

This Agreement, entered into on 7/\_\_\_/2019, by and between Blount County, Tennessee (referred to in this Agreement as "County") and Gottlieb & Wertz, Inc. (referred to in this Agreement as "G&W") of 12821 E. New Market St., Suite 308, Carmel, Indiana 46032.

WITNESSETH:

Whereas, County desires to obtain services to assist County in implementing and customizing the QUEST system so that QUEST can be fully functional for the County on G&W's computer server (referred to in this agreement as "Computer"); and

Whereas, G&W desires to perform these services for County and is able to do so in a professional manner;

Now, therefore, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

**Section 1. Term:** The term of this Agreement is from the date of execution of the Agreement through and including 6/30/2020, unless terminated before that date in accordance with this Agreement. The County will have the option to renew the contract four (4) times.

**Section 2. Services:** County retains G&W to assist in modifying and customizing QUEST so that QUEST can be fully functional on the Computer. G&W shall perform the following specific services (collectively referred to in the Agreement as "Services"):

**2.01 Software Installation:**

- A.) Create a test environment for County staff to experiment with and get to know the QUEST application. This task will be completed within 3 days of contract execution.
- B.) Create a production environment for processing the County's real information. This task will be completed within 6 weeks of contract execution unless the County requests more time.

**2.02 Tailor QUEST software:**

- A.) Tailor the existing Tables of Codes used throughout the QUEST system.
- B.) Setup application level security. Identify user groups and grant access to their respective options.

**2.03 User training:** Provide training to County personnel on the use of QUEST. Five (5) days of training are included in this Agreement. A

normal training session is one work day with 5-6 persons attending a single session. A normal training session does not cover all of Quest's functions but covers the topics germane to the participants. Training facilities are to be provided by the County.

**2.04** Come live support: Provide on-site support to County personnel during the County's initial use of QUEST. Five (5) days of support are included in this Agreement.

**2.05** Create YASI interface: Work with YASI to implement an interface between the County's data in YASI and Quest.

### **Section 3. County Obligations**

**3.01** County shall perform the following specific services:

A.) County's Project Manager: County will authorize County's Project Manager to approve modifications and changes to the scope of work to be performed under this Agreement. County's Project Manager will participate in the direction and coordination of the services performed by G&W and perform administrative tasks throughout the duration of the QUEST project.

B.) County Support Staff: County shall provide user support staff to conduct acceptance testing of G&W's work on the QUEST project in accordance with known specifications.

### **Section 4. Work Product**

**4.01** Property Rights: County will display appropriate copyright notices to protect G&W's copyrighted software. The parties acknowledge that County has a non-exclusive, perpetual, and non-transferable license to use QUEST under a licensing agreement with Gottlieb & Wertz, Inc. A copy of this Licensing Agreement, designated Attachment 1, which is attached hereto and incorporated herein.

The County agrees that all enhancements to QUEST made under this Agreement or thereafter shall be the exclusive property of Gottlieb & Wertz, Inc. and subject to the License Agreement.

Other Clients: G&W has the right to use any Deliverables (software modifications, help manuals, other documentation, etc. – anything but the County's data) generated under this Agreement in any effort for any

other client of G&W without the prior consent of County.

## **Section 5. Compensation**

**5.01** County's compensation to G&W for performance of Services under this Agreement shall be as follows:

A.) License Fee: County shall pay an annual fee seven hundred fifty dollars (\$750.00) per concurrent session to be licensed. The County will license 7 concurrent sessions for a total cost of five thousand two hundred fifty dollars (\$5,250.00) per year. This fee will be invoiced when the County starts using Quest in the production environment.

B.) Services: County shall pay a fee of twenty-three thousand dollars (\$23,000.00) for the work to be performed under Section 2. This fee will be invoiced when the County starts using Quest in the production environment.

**5.02** County shall fully pay G&W for properly itemized invoices no later than thirty (30) days after invoice submittal. County shall pay G&W interest at the rate of 1.5% per month starting on the thirty-first (31) day after the invoice was received for invoice accounts that remain unpaid after forty-five (45) days. The interest provision is waived for any balance on the invoice that the County disputes within the initial thirty (30) days.

## **Section 6. Confidentiality**

**6.01** G&W will instruct G&W's personnel not to disclose any proprietary information provided to G&W by County during the performance of services that is marked "proprietary" or "confidential". G&W will use the same care and discretion G&W uses with G&W's proprietary and confidential information.

**6.02** The parties anticipate that County will be provided with information relating to G&W's business that is confidential or proprietary to G&W. County will not directly or indirectly disclose this information, and will secure and protect this information in a manner consistent with the maintenance of G&W's rights in this information. County will take appropriate action by instruction or agreement with County's employees and agents who are permitted access to such information to satisfy County's obligations under this Agreement.

**6.03** This Section does not apply to information:

A.) That was rightfully known to one party prior to its receipt from the other party; or

B.) that becomes public knowledge by the acts of a third party.

**6.04** The failure to comply with this Section is a material breach of this Agreement.

## **Section 7. Termination**

**7.01** This Agreement may be terminated with or without cause by either party upon giving thirty (30) days written notice to the other party. The parties agree that following notice of termination, an orderly phase-out schedule shall be jointly established.

**7.02** If performance of work under this Agreement is terminated prior to the end of the term of this Agreement, G&W shall be compensated for services provided by G&W or obligations incurred by G&W prior to the effective date of the termination notice.

**7.03** If termination occurs, County may make County's own agreement with any other party for completion of the work described in this Agreement.

**7.04** If termination occurs and County is not in default, all County property, materials, and work in G&W's possession, including all documents in the possession of G&W that incorporate any classified information from any patent, trade mark, copyright, proprietary information, and information subject to government secrecy restrictions, shall be delivered by G&W to County.

**7.05** If termination occurs and G&W is not in default, all G&W's property, materials, and work in County's possession, including all documents in the possession of County that incorporate any classified information from any patent, trade mark, copyright, proprietary information, and information subject to government secrecy restrictions, shall be delivered by County to G&W.

## **Section 8. Effort to Cure Breach of Contract**

**8.01** Notwithstanding Section 7 of this Agreement, if either party breaches this Agreement, the non-breaching party may choose to proceed under

this Section.

- 8.02** The non-breaching party shall notify the breaching party of the breach in writing. The breaching party shall then have fourteen (14) days following the receipt of the notice to cure the breach or make a good faith effort to cure the breach.
- 8.03** If the breaching party does not cure the breach within the fourteen (14) day period set forth in the preceding paragraph, and the parties nevertheless agree to continue this Agreement, it shall be under the same terms and conditions set in this Agreement.

## **Section 9. Amendment of Agreement**

- 9.01** This Agreement may be amended, changed, modified, renewed, superseded, or terminated only by a written instrument signed by each of the parties to this Agreement. Any amendment, change or modification may pertain to one (1) or more of the provisions of this Agreement without affecting the other provisions of this Agreement.

## **Section 10. Change Control Procedure**

- 10.01** An amendment, change, or modification to the Services provided under this Agreement must be made in accordance with the following change control procedure:
- A.) Identification of Change in Scope: Either party may suggest that a change in the project's scope is desirable. The party shall then complete a Scope Change Form. This form will be developed jointly by County and G&W. The party shall identify the nature of the proposed change and reasons for the proposed change in the completed Scope Change Form.
  - B.) Evaluation of Change in Scope: G&W shall evaluate the effect of the change set forth in the Scope Change Form on the usability, cost, and implementation date of the project. The results of G&W's evaluation shall be added to the Scope Change Form.
  - C.) County Determination: The County's Project Manager shall review the Scope Change Form and approve or deny the Scope Change. G&W agrees not to undertake or perform any work described in the Scope Change Form until the County's Project Manager has approved the Scope Change and notified G&W that funds are

available to perform the work.

## **Section 11. Project Acceptance and Completion**

**11.01 Acceptance Test Procedures:** The services for the QUEST project performed by G&W will be considered ready for use upon G&W's correction, on an ongoing basis and as expeditiously as possible, of all defects identified through the Acceptance Test Procedures. Acceptance Test Procedures are the County's responsibility and may be as formal or informal as the County desires.

**11.02 Final Acceptance:** The County (through the County's Project Manager) shall give final acceptance to G&W's services and work product after the County (through the County's Project Manager) determines that G&W has satisfactorily completed G&W's obligations under this Agreement. If the County (through the County's Project Manager) rejects the completion of Quest after G&W determined it to be completed, the County (through the County's Project Manager) shall provide G&W with a written notice of rejection detailing the reason's for not providing final acceptance of G&W's work. Final Acceptance must be completed within 30 days of the County using Quest in the production environment (Section 2.01, paragraph B).

**Section 12. Notices:** Any notice, invoice, order, or other correspondence required to be sent under this Agreement shall be addressed to:

Blount County Juvenile Court  
Amanda May  
Director, Juvenile Court

391 Court Street  
Maryville, TN 37804  
(865)273-5949

("G&W")  
Gottlieb & Wertz, Inc.  
12821 E. New Market St.  
Suite 308  
Carmel, IN 46032  
(317) 471-9005

**Section 13. Waiver:** Either party's delay or inaction in pursuing that party's remedies set forth in this Agreement, or available by law, or that party's failure to insist on strict compliance with the provisions of this Agreement, do not operate as a waiver of any of that party's rights or remedies contained in this Agreement or available by law, or as a waiver of that party's right to demand strict compliance with the provision's of this Agreement.

**Section 14. Limitation of Actions:** Neither party may bring an action, regardless of form, arising out of transactions under this Agreement, more than one (1) year from the

discovery of the issue that would initiate the action.

**Section 15. Severability:** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken. All other provisions of this Agreement shall continue to operate independently of any stricken provision and shall continue to be in full force and effect.

**Section 16. Acts of god:** Neither party shall be liable for delays, or defaults in the performance of this contract due to Acts of God or the public enemy, riots, strikes, fires, explosions, accidents, governmental action of any kind or any other causes of similar character beyond their control and without their fault or negligence.

**Section 17. Indemnification and Insurance:** Any and all obligation of Blount County to provide indemnification is subject to the limits of liability set forth in the Tennessee Government Tort Liability Act found at T.C.A. § 29-20-101 et. seq. and Blount County's obligation to provide indemnification is limited to the limits of liability set forth for a governmental entity under said Act.

Contractor agrees to carry liability and Worker's Compensation insurance satisfactory to the County and to indemnify the County against all liability, loss and damage arising out of any injuries to persons and property caused by the Contractor, his employees or agents. The Contractor will furnish written evidence of such insurance coverage if requested. The successful contractor(s) must carry the insurance as indicated on the Insurance Checklist attached hereto. As proof of the contractor's willingness to obtain and maintain the insurance, the Proposers must provide the appropriate Certificate(s) of Insurance with Blount County Government named as additional insured per the attached Certificate of Liability Insurance sample. It shall be the awarded vendor's responsibility to keep current Certificate(s) of Insurance on file with Blount County throughout the term of the agreement.

**Section 18. Governing Law and Venue:** The laws of the State of Tennessee shall govern this contract, and all obligations of the parties are performable in Blount County, Tennessee. The Chancery Court and/or the Circuit Court of Blount County, Tennessee, shall have exclusive and concurrent jurisdiction of any disputes, which arise hereunder.

**Section 19. Non-Discrimination:** Contractor agrees not to discriminate against any employee or applicant for employment to be used in the performance of the obligations of Contractor under this Agreement because of race, color, religion, sex, sexual orientation, ancestry, age, national origin or disability (as the same is defined in The Americans With Disabilities Act of 1990, 42 USC § 12101-13 (West Supp. 1991) and any regulation promulgated thereunder) or any other unlawful basis. The Contractor agrees to comply with all of the provisions of Executive Order 11246, as heretofore amended by Executive Order 11375 and Executive Order 12086, and any subsequent amendments, and with the relevant rules, regulations, and orders of the Secretary of Labor. Contractor shall execute such certifications of its compliance with the requirements of this paragraph as Blount County Government may from time to time require, which certifications shall become a part of this Agreement as if fully set forth

herein.

**Section 20. Entire Agreement:** This Agreement represents the entire understanding between County and G&W. This Agreement supersedes all prior negotiations, representations, and contracts, either oral or written.



In witness whereof, the parties to this Agreement have executed this Agreement on the date shown above.

Gottlieb & Wertz, Inc. ("G&W")

Blount County Government  
"County"

By: Bill Gottlieb

William S. Gottlieb

President

By: William S. Gottlieb

(printed)

By: [Signature]

Approved as to form, Craig Garrett

Attorney for Bount County

By: [Signature]

Purchasing Agent

Bount County Government