure of the Offeror to take these actions will not relieve it of responsibility for properly estimating the difficulty and cost of successfully completing the work, or for proceeding to successfully complete the work without additional cost to the Owner. The Offeror shall determine the methods, materials, labor, and equipment required to perform the completed work and shall reflect their cost in the Price Proposal.
- 1.4.3** After all work for the Project has been accepted by the Owner, the Offeror must furnish to Owner a statement, executed under the penalties of perjury, that all expenses incurred for labor and material have been paid in full, except such expenditures specifically listed on the statement.

1.5 Selection of Technology Acceptable-Best Value Offer

- 1.5.1 Submission:** Offerors must submit Proposals by the date and time set forth in the RFP.
- 1.5.2 Basis for Accepting the Proposal:** The Offeror submitting the Proposal with acceptable technology and the best overall value, will be deemed the Offeror with the Technology Acceptable-Best Value Offer.
- .1** Prior to making a recommendation to the Board of Commissioners for accepting the Proposal, the Owner's Technology Contact and Owner will meet with the Offeror submitting the Technology Acceptable-Best Value Offer to validate the Proposal and reconcile any minor gaps or inconsistencies between the Proposal and the RFP.
 - .2** The Board of Commissioners will meet in a regularly scheduled public session and take action on the Technology Acceptable-Best Value Offer by either: a) Accepting the Proposal and authorizing the selected Offeror to proceed with negotiating a final Contract, or (b) Reject all Proposals. If contract negotiations are unsuccessful with the selected Offeror, Owner reserves the right to then reject the Selected Offeror's Proposal and proceed to negotiate with the Offeror who submitted the next best Technology Acceptable-Best Value Offer and to continue thereafter with the process until successful negotiations are concluded resulting in an Awarded Contract.

1.5.3 Offeror Qualifications

Offeror must submit evidence showing prior courtroom technology installation experience with at least three customer contact names and phone numbers (e.g., court project references) for recent courtroom technology projects. Offeror should submit any additional evidence of qualifications that Offeror would like Owner to consider when evaluating the Proposal. Owner may require any Offeror to submit additional evidence of qualifications, and may consider any evidence of the financial, technical, and other qualifications and abilities of the Offeror. Owner will not award a Contract to an Offeror who, in its opinion, is not fully qualified on the basis of financial resources and responsibility, possession of adequate equipment, personnel, experience, and past record of performance to perform the obligations to be undertaken competently and without delay.

1.5.4 Evaluation Factors

Owner will evaluate fully responsive Proposals that were submitted timely and in conformance with all requirements of this RFP to confirm that all goods identified therein are comparable. Offeror must

specifically mention those items where the good identified does not meet the Owner's minimum requirements next to where that item is mentioned in the Proposal. It is brought to the attention of the Offeror that failing to meet the Owner's minimum requirements does not necessarily mean that the bid will be rejected. But the degree to which the good conforms to the specifications will be considered in the Owner's evaluation of the bids. It will be the responsibility of the Offeror to conform with the requirements unless deviations have been specifically cited by the Offeror and acceptance made on the basis of the exception. Owner will consider the suitability for its intended purpose and the County's best interests when evaluating the bids. At any time during the bidding process, Owner may request the Offeror of the good which are submitted in the Proposal provide further information or demonstration to prove any feature or performance capabilities. Failure to provide the additional information or demonstration at Offeror's expense may be judged as non-conformance to specifications. Owner intends to consider, in order of relative importance with maximum scores identified, the following factors when evaluating the Proposal: (1) price summary with total price listed (200 point); (2) ease of operational use and interface by staff and visitors (200 points); (3) overall qualification and experience of Offeror (200 points); (4) ability to operate independently with limited need for staff coordination (150 points); (5) ongoing service capabilities to ensure little to no downtime of courtroom operations (150 points); and (6) project schedule risk based upon proposed project implementation to the likelihood of meeting the milestone dates and expected performance (100 points). A maximum score from all evaluation criteria is 1000 points.

1.6 Proposal Costs

The Owner will not be liable for any costs incurred by Offerors in responding to this RFP nor in negotiating any contract to award. Owner is not liable for any costs for work, equipment, services, or other items performed by the Offerors prior to a written Notice to Proceed being issued.

SECTION 2: PROPOSAL DOCUMENTATION and SUBMITTAL REQUIREMENTS

2.1 Submittal Process

2.1.1 DELIVER PROPOSAL TO:

Elkhart County Commissioners
117 N. Second Street
Goshen, IN 46526

With a notice of submittal via email to (preferred, but not required):

Elkhart County Network Administrator
Tony Peffley
tpeffley@elkhartcounty.com

2.1.2 PROPOSAL DUE DATE AND TIME:

Proposals are to be submitted no later than:

July 10, 2023

9:00 A.M. | Eastern Time Zone

- .1 The submittal must include:
 - .a Proposal For: "New Elkhart County Courts Campus – AV Quote."
 - .b From: The name of the Offeror submitting the Proposal.
 - .c Due: July 10, 2023 ,by 9:00 A.M.
- .2 Offerors are responsible for ensuring timely delivery of submittals. The Owner is not responsible for late submittals.
- .3 Late submittals may be rejected.

- .4 Offerors are not required to submit a bid bond, certified check, or other evidence of financial responsibility.

2.2 Submittal Format Requirements

2.2.1 All submittals need to comply with the following format requirements:

- .1 Provide 3 copies of Proposals in 8.5" x 11" arranged in portrait format.
- .2 Follow the organization for Proposal information that follows in this section, with divider tabs as indicated.
- .3 There are no page limitations set forth for the Proposal, however brevity and clarity, along with a complete response to each submittal requirement is appreciated.

2.2.2 Tab 1: Executive Summary

- .1 Identify the Offeror submitting the Proposal.
- .2 Summarize any insights about the Project gained in the RFP process.
- .3 Provide a concise statement that summarizes the reasons that your Proposal should be selected.
- .4 Cost Summary for submitted Proposal.
- .5 Agreement to obtain performance bond and sign Master Services Agreement if selected.
- .6 Execution by representative of the Offeror authorized to sign and issue the Proposal.

2.2.3 Tab 2: Overall Management Approach

- .1 Describe your team's overall management approach to the Project. Please address the following topics:
 - .a Based on the information provided in the RFP, what is your team's current understanding of the Owner's goals and objectives for this Project.
 - .b Identify what your team believes are the three (3) greatest challenges facing the success of the Project. For each challenge identified:
 - Propose a strategy to mitigate the potential negative impact of the challenge.
 - What makes your team uniquely qualified to address this challenge? Cite any strengths, innovative proven approaches, and/or differentiating resources (including key team members) that will assist the proposed team to implement the strategy and assist the Owner in achieving its goals.
- .2 Describe the team's commitment to safety and what innovations the team will bring to the Project to enhance safety.
- .3 Quality Assurance/Quality Control ("QA/QC"). Provide the following information regarding the proposed team's approach on QA/QC. Include the following information:
 - .a The overall approach to your firms QA/QC;
 - .b The proposed team's processes and tools to facilitate QA/QC;
 - .c The reporting and functional relationship(s) between the quality management personnel and the proposed team as a whole.
- .4 Communications. How will your team achieve exemplary communications within your team and between your team and the Owner's Technology Contact, Owner, and Owner's other contractors?
 - .a How will you document the process?

- .b How will you keep the entire team informed and provide information needed to make timely, intelligent decisions?
- .c How will you proactively identify emerging issues and appropriately address and reconcile them before they adversely affect the Project?

2.3.4 Tab 3: Schedule: The overall Project schedule should meet the Owner’s estimated completion date, promote efficiency, and have the least amount of impact on ongoing operations and the Project stakeholders as possible.

- .1 Describe the proposed team’s overall approach to scheduling and sequencing for the Project, in addition to the overall approach.
- .2 Identify the challenges in scheduling the installation for the Project and how the team will address those challenges.
- .3 Provide a detailed schedule for the execution of services.

2.2.5 Tab 4: Team Collaboration and Integration: One of the primary goals for the Project is to create a highly functioning, collaborative, and integrated team as early as possible and to incorporate the Owner’s Technology Contact, Owner’s other staff, and Owner’s other contractors, as applicable.

- .1 Explain the team’s approach to creating a collaborative environment for the Project.
- .2 Describe how the team will engage the Project stakeholders and incorporate their input into the Project.
- .3 Provide your approach to conflict resolution between your team and the Owner and or other contractors.

2.2.5 Tab 5: Detailed Price Summary response to the Criteria Package broken down by areas or section and in the order as set forth in the Criteria Package, with sufficient detail to provide for adjustment if any quantities change during the Project.

SECTION 3: ADDITIONAL INFORMATION

3.1 A Performance Bond with good and sufficient surety as required by Owner on a form satisfactory to Owner, will be required of the successful Offeror in an amount equal to at least one hundred percent (100%) of the awarded Price Summary, conditioned upon the faithful performance of the Offeror’s obligations. The surety of the Performance Bond may not be released until one (1) year after the Owner’s final settlement with the Offeror. The Offeror agrees to save and hold harmless the Owner, their representatives and agents, and the county government of Elkhart County, Indiana, from any and all damages or liabilities of whatever kind or nature resulting from Offeror’s undertaking of any and all work performed pursuant to the Proposal.

3.2 The following documents are available via email from the Owner’s Technology Contact.

- 3.2.1** Construction Documents prepared by Design-Builder
- 3.2.2** Design Builder’s Millwork shop drawings and submittals
- 3.2.3** Design Builder’s Schedule

The Owner reserves the right to conduct interviews or discussions with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award and to obtain from those Offerors best and final offers.

Issued this 2nd day of June, 2023.

Elkhart County Commissioners

Date of Request: _____

Requesting Party: Elkhart County Commissioners

Contractor: _____

Project: Audio/Video Information Technology for the New Elkhart County Courts Campus

Original Contract: Master Services Agreement

Date of Original Contract: _____

The Original Contract is modified to add the Scope of Services described in this Work Order

The Contractor agrees to provide the following services:

See attached Criteria Package, supplemented by the submitted Proposal, for New Elkhart County Courthouse Courtroom Technology for scope of services.

Attachments (list of documents, if any, supporting work order):

CONTRACT PRICE:	CONTRACT TIMES:
See attached Price Summary originally included in submitted Proposal. Contractor agrees that total fees for Goods/ Services rendered under this Work Order No. 1 will not exceed: \$_____ without an approved change order.	See attached Project Schedule originally included in submitted Proposal. Date for substantial completion of services: 90 days from date Elkhart County grants building access to Contractor

REQUESTED:
ELKHART COUNTY COMMISSIONERS

By: _____
Date: _____

ACCEPTED:

By: _____
Date: _____

Criteria Package for New Elkhart County Courthouse Courtroom Technology

Goals and Objectives

- Our new courthouse project is committed to having cutting edge evidence presentation system that is both technologically advanced and user-friendly for the end users.
- The system must be intuitive so that judges, attorneys, and pro se litigants can all operate the evidence system without IT staff involvement.
- Evidence presentation system should be modeled after successful systems that have been implemented in Marion and Allen Counties

All items with size and dimensions must have that size and dimension. All equipment included in this proposal to be installed and configured to work in accordance with trial court needs using CAT 6 connectivity.

Work conducted will likely be performed during the finished stage of a newly constructed courts complex. Contractor must take all measures necessary, including providing its own protective measures, to ensure that no damage is caused to the building (e.g., walls, flooring, countertops, ceilings, trim), any fixtures (e.g., lighting, elevators, HVAC), or any personal property contained therein (e.g., furniture, artwork, office equipment). No raised surface (i.e., countertop, table, or equipment) may be used as a work or storage surface. Contractor must daily remove from the facility and properly dispose of offsite all of its trash, debris, or other items not intended to remain permanently. All product and equipment necessary for this Project must be received, sorted, stored, staged, and handled by Contractor offsite and properly transported to the site as needed to complete the work. Contractors will be required to abide by all safety documents produced specifically for this Project and must undergo PSI site safety orientation (i.e., short orientation video in the job trailer) in person on site prior to entering the construction zone.

Evidence Presentation System

- 24-inch monitors at the following locations all connected directly to the Evidence Presentation System
 - Counsel Tables – mounted on monitor arm
 - Judge’s Bench – mounted on monitor arm
 - Jury rails (1 monitor per 2 jury seats)
- 24-inch touchscreen monitors at the following locations all connected directly to the Evidence Presentation System
 - Witness stand
 - Evidence Podium
- 85-inch commercial grade screens at the following locations connected directly to the Evidence Presentation System
 - Wall above jury box
 - Wall opposite jury box
- Touchscreen controls at evidence podium and judge’s bench with the following controls
 - Preview – shows evidence only to the judge, counsel, and witness
 - Present – shows evidence to judge, counsel, witness, and jury
 - Publish – shows evidence to judge, counsel, witness, jury, and gallery (including live stream)
- Evidence PC at the evidence podium with USB connection for digital evidence
- High definition document camera connected to evidence system
- BYOD Connection
 - Bring Your Own Device – ability to connect cell phones or other devices to show evidence on the screens wirelessly

Audio/Video System

- Wired microphones at the following locations (for PA and Recording)
 - Judge’s Bench
 - Counsel Tables (with push to mute)
 - Witness
- Ceiling array microphones at the following locations (for recording only)
 - Well
 - Jury Box
- Wireless lapel mics
 - 1 for each counsel table
- Feedback suppression system
- Touchscreen controls at judge’s bench for mute/unmute of PA/Livestream audio
- Digital Signal Processor sound system that integrates audio into PA, Recording System, and Webex codec (for live stream/remote hearings)
- Microphone inputs into Webex Codec must work with SpeakerTrack to follow person speaking via Webex Quadcam (coordination with Cisco installer may be required)
- White noise generator over gallery and jury box to muffle sidebar conversations
- Sidebar microphone at judge’s bench (for recording only)
- Hearing assistance devices must be included

Additional Considerations

- Remote monitoring/managing of evidence systems and sound systems preferred
- Installation of Wayfinding hardware (InFax hardware and monitors) to be quoted
- Jury assembly room to include similar hardware as courtrooms for presentation, but recording not needed
- Ability to review digital evidence in jury deliberation rooms
- TV screens to be installed in judge’s chambers

Courtroom Specifications

1. 1060 – Jury Assembly Room
 - a. Microphones
 - i. 2 - wireless handheld microphones
 - ii. 2 – wireless lapel microphones
 - b. Video Displays
 - i. 6 – 85-inch commercial grade displays
 - c. Media Controls
 - i. HDMI inputs for PC
 - ii. Room control
 1. Mic levels
 2. Speaker levels
 3. Light levels
 4. TV on/off
 5. Source selection (Webex vs Multimedia PC)
 - iii. Audio zoning
 1. Ability to control room individually at physical divider
 2. Dante compatible sound system
2. 1401 – High Volume Court

- a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
3. 1301 – Hearing Room
- a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 1 – 85-inch display
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench

- iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
4. 2401, 2501, 2601, 2701 – Family Courtrooms
 - a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays
 - ii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iii. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
5. 3401 – Criminal Courtroom
 - a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays

- ii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iii. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
- 6. 3501, 3601, 3701 – Criminal Courtrooms
 - a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Ceiling array over jury (for recording only)
 - v. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays
 - ii. 6 – 24-inch displays in jury rails (3 per rail)
 - iii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iv. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning

- 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
- 7. 4401 – Civil Courtroom
 - a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays
 - ii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iii. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
- 8. 4501, 4601 – Civil Courtrooms
 - a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Ceiling array over jury (for recording only)
 - v. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays

- ii. 4 – 24-inch displays in jury rails (2 per rail)
 - iii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iv. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench
 - iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
 - d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
9. 4701 – Circuit Courtroom
- a. Microphones
 - i. Gooseneck microphones at counsel table with push-to-mute
 - ii. Gooseneck microphones at witness and bench
 - iii. Ceiling array over well (for recording only)
 - iv. Ceiling array over jury (for recording only)
 - v. Boundary microphone at bench for sidebar (for recording only)
 - b. Video Displays
 - i. 2 – 85-inch commercial grade displays
 - ii. 6 – 24-inch displays in jury rails (3 per rail)
 - iii. 1 – 24-inch display at each counsel table mounted in monitor arm
 - iv. 1 – 24-inch touchscreen display at witness stand with telestration capabilities
 - c. Media Controls
 - i. HDMI inputs for PC on counsel tables
 - ii. Evidence Podium (see above for specifications)
 - iii. Room control
 - 1. Mic levels
 - 2. Speaker levels
 - 3. Light levels
 - 4. TV on/off
 - 5. Source selection (Webex vs Multimedia PC)
 - 6. Software-based audio system controls configured on Court Reporter station
 - 7. Room control touchscreen at judge’s bench

- iv. Audio zoning
 - 1. Audio zones for best amplification
 - a. Separate zones for audience and well
 - 2. Dante compatible sound system
- d. Webex
 - i. Install and configure provided Webex equipment
 - ii. Room audio must be ported into Webex codec
 - iii. Speakertrack must be properly configured to follow speaker automatically
- e. Wayfinding
 - i. Provide and Install 28 – 32-inch displays outside of courtrooms
 - ii. Provide and Install 5 – 75-inch displays in lobby for docket display
 - iii. Attach provided InFax devices to displays
- f. Emergency Notification
 - i. Provide and Install 14 – 32-inch displays inside of courtrooms
 - ii. Attach provided InFax devices to displays

Maintenance/Service Plan

- Ongoing maintenance and support must be available
- Expected Service Levels
 - Critical Systems must be able to be repaired within 1 business day
 - Critical Systems include
 - Court Recording Systems
 - Court Amplification Systems
 - Evidence Transportation Systems
 - Non-Critical Systems must be able to be repaired/replaced within 1 week
 - Non-Critical Components include
 - Video screens
 - 24-inch monitors

Environmental Factors

- Project areas must be in courtroom operational condition upon completion
- Installation debris and component packaging must be removed by installers

MASTER PRODUCTS AND SERVICES AGREEMENT (MSA)

This Master Products and Services Agreement (“MSA”) is made and entered into effective _____, by and between Elkhart County, Indiana by and through the Elkhart County Board of Commissioners (“Elkhart County”) and _____, a(n) _____ (“Contractor”). Elkhart County and Contractor are collectively referred to as the “Parties.”

RECITALS

- A. Contractor is engaged in the business of providing products and services, which Elkhart County has a reasonable and appropriate current or future need to obtain to assist with some aspect of Elkhart County operations (“Products” and “Services”).
- B. Contractor and Elkhart County desire to establish a set of master terms that govern all Product and Service transactions between the Parties.
- C. To the extent Elkhart County is currently receiving any Products or Services from Contractor, the Parties desire for these terms to govern those offerings in addition to any new offerings.

Elkhart County and Contractor therefore agree as follows.

AGREEMENT

- Superseding Agreement.** To the extent in conflict, this MSA supersedes all prior agreements between the Parties. To the extent not in conflict, this MSA is supplementary to all prior agreements between the Parties.
- Description of Products and Services.** Prior to Elkhart County being responsible for any Products or Services offered by Contractor, Contractor must obtain a signed scope of services (e.g., work order) or product sales/order form outlining the specific Services and Products being purchased (collectively, “Supplements,” and individually a “Supplement”). Each Supplement must include a provision incorporating this MSA by name, effective date, and identification of the Parties. The Supplement may contain supplemental terms and conditions specific to certain Services or Product (e.g., service level agreement). Unless otherwise stated in this MSA, to the extent the terms of any Supplement contradict the terms of this MSA, the terms of this MSA control.
- Term.** This MSA commences on the effective date and continues through the latest expiration of all Supplements subject to this MSA, unless earlier terminated as provided herein. This MSA will be automatically reinstated after termination if a new Supplement is executed by the Parties that does not specifically incorporate a different master services agreement by referencing the effective date, name of such new master services agreement (which new agreement must be signed by Elkhart County), and the Parties contained herein. The term for each Supplement will begin on the commencement date of the related Product or Service and will remain in effect until the expiration of the period so specified in the applicable Supplement. Similarly, any renewal term applicable to any Supplement must be stated within the Supplement.

4. **Invoicing and Payment.** The following invoicing and payment protocols will apply to the Parties:

a. **Nonrecurring Fees.** Unless otherwise identified on a Supplement, nonrecurring fees will be paid by Elkhart County within 45 days of Elkhart County receiving an itemized invoice showing the applicable Product or Services already received by Elkhart County.

b. **Recurring Fees.** If a recurring fee (e.g., monthly charge, quarterly charge, annual charge, etc.) is specified in a Supplement, Contractor will invoice Elkhart County, upon completion of the Services applicable to the recurring fee for each established period, and Elkhart County will pay the recurring fee within 45 days from the date of such invoice. Contractor will begin to invoice the recurring fee on the applicable commencement date. Invoices for partial months will be prorated. If not otherwise set forth in the applicable Supplement, the amount of recurring fees will not increase in connection with a renewal term. By entering into a Supplement, Elkhart County confirms that it has obtained the necessary budget approval for the first year of recurring fees, but the remainder of the Supplement term is subject to necessary budget approvals and appropriation approvals by the Elkhart County Council for each year included in the Supplement term and any Supplement renewal term. If such approval is not obtained by Elkhart County, then Elkhart County may immediately terminate the applicable Supplement.

c. **Prepayment Fees.** If a prepayment is specified in a Supplement, Contractor will invoice Elkhart County for the prepayment and Elkhart County will pay such prepayment within 15 days of the applicable effective date. If a prepayment is for a portion of a term, the amount of such prepayment will apply as a credit to the final fees at the end of such term.

d. **Late Fees.** Past due payments will accrue interest on the unpaid sum as of the date of the invoice at the lesser of (i) the highest legal rate of interest permitted in the state of Indiana or (ii) one-half percent (0.5%) per month. Unless specifically identified on or with the payment or sent by a specific department of Elkhart County, Contractor will apply any payments received by Elkhart County to Elkhart County's then most outstanding invoice.

e. **Currency.** All fees set forth in any Supplement are in the currency of the United States of America (i.e., U.S. dollar).

5. **Applicable Taxes.** Each Party is fully responsible for the payment of any and all taxes required by law to be paid by that Party. The total fees on a Supplement are inclusive of any taxes, which Elkhart County may be responsible for paying at the time it pays the amounts listed on the Supplement. Any applicable taxes that Contractor must collect and remit which must be paid directly to Contractor will be itemized separately on each invoice. Nothing in this MSA, nor any Supplement, will be construed to suggest that Elkhart County is responsible for paying any taxes, of any nature, owed by Contractor.

6. **Intellectual Property.**

a. **Definition.** "Intellectual Property Rights" means any and all intellectual property rights of any nature, whether registered, registerable or otherwise, including patents, utility models,

trademarks, registered design and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights and databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar affect any of these that may subsist anywhere in the world, in each case for their full term, together with any future rights and renewals or extensions.

b. **Preexisting Rights.** Nothing in this MSA affects either Party’s rights in preexisting Intellectual Property Rights (including preexisting Intellectual Property Rights of either Party contained in or related to Confidential Information). Elkhart County will own and retain all rights, title, and interest in and to all Elkhart County Intellectual Property and data. Contractor will have no rights to access, use, or modify Elkhart County’s data unless it has the prior written signed consent of Elkhart County, including authorization directly provided for in a Supplement. Contractor does not acquire any ownership interest in or right to the information transmitted to or from Elkhart County, Elkhart County’s representatives, or Elkhart County citizens or stored on Contractor’s equipment or cloud servers by Elkhart County or Elkhart County’s representatives. As between Contractor and Elkhart County, Elkhart County is, and will remain, the sole and exclusive owner of all right, title, and interest in and to any documents, specifications, data, know-how, methodologies, software, and other materials provided to Contractor by Elkhart County (“Elkhart County Materials”), including all Intellectual Property Rights therein. Contractor has no right or license to use, publish, reproduce, prepare derivative works based upon, distribute, perform, or display any Elkhart County Materials except solely during the term of the MSA and any applicable Supplement to the extent necessary to perform Contractor’s obligations under the MSA and any applicable Supplement. All other rights in and to Elkhart County Materials are expressly reserved by Elkhart County. Contractor has no right or license to use Elkhart County’s trademarks, service marks, trade names, logos, symbols, or brand names.

c. **Work Product.** To the extent Contractor provides Product or Services developed by Contractor for Elkhart County, Elkhart County is and will be the sole and exclusive owner of all right, title, and interest throughout the world in and to all writings, technology, inventions, discoveries, processes, techniques, methods, ideas, concepts, research, proposals, and materials, and all other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, modified, conceived, or reduced to practice in the course of performing Services under this MSA and any Supplement (collectively, the “Work Product”) including all Intellectual Property Rights therein. Contractor agrees that the Work Product is “work made for hire” as defined in 17 U.S.C. § 101 for Elkhart County and all copyrights therein automatically and immediately vest in Elkhart County. If, for any reason, any Work Product does not constitute “work made for hire,” Contractor hereby irrevocably assigns to Elkhart County, for no additional consideration, Contractor’s entire right, title, and interest throughout the world in and to such Work Product, including all Intellectual Property Rights therein, including the right to sue for past, present, and future infringement, misappropriation, or dilution thereof.

d. **Moral Rights Waived.** To the extent any copyrights are assigned under Section 6.c, Contractor hereby irrevocably waives in favor of Elkhart County, to the extent permitted by applicable law, any and all claims Contractor may now or hereafter have in any jurisdiction to all rights of paternity or attribution, integrity, disclosure, and withdrawal and any other rights that may be known as “moral rights” in relation to all Work Product to which the assigned copyrights apply.

e. **Cooperation and Appointment.** Upon the request of Elkhart County, during and after termination of the MSA, Contractor will promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, and provide such further cooperation, as may be necessary to assist Elkhart County to apply for, prosecute, register, maintain, perfect, record, or enforce its rights in any Work Product and all Intellectual Property Rights therein. In the event Elkhart County is unable, after reasonable effort, to obtain Contractor’s signature on any such documents, Contractor hereby irrevocably designates and appoints Elkhart County as Contractor’s agent and attorney-in-fact, to act for and on Contractor’s behalf solely to execute and file any such application or other document and do all other lawfully permitted acts to further the prosecution and issuance of trademarks, copyrights, or other intellectual property protection related to the Work Product with the same legal force and effect as if Contractor had executed them. Contractor agrees that this power of attorney is coupled with an interest.

f. **Preexisting Materials.** Contractor agrees that none of Contractor’s preexisting materials are or will be incorporated in or combined with any Work Product without providing Elkhart County with notice in the applicable Supplement. To the extent that any of Contractor’s preexisting materials are incorporated in or combined with any Work Product or otherwise necessary for the use or exploitation of any Work Product, Contractor hereby grants to Elkhart County an irrevocable, worldwide, perpetual, royalty-free, non-exclusive license to use, publish, reproduce, perform, display, distribute copies of, prepare derivative works based upon, make, have made, sell, offer to sell, import, and otherwise exploit such preexisting materials and derivative works thereof. Elkhart County may assign, transfer, and sublicense such rights to others without Contractor’s approval.

7. **Ownership of Documents and Access to Records.**

a. Provided Elkhart County makes all payments for work completed under this MSA and any Supplement in accordance with the terms and provisions hereof, all documents and materials, in original and any altered format and media, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, and instruments of service prepared in providing the Services and assistance under this MSA and any Supplement, including all Intellectual Property Rights related to the same, are to be the property of Elkhart County. If this MSA and any Supplement is terminated before all Services contemplated thereby are complete, then upon payment for work performed prior to termination, all documents and materials, in original and any altered format and media, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, and instruments of service prepared in providing the Services and assistance under this MSA and any Supplement rendered prior to termination, including all Intellectual Property Rights related to the same, are to be the property of Elkhart County. During the performance of the Services provided for, the Contractor will be responsible for any loss or damage to the documents enumerated while they are in

Contractor's possession, and any such loss or damage will be restored at Contractor's expense. Contractor will give Elkhart County full access to the work during the progress of the work.

b. Contractor will maintain all books, documents, papers, accounting records, and other evidence pertaining to the costs incurred and will make such materials available at its respective offices at all reasonable times during the terms of this MSA and any Supplement and for 3 years from the date of final payment under the terms of the applicable Supplement for inspection by Elkhart County. Copies thereof must be furnished to Elkhart County upon request.

8. **Time Devoted to Work.** In the performance of Services and assistance under this MSA and any Supplement, the hours Contractor is to work on any given day for Elkhart County will be within Contractor's control, subject to the availability, including 24/7 availability if applicable, set forth in a Supplement. The Services and assistance to be provided under this MSA and any Supplement will require an undetermined number of hours per week and the actual hours and times will be in the control of Contractor so long as Contractor is able to meet the deadlines provided by Elkhart County. Regardless of the number of actual hours incurred, Contractor agrees that it will perform the Services and provide the Products and assistance required by this MSA and any Supplement in accordance with the terms and provisions hereof.

9. **Performance.** The means, manner, and method for performing Services required by this MSA and any Supplement is within the control and discretion of Contractor so long as Contractor can satisfactorily perform the Services requested by Elkhart County as provided on the applicable Supplement. As such,

a. Contractor will not be required to comply with instructions about when, where, and how to perform the work and furnish the assistance under a Supplement, except to the extent set forth in the Supplement, although Contractor must comply with all applicable international, federal, state, and local laws and regulations with respect to such Services and assistance;

b. Contractor will not receive training from Elkhart County with respect to the Services and assistance to be provided under a Supplement;

c. Contractor's Services will not be integrated into the operation of Elkhart County government;

d. The Services and assistance to be provided under a Supplement pursuant to this MSA by Contractor are not required to be rendered personally;

e. Contractor is responsible for hiring, supervising, and paying its employees and assistants to provide the Services and furnish the assistance required under a Supplement governed by this MSA;

f. Other than specifically executed Supplements, Elkhart County provides no assurance to Contractor of any additional agreements nor any continuing relationship;

g. No set hours of work are established by this MSA;

- h. Full-time work is not required by this MSA;
- i. Although generally not a requirement, some Services may be required to be performed on the premises of Elkhart County as provided for in the applicable Supplement;
- j. No order or sequence of work is established by this MSA;
- k. Contractor will furnish, at its own expense, its own office supplies, equipment, and other materials necessary to supply the Services and deliver any Products acquired in connection with this MSA;
- l. Contractor acknowledges that its business is a separate and independent business from Elkhart County from which it may realize a profit or suffer a loss as a result of its sale of Products and Services;
- m. Contractor acknowledges that it is a _____ authorized to do business in the state of Indiana;
- n. Contractor will be solely responsible for paying all taxes in accordance with federal, state, and local law related to its business; and
- o. This MSA and any Supplement is non-exclusive and Contractor may perform services for other persons or entities and to the general public while it has this MSA and any Supplement with Elkhart County and Elkhart County may use other contractors to perform the same or similar services simultaneous with Contractor.

10. **Relationship of Parties.** It is understood and agreed between the Parties that Contractor is an independent contractor in the performance of each part of this MSA and every Supplement. No agent, employee, or servant of Elkhart County or Contractor is or will be deemed to be the employee, agent, or servant of the other Party. None of the benefits provided by Elkhart County or Contractor to their respective employees, including, but not limited to workers' compensation insurance, unemployment insurance, and benefits, are available to the employees, agents, or servants of the other party. In no event will Elkhart County be responsible or liable for any debts, liabilities, or other obligations of Contractor.

11. **Transition Assistance.** In connection with the expiration or termination of this MSA or any Supplement, for any reason, and notwithstanding any dispute between the Parties, Contractor will provide Elkhart County with assistance to transfer the affected Services to Elkhart County, including, providing to Elkhart County, or a designated third party, personnel training in the performance of the affected Services ("Transition Assistance Services") for a period of up to twelve (12) months, or as otherwise described in a Supplement, for the orderly transition of the Services to Elkhart County or another supplier of Elkhart County, beginning upon the expiration or termination of the applicable Supplement or this MSA ("Transition Assistance Period") or as otherwise agreed upon between Elkhart County and Contractor as follows:

a. **Applicable Requirements and Access.** At no additional cost, Contractor will provide to Elkhart County and any designated third-party service provider in writing, to the extent available, applicable requirements, standards, policies, operating procedures, and other documentation relating to the affected Services and Products;

b. **Development of Transition Assistance Plan.** If requested by Elkhart County, Contractor will assist Elkhart County and its designated third-party service provider in developing a written methodology and approach, including deliverables and timelines, that Contractor will use to deliver Transition Assistance Services during the Transition Assistance Period (“Transition Assistance Plan”), with up to the first four hours of assistance from Contractor provided at no charge to Elkhart County and with any additional hours of assistance provided at pricing consistent with Section 11.c below;

c. **Comparable Prices.** Contractor will provide the Transition Assistance Services during the Transition Assistance Period, including prices no worse to Elkhart County than those for comparable Services prior to termination, or if comparable services were not performed for Elkhart County prior to termination or expiration, then at prices no worse than the fair market value for such Services;

d. **Post-Transition Assistance.** For up to three (3) months after the Transition Assistance Period at no charge to Elkhart County, Contractor will answer all reasonable and pertinent verbal or written questions from Elkhart County regarding the Products or Services on an “as needed” basis as requested by Elkhart County, and deliver to Elkhart County any remaining Elkhart County documentation or equipment still in Contractor’s possession; and

e. **Absolute Obligation.** Contractor agrees that it has an absolute and unconditional obligation to provide Elkhart County with Transition Assistance Services, and Contractor’s quality and level of performance during the Transition Assistance Period will continue to adhere to all requirements of this MSA and any Supplement.

12. **Contractor’s Representations and Warranties.** Contractor warrants to Elkhart County that:

a. **Quality of Work.** Any Products and Services to be provided to Elkhart County will be at a professional level of quality conforming to generally accepted industry standards and in compliance in all material respects with all applicable laws and regulations.

b. **Noninfringement.** The Products and Services provided by Contractor to Elkhart County will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights or other rights of any third party.

c. **Uninfected Products and Services.** When delivered, the Products and Services of Contractor, will not contain and will not allow, directly or indirectly, except to the extent it is the result

of Elkhart County's or Elkhart County's representatives' action: (i) any virus, Trojan horse, worm, backdoor, malware, or other software the effect of which is to permit unauthorized access or to disable, erase, corrupt, or otherwise harm any computer, systems, or software, or (ii) any time bomb, drop-dead device, or other software designed to disable a computer program automatically with the passage of time or under the positive control of any person, or otherwise deprive Elkhart County of its lawful right to use Elkhart County equipment.

d. **Intended Performance.** When delivered, the Products and Services of Contractor will perform in all material respects as described in the applicable Supplement or other documentation relating to such Products and Services and will meet the specific needs and purposes identified by Elkhart County in writing for such Products and Services, unless the Parties agree in writing to move forward with a specific Product or Service that Contractor states, in its opinion, will not meet the specific needs and purposes of Elkhart County.

e. **Authorizations.** Contractor has, and will maintain, throughout the term of this MSA and any Supplement, all licenses, permits, authorizations, and approvals necessary for the conduct of its business, sale of its Products, and performance of the Services in accordance with all laws.

f. **Other Contracts.** Neither Contractor's act of entering this MSA or any Supplement with Elkhart County nor Contractor's performance of the Services described in the applicable Supplement conflicts with or results in any breach or default under any other agreement to which Contractor is subject.

13. **Mutual Representations and Warranties.** Each Party represents and warrants to the other that

a. **Organization.** It is duly organized, validly existing and in good standing under the laws of the state of its organization.

b. **Authority.** It has all requisite power and authority to enter and perform its obligations under this MSA and all Supplements.

c. **Legal Compliance.** It will comply with all applicable federal, state, and local laws, statutes, rules, and regulations in connection with the provision and use of the Products and Services.

d. **Binding Obligation.** This MSA and all Supplements, when executed, are the legal, valid, and binding obligation of such Party having been duly authorized by all necessary action of the Party.

14. **Indemnification.**

a. **Contractors Indemnification.** Contractor agrees to indemnify, defend, and hold Elkhart County, its elected officials, officers, directors, employees, agents, departments, and contractors harmless from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees and expenses) by reason of any claims or actions by third parties, including those of customers of Elkhart County, for or relating to (i) bodily injury or death, and damage, loss or destruction of any real or personal

property (including without limitation the property of Elkhart County), which third-party claims arise out of or relate to Contractor's negligence or willful misconduct; (ii) infringement or misappropriation by Contractor of any Intellectual Property Rights under this MSA or any Supplement (not including infringements or misappropriation resulting from Elkhart County's negligence or willful misconduct); or (iii) Contractor's breach, nonfulfillment, or nonperformance of any representation, warranty, covenant, or obligation under this MSA or any Supplement.

b. **Elkhart County Indemnification.** Elkhart County agrees to indemnify, defend, and hold Contractor, its officers, directors, employees, agents, and contractors harmless from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees and expenses) by reason of any claims or actions by third parties for (i) bodily injury or death or damage, loss or destruction of any real or personal property (including without limitation the property of Contractor), which third-party claims arise out of or relate to Elkhart County's negligence or willful misconduct, (ii) infringement or misappropriation by Elkhart County of any Intellectual Property Rights under this MSA or any Supplement (not including infringements or misappropriation resulting from Contractor's negligence or willful misconduct), or (iii) Elkhart County's breach, nonfulfillment, or nonperformance of any representation, warranty, covenant, or obligation under this MSA or any Supplement.

15. **Insurance.** For and during the term of this MSA and any Supplement, Contractor will secure and maintain at its own expense insurance of the type and in the amount set forth below:

a. **Workers Compensation.** Workers compensation insurance in accordance with all federal and state statutory requirements;

b. **Commercial General Liability.** Commercial general liability insurance in an amount not less than \$1,000,000.00 per occurrence, subject to an amount not less than \$2,000,000.00 aggregate limit covering bodily injury (including death), personal injury, property damage including, without limitation, all contractual liability for such injury or damage assumed by Contractor under this MSA and any Supplement (this policy must cover, but is not limited to, liability arising from premises and operations, independent contractors, Products/completed operations, personal and advertising injury, and blanket contractual liability);

c. **Umbrella.** Umbrella liability insurance with respect to workers' compensation and commercial general liability in an amount not less than \$5,000,000.00 combined single limit;

d. **Crime.** Blanket crime coverage including employee dishonesty covering liability against direct and verifiable losses of money, securities, products, equipment, material, and other property of Elkhart County caused by theft or forgery by identifiable employees of Contractor acting alone or in collusion with others, in an amount not less than \$500,000.00;

e. **Cyber and Fraud.** Other insurance in an amount not less than \$5,000,000.00 that covers liabilities, damages, claims, and other expenses Elkhart County may incur or be responsible for related to cyber related matters (e.g., computer fraud, data breach response, electronic data restoration, fund transfer fraud, social engineering fraud, extortion and ransomware, cyber insurance); and

f. **Errors and Omissions.** Professional errors and omissions liability insurance appropriate to Contractor's business ventures with coverage for professional errors, acts, or omissions arising out of the scope of Services set forth in this MSA or any Supplement, in an amount not less than \$5,000,000.00 per occurrence.

g. **Additional Insured and Verification.** Elkhart County, its elected officials, officers, directors, employees, agents, departments, and contractors must be named as additional insureds on the commercial general liability policy. Upon request from Elkhart County, Contractor will furnish certificates of insurance evidencing any of the foregoing coverage and confirming Elkhart County is listed as an additional insured

16. **No Passed Responsibility.** Nothing contained in this MSA or any Supplement is intended to, and will not be interpreted or construed to, impose responsibility on Elkhart County for the acts or omissions of Contractor or its employees in carrying out Contractor's obligations pursuant to this MSA or any Supplement.

17. **Confidentiality.** The Parties agree and understand that as a result of Contractor providing information technology Services, the Parties may encounter certain information deemed confidential by the respective Party. The following provisions apply to Confidential Information as defined herein:

a. **Confidential Information Defined.** "Confidential Information" means Elkhart County information in any form or medium (whether oral, written, electronic, or other) that is statutorily protected as confidential, marked by Elkhart County as confidential, or is otherwise not subject to or is non-disclosable for purposes of public record request under the Indiana Access to Public Records Act for any reason including, but not limited to, an exception or privilege that permits non-disclosure. Confidential Information also means Contractor information that is marked by Contractor as confidential and is not subject to public record request under the Indiana Access to Public Records Act or any other federal, state, or local law. Confidential Information does not include information that either Party can demonstrate by written or other documentary records: (a) was already known to such Party without restriction on use or disclosure prior to receipt of such information from or on behalf of the other Party; (b) was or becomes generally known by the public other than by breach of this MSA by, or other wrongful act of, the receiving Party or any of its representatives or agents; (c) was received by a Party from a third party who was not, at the time, under any obligation to the other Party or any other person to maintain the confidentiality of such information; or (d) was or is independently developed by a Party without reference to or use of any of the other Party's Confidential Information. Confidential Information also does not include information that is confirmed in writing by Elkhart County to be subject to public record request under the Indiana Access to Public Records Act, without any exception or privilege that would permit non-disclosure.

b. **Obligation of Confidentiality.** As a condition of this MSA, the Parties will each:

a. not access or use Confidential Information other than as strictly necessary to perform its obligations under and in accordance with this MSA and the applicable Supplement;

b. not use any Confidential Information, directly or indirectly, in any manner to the detriment of the other Party;

c. maintain all Confidential Information in strict confidence and, except as may be permitted by and subject to its compliance with Section 17.c below, not disclose or permit access to Confidential Information other than to its representatives who: (i) need to know such Confidential Information for purposes of performance of its obligations under and in accordance with this MSA; (ii) have been informed of the confidential nature of the Confidential Information and the Parties' obligations under this Section 17; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 17;

d. safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its most sensitive information and in no event less than a reasonable degree of care; and

e. ensure compliance with, and be liable for any noncompliance with, this Section 17.

c. **Compelled Disclosures.** If either Party is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, such Party will: (a) promptly, and prior to such disclosure, notify the other Party of such requirement so that such Party can seek a protective order or other appropriate remedy or waive its rights under this Section 17; and (b) provide reasonable assistance to such Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the non-disclosing Party waives compliance or, after providing the notice and assistance required under this Section 17.c, the disclosing Party remains required by law to disclose any Confidential Information, the disclosing Party may disclose only that portion of the Confidential Information that, on the advice of the disclosing Party's legal counsel, the disclosing Party is legally required to disclose and will use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

18. **Termination.** As previously noted, this MSA automatically terminates, subject to future reinstatement, upon final completion of all related Supplements. If either Party defaults in the performance of any of the obligations required under this MSA or any Supplement, the non-defaulting Party may terminate this MSA according to the provisions set forth in Section 19 below. This MSA and all applicable Supplements may be immediately terminated by Elkhart County if any of the following occur: (1) if Contractor's business entity is dissolved by the Indiana Secretary of State or otherwise ceases to exist; (2) Contractor becomes insolvent or takes or fails to take any action which constitutes an admission of inability to pay debts as they mature; (3) Contractor makes a general assignment of the benefit of creditors to an agent authorized to liquidate any substantial amount of assets; (4) Contractor becomes a subject of an "order of relief" within the meaning of the United States Bankruptcy Code; (5) Contractor applies to a court for the appointment of a receiver for any assets or properties; (6) Contractor makes a fraudulent misrepresentation that is material to this MSA or any Supplement; (7) Contractor fails to (i) promptly deliver the Services within reasonable time frames established by Elkhart County, (ii) perform any of the other provisions of this MSA or any Supplement; or (8) Elkhart County determines that a

termination is in the Government's best interest. If a basis for immediate termination exists, Elkhart County may terminate by delivering to Contractor a Notice of Termination specifying the basis for emergency termination. If any Supplement is terminated in the middle of a month, Contractor will be entitled to compensation only for Services performed prior to termination, including a proration for the number of days prior to termination compared to the total number of days for the month. Under no circumstances will Elkhart County be liable to Contractor for an early termination charge.

19. **Default and Remedies.** If either Party defaults in the performance of any of the obligations required under this MSA or any Supplement, the non-defaulting Party may terminate this MSA or the applicable Supplement after the defaulting Party fails to cure the default within 10 days of the defaulting Party receiving written notice of the default. In the event the defaulting Party fails to cure the default within said 10-day period, then this MSA or the applicable Supplement may be terminated as set forth above without further liability on the part of the non-defaulting Party. Such termination, however, will not foreclose the non-defaulting Party from pursuing any other rights or recovering any legal or equitable relief permitted by law as the result of the default of the defaulting Party. Except as otherwise expressly provided, the rights and remedies set forth in this MSA are in addition to, and cumulative of, all other rights and remedies at law or in equity.

20. **Assignment.** Neither Party may assign or transfer its rights or obligations under this MSA or any Supplement without the prior written consent of the other Party, except that either Party may assign this MSA and any Supplement upon notice and without consent to a person, firm, corporation, partnership, association, trust or other entity (i) that controls, is controlled by or is under common control with such Party or (ii) into which it is merged or consolidated or which purchases all or substantially all of its assets; provided that the assignee assumes all liabilities hereunder in writing prior to the effectiveness of such assignment. Any assignment or transfer without the required consent will be void and will be considered a material breach of this MSA and any applicable Supplement. Upon any permitted assignment, the assigning Party will remain jointly and severally responsible for the performance under this MSA and any Supplement, unless released in writing by the other Party, and this MSA and any Supplement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

21. **Subcontractors.** Contractor will not, without the prior written consent of Elkhart County, which consent may be given or withheld in Elkhart County's sole discretion, engage any person or entity that is not an employee of Contractor to perform Services or provide Products hereunder. Elkhart County's approval of any such subcontractor (each approved subcontractor, a "**Permitted Subcontractor**") does not relieve Contractor of its obligations under the MSA or any Supplement, and Contractor will:

a. **Agency Relationship.** Be responsible and liable for the acts and omissions of each Permitted Subcontractor (including its employees) to the same extent as if such acts or omissions were by Contractor or its employees.

b. **Agreement.** Prior to the commencement of Services by any Permitted Subcontractor, enter into a written agreement acceptable to Elkhart County with such Permitted Subcontractor that binds such Permitted Subcontractor to confidentiality provisions that are at least as protective of Elkhart County's Confidential Information as those contained in this MSA and provide Elkhart County with a copy of the executed original of such agreement promptly after execution.

c. **Third-Party Beneficiary.** Name Elkhart County a third-party beneficiary under Contractor's agreement with each Permitted Subcontractor with respect to the Services, with rights to enforce each agreement.

d. **Fees and Expenses.** Be responsible for all fees and expenses payable to any Permitted Subcontractor, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits.

22. **No Third-Party Beneficiaries.** The covenants, undertakings, and agreements set forth in this MSA are solely for the benefit of and enforceable by the Parties or their respective successors or permitted assigns.

23. **Notice.** Any notices required by this MSA or any Supplement, including but not limited to, demands, requests and other communications required or permitted hereunder (not including invoices) must be in writing and will be deemed given: (i) when delivered in person, (ii) one (1) business day after deposit with an overnight delivery service for next day delivery, or (iii) three (3) business days after deposit in the United States mail, postage prepaid, registered or certified mail, return receipt requested, and addressed to the recipient Party at the following address:

ELKHART COUNTY: Elkhart County Commissioners
Attn: County Administrator
117 North Second Street
Goshen, Indiana 46526
574.534.3541

With a required copy to: Yoder Ainlay Ulmer & Buckingham, LLP
Attn: Steven J. Olsen
130 N. Main St.
Goshen, Indiana 46526
574.533.1171

CONTRACTOR: _____
Attn: _____

24. **Compliance with Legal Requirements.** Contractor will comply with all applicable international, federal, state, and local laws, regulations, and requirements including recordkeeping and reporting requirements with respect to the Services provided and assistance furnished under this MSA and any Supplement. Contractor will further ensure that any action suggested or proposed by Contractor to be taken by Elkhart County does not violate any international, federal, state, or local law, regulation, or requirement or any third-party rights.

Contractor will further comply with any additional requirements necessary to secure grant funding to pay for Services rendered under this MSA and any Supplement.

25. **Non-Discrimination.** Pursuant to Indiana Code § 22-9-1-10, Contractor and its subcontractors, if any, will not discriminate against any employee or applicant for employment to be employed in the performance of this MSA and any Supplement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this MSA and any Supplement. Pursuant to Indiana Code § 22-9-10-9, Contractor and its subcontractors, if any, will not discriminate against any applicant for employment to be employed in the performance of this MSA and any Supplement because of their status as a veteran.

26. **Non-Solicitation.** During the term of this MSA and any Supplement and for a period of 2 years after the termination of this MSA and any Supplement, Contractor agrees:

- a. Not to solicit any Elkhart County employees for employment with Contractor; and
- b. Not to interfere with the employment relationship of any Elkhart County employees with the County of Elkhart.

27. **State Law Certifications.**

a. Contractor is aware of the provisions under Indiana Code § 36-1-21 et seq. with respect to anti-nepotism in contractual relationships with governmental entities. Contractor certifies that none of the owners of Contractor is a relative of any elected County Commissioner, County Council Member of Elkhart County, or any other Elkhart County elected official.

b. Pursuant to Indiana Code § 5-22-16.5 et seq., Contractor certifies that Contractor is not engaged in investment activities in Iran.

28. **E-Verify Program.** Pursuant to Indiana Code § 22-5-1.7-11, Contractor agrees to and will enroll in and verify the work eligibility status of all newly hired employees of Contractor after the date of this MSA through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3; provided, however, Contractor is not required to verify the work eligibility status of all newly hired employees after the date of this MSA through the E-Verify Program if the E-Verify Program no longer exists. Contractor further represents and certifies subject to the pains and penalties of perjury that it does not knowingly employ an unauthorized alien.

29. **Telephone Solicitation Act Compliance.** Contractor certifies that, except for de minimis and non-systematic violations, it has not violated the terms of Indiana Code § 24-4.7 et seq., Indiana Code § 24-5-12 et seq., or Indiana Code § 24-5-14 et seq. in the previous 365 days, even if Indiana Code § 24-4.7 et seq. is preempted by federal law, and that Contractor will not violate the terms of Indiana Code § 24-4.7 et seq. for the duration of the MSA, even if Indiana Code § 24-4.7 et seq. is preempted by federal law. Contractor further certifies that any affiliate or principal of Contractor and any agent acting on behalf of Contractor or on behalf of any affiliate or principal of Contractor, except for de minimis and non-systematic violations, has not violated the terms of

Indiana Code § 24-4.7 et seq. in the previous 365 days, even if Indiana Code § 24-4.7 et seq. is preempted by federal law, and will not violate the terms of Indiana Code § 24-4.7 et seq. for the duration of the MSA, even if Indiana Code § 24-4.7 et seq. is preempted by federal law.

30. **Modification.** No change, modification, or waiver of any term of this MSA will be valid unless it is in writing and signed by both Elkhart County and Contractor.

31. **Survival.** The Parties' respective representations, warranties, and covenants, together with obligations of indemnification and confidentiality will survive the expiration, termination, or rescission of this MSA or any Supplement and continue in full force and effect.

32. **Attorney Fees.** In the event either Party is required to retain legal counsel as a result of any breach of this MSA or the applicable Supplement, such prevailing Party will be entitled to reasonable attorneys' fees, costs, and expenses incurred. The preceding sentence will survive any judgment and, to the maximum extent permitted by law, will not be deemed merged into such judgment.

33. **Entire Agreement.** This MSA with any applicable Supplement contains the entire agreement of the Parties and supersedes all prior discussions, negotiations, proposals, understandings, and agreements regarding the Services and assistance to be provided by Contractor to Elkhart County under this MSA.

34. **No Implied Waiver.** No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this MSA, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this MSA or any Supplement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

35. **Applicable Law, Jurisdiction, and Exclusive Venue.** This MSA and any Supplement will be governed by, and construed and enforced in accordance with, the laws of the State of Indiana without regard to conflicts of law principles. Elkhart County and Contractor agree that all suits, actions or proceedings arising out of or relating to this MSA or any Supplement may only be filed and maintained in a state court in Elkhart County, Indiana or federal court in the Northern District of Indiana. Elkhart County and Contractor hereby consent and submit to the jurisdiction of said courts and hereby waive any right to transfer or change venue or to claim any such proceeding has been brought in an improper or inconvenient forum.

36. **Counterparts, Fax, and Electronic Signatures.** This MSA and any Supplement may be executed in two or more counterparts, each of which will be an original, and all such counterparts will constitute a single instrument. Elkhart County and Contractor agree that a fax or electronic signature of a Party hereto will be as legally effective and binding as a signed original; provided, however, any Party providing a fax or electronic signature hereof will be required to promptly forward a signed original to any requesting Party.

37. **Severability.** Each of the provisions contained in this MSA and any Supplement and words contained within such provisions will be severable, and the unenforceability of one will not affect the enforceability of any others or of the remainder of this MSA or any Supplement.

38. **Headings.** The headings of the sections and subsections of this MSA and any Supplement are for convenience only and will not constitute a substantive part hereof.

39. **Binding Effect.** This MSA and any Supplement is binding upon and will inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the Parties hereto have executed this MSA with the undersigned signatories of Elkhart County and Contractor each certifying that he/she has been and is properly authorized on behalf of Elkhart County and Contractor respectively to execute and deliver this MSA.

[Signatures on next page]

ELKHART COUNTY:

Elkhart County Board of Commissioners

Bradley D. Rogers, President

Suzanne M. Weirick, Vice-President

Bob Barnes, Member

ATTEST:

Patricia A. Pickens, Elkhart County Auditor

CONTRACTOR:

_____, President