

SERIAL 14002 IGA CASE MANAGEMENT SYSTEM (MCAO)

DATE OF LAST REVISION: January 29, 2014 CONTRACT END DATE: January 31, 2017

CONTRACT PERIOD THROUGH JANUARY 31, 2017

TO: All Departments
FROM: Office of Procurement Services
SUBJECT: Contract for **CASE MANAGEMENT SYSTEM (MCAO)**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **January 29, 2014**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

BW/mm
Attach

Copy to: Office of Procurement Services
John Garcia, MCAO



CONTRACT

SERIAL 14002-IGA

This Contract is entered into 29th day of January, 2014 by and between Maricopa County (“County”), a political subdivision of the State of Arizona, and Karpel Solutions, and Missouri Corporation (“Contractor” or “Karpel”) for the purchase of a case management system and related services.

1.0 CONTRACT TERM

- 1.1 This Contract is for a term of three (3) years, effective beginning on the 29th day of January, 2014 and ending the 31st day of January, 2017.
- 1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional three (3) year terms until terminated by one of the parties. In addition, at the County’s sole discretion, may extend the contract on a month-to-month basis for a maximum of six (6) months at the end of any 3 year term. The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS

- 2.1 Any request for a fee adjustment must be submitted sixty (60) days prior to the current Contract expiration date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted fee, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.0 PAYMENTS

- 3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit “A.”
- 3.2 Payment shall be made upon the County’s receipt of a properly completed invoice.

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4.0 INVOICES

4.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract serial number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service
- Quantity
- Contract Item number(s)
- Description of service provided
- Pricing per unit of service
- Extended price
- Total Amount Due

4.1.1 Problems regarding billing or invoicing shall be directed to the County as listed on the Purchase Order.

4.1.2 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site:

(<http://www.maricopa.gov/Finance/Vendors.aspx>)

4.1.3 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

5.0 AVAILABILITY OF FUNDS

5.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.

5.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in

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connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

6.0 DUTIES

- 6.1 The Contractor shall perform all duties stated in Exhibit “B-E”, or as otherwise directed in writing by the Procurement Officer.
- 6.2 During the Contract term, County may provide Contractor’s personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations.
- 6.3 The Parties will perform their respective responsibilities in accordance with the Statement of Work (Exhibit B) by executing this Contract; the County authorizes Contractor to proceed with contract performance.
- 6.4 The Parties agree that additional data interfaces, with applicable support and maintenance, may be required by the County. The Parties acknowledge that the County may request and the Contractor shall deliver customized solutions that may, or may not be within the Scope of Work provided herein. Additional data interfaces, maintenance, or customization shall be provided at the price and payment schedule provided in Exhibit A.

7.0 TERMS and CONDITIONS

7.1 Indemnification

- 7.1.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor’s duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

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7.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

7.2 Infringement Defense Indemnification

7.2.1 Defense and Indemnity. Contractor shall defend, Participate and Share in the Cost, as defined below, in the full defense of the County against any Claim, as defined below, and will indemnify and hold harmless the County as provided for in this Section for any judgments, settlements and court awarded attorney's fees resulting from a Claim where the claimant is adjudged the successful party in the Claim. Contractor's obligations under this Section are conditioned on the following: (i) County promptly notifies Contractor of the Claim in writing upon County being made aware of the Claim; (ii) County gives Contractor lead authority and control of the defense and (if applicable) settlement of the Claim, provided that County's legal counsel may participate in such defense and settlement, at County's expense, and (iii) County provides all information and assistance reasonably requested by Contractor to handle the defense or settlement of the Claim. For purposes of this Section, "Claim" means any cause of action in a third party action, suit or proceeding against County alleging that PROSECUTOR by Karpel, or its upgrades, modifications, or revisions or "PbK", as of its delivery date under this Agreement, infringes a valid U.S. patent, copyright or trademark. For the purposes of this section, "Participate and Share in the Costs" means Contractor will assist the County in the defense of the claim, to the extent agreed to by the parties, except that Contractor shall be solely responsible for any and all costs adjudged in a successful Claim against the County.

7.2.2 Remedial Measures. If PbK becomes, or Contractor reasonably believes use of PbK may become, the subject of a Claim, Contractor may, at its own expense and option: (i) procure for County the right to continue use of the Product; (ii) replace or modify PbK; or to the extent that neither (i) nor (ii) are deemed commercially practicable, (iii) refund to County a pro-rated portion of the applicable fees for PbK based on a linear depreciation monthly over 3 year useful life, in which case County will cease all use of PbK and return it to Contractor.

7.2.3 Exceptions. Contractor will have no defense or indemnity obligation for any Claim based on: (i) modifications by someone other than Contractor; (ii) PbK has been modified by Contractor in accordance with County-provided specifications or instructions; (iii) use or combination by the County of PbK with Third Party Products, open source or freeware technology; (iv) Third Party Products, open source or freeware technology; (v) a product that is used or located by County in a country other than the country in which or for which it was supplied by Contractor; (vi) possession or use of a product after Contractor

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has informed County of modifications or changes required to avoid such Claim and offered to implement those modifications or changes, if such Claim would have been avoided by implementation of Contractor's suggestions and to the extent County did not provide Contractor with a reasonable opportunity to implement Contractor's suggestions; or (vii) the amount of revenue or profits earned or other value obtained by the use of Products, or the amount of use of the Products. "Third Party Products" means any products made by a party other than Contractor, and may include, without limitation, products ordered by County from third parties. However, components of Contractor-branded Products are not Third Party Products if they are both: (i) embedded in Third Party Products (i.e., not recognizable as standalone items); and (ii) not identified as separate items on Contractor's price list, quotes, order specifications forms or Documentation.

7.2.4 The foregoing states Contractor's entire liability, and County's sole and exclusive remedy except as provided at law or equity, with respect to any infringement or misappropriation of any intellectual property rights of another party.

7.3 Insurance

7.3.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

7.3.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

7.3.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

7.3.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

7.3.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured

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retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

7.3.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

7.3.7 The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

7.3.8 The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

7.3.9 Commercial General Liability

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

7.3.10 Automobile Liability

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

7.3.11 Workers' Compensation

7.3.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this

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Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

7.3.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

7.3.12 Errors and Omissions Insurance

Errors and Omissions insurance and, if necessary, Commercial Umbrella insurance, which will insure and provide coverage for errors or omissions of the Contractor, with limits of no less than \$1,000,000 for each claim.

7.3.13 Certificates of Insurance

7.3.13.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

7.3.13.2 Prior to commencing work or services under this Contract, Contractor shall have insurance in effect as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall be made available to the County upon ten (10) business days. **BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF CONTRACT.**

7.3.13.3 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

7.3.13.4 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

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7.3.14 Cancellation and Expiration Notice

7.3.14.1 Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

8.0 NOTICES

All notices given pursuant to the terms of this Contract shall be addressed to:

For County: Maricopa County
 Office of Procurement Services
 Attn: Contract Administration
 320 West Lincoln Street
 Phoenix, Arizona 85003-2494

For Contractor: Karpel Solutions
 Attn: Jeff Karpel
 5714 S. Lindbergh Blvd
 St. Louis, MO 63123

9.0 ASSIGNMENT

This Agreement will inure to the benefit of and be binding upon Contractor and County, and each respective successors and assigns. Notwithstanding the foregoing, the Parties may not assign or otherwise transfer this Agreement or its rights, duties and obligations under this Agreement without the prior written consent of the other Party, or any purported assignment or other transfer without such consent will be void and of no force or effect.

10.0 FORCE MAJEURE

Except for a party's payment obligations hereunder, neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach thereof are delayed or prevented by reason of any act of God, government, fire, natural disaster, accident, terrorism, network or telecommunication system failure, sabotage or any other cause beyond the control of such party ("Force Majeure"), provided that such party promptly gives the other party written notice of such Force Majeure.

11.0 REQUIREMENTS CONTRACT

11.1 Contractor signifies its understanding and agreement by signing this document that this Contract is a requirements contract. This Contract does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when County identifies a need and issues a purchase order or a written notice to proceed.

11.2 County reserves the right to cancel purchase orders or notice to proceed within a reasonable period of time after issuance. Should a purchase order or notice to proceed be

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canceled, the County agrees to reimburse the Contractor for actual and documented costs incurred by the Contractor. The County will not reimburse the Contractor for any avoidable costs incurred after receipt of cancellation, or for lost profits, or shipment of product or performance of services prior to issuance of a purchase order or notice to proceed.

11.3 Purchase orders will be cancelled in writing.

12.0 TERMINATION FOR CONVENIENCE

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted before the effective date of the termination.

13.0 TERMINATION FOR DEFAULT

13.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

13.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County within 24 hours of request.

13.3 Prior to County's final acceptance of the PROSECUTORbyKarpel implementation (Acceptance F), the County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. In the event of termination for default by Contractor, the Contractor shall be liable to the County for any excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor. Contractor liability will not exceed the total amount paid to Contractor as of the date of default.

13.4 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

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14.0 TERMINATION BY THE COUNTY

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

15.0 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

16.0 OFFSET FOR DAMAGES

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

17.0 ADDITIONS/DELETIONS OF SERVICE

17.1 The County reserves the right to add and/or delete materials to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

17.2 The County reserves the right of final approval on proposed staff for all tasks required to perform work under this Contract. Also, upon request by the County, the Contractor will be required to remove any employees and subcontractors working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

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18.0 RELATIONSHIPS

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the County and the Contractor.

19.0 SUBCONTRACTING

The Contractor may not subcontract to another party for performance of the terms and conditions of this Contract without the prior written consent of the County. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

20.0 AMENDMENTS

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for County.

21.0 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW

21.1 In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

21.2 If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse County for the services not so adequately supported and documented.

21.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future claim submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

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22.0 AUDIT DISALLOWANCES

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

23.0 SEVERABILITY

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

24.0 RIGHTS IN DATA

The County shall own, have the use of, and access to all data resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

25.0 INTEGRATION

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

26.0 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS

26.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

26.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 6.21.1 of this Section. Contractor and subcontractor shall be given reasonable notice of

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the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

27.0 CONTRACTOR LICENSE REQUIREMENT

27.1 The Contractor shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Contractor shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.

27.2 Contractors furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Contractor is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Contractors are advised to contact the Arizona Registrar of Contractors, Chief of Licensing to ascertain licensing requirements for a particular contract. Contractors shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

28.0 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

28.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

28.1.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

28.1.2 Have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement,

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theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

28.1.3 Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

28.1.4 Have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

28.1.5 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contract.

28.1.6 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

29.0 PRICES

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other customer for these or similar services.

30.0 GOVERNING LAW

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

31.0 ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, Exhibit D, the terms of this Contract shall prevail.

32.0 INFLUENCE

32.1 As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.

An attempt to influence includes, but is not limited to:

32.1.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,

32.1.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

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32.2 If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

33.0 PUBLIC RECORDS

All offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If the Contractor believes that information in its offer should remain confidential, it shall indicate as confidential, the specific information and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

34.0 MARKETING

Subject to prior County approval, Contractor may identify County as a customer of Contractor in Contractor's written promotional and marketing materials, as well as in any oral or visual presentations regarding the business of Contractor. Contractor may use any non-Confidential Information, such as aggregate statistical information as part of Contractor's overall statistics for marketing or promotional efforts.

35.0 CONTRACTOR EMPLOYEES

Contractor has spent substantial sums of money and invested large amounts of time in recruiting, supervising and training Contractor employees. County agrees that it has a unique opportunity to evaluate Contractor employees' performance, and has the potential to hire Contractor employees, and further agrees that such hiring away would substantially disrupt the essence of Contractor's business and ability to provide its services for others, and as such Contractor cannot agree to such a hiring. The County acknowledges that Contractor employees work for Contractor under a non-competition agreement; therefore, County agrees it shall not solicit for employment or contract as an independent contractor, or otherwise hire or engage a Contractor employee during the term of this Agreement or for a period of 2 years after the completion/termination of the project, whichever is longer.

36.0 CONFIDENTIALITY

36.1 Confidentiality

Neither party shall disclose or use any confidential or proprietary information of the other party. The foregoing obligations shall not apply to information which: (i) is or becomes known publicly through no fault of the receiving party; (ii) is learned by the receiving

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party from a third party entitled to disclose it; or (iii) is already known to the receiving party.

36.2 Personally Identifiable Information

The parties recognize that certain data County or Contractor may use in conjunction with the PbK may be confidential personally identifiable information of third parties. Contractor shall use all best efforts to protect the confidentiality of personally identifiable information of third parties. Contractor shall have no liability for disclosure of personally identifiable information caused by County's own negligence or misconduct.

36.3 Disclosure Required by Law

In the event that any confidential or proprietary information is required to be disclosed pursuant to any law, code, regulation or court order from a court of competent jurisdiction, the receiving party shall give the disclosing party immediate written notice of such requirement and shall use its best efforts to seek or to cooperate with the disclosing party in seeking a protective order with respect to the confidential information requested.

36.4 Similar Programs and Materials

Provided Contractor does not violate the provisions of this section regarding confidentiality, the Agreement shall not preclude Contractor from developing for itself, or for others, programs or materials which are similar to those produced as a result of services provided to County.

36.5 Injunctive Relief

Any breach of the confidentiality provisions of this Section will cause irreparable harm to the other party. The parties agree that the non-breaching party may enforce the provisions of this Section by seeking an injunction, specific performance, criminal prosecution or other equitable relief without prejudice to any other rights and remedies the non-breaching party may have.

36.6 Non-Disclosure

Contractor must maintain a non-disclosure agreement (NDA) with the County. All employees and subcontractors of the Contractor must maintain and NDA with the Contractor.

36.7 Background Checks

All employees and subcontractors of the Contractor must pass a comprehensive personal history background check. Sufficient information shall be provided for all background

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checks to be completed. Any employee who fails the background check shall not have any access to County data unless specifically authorized by County in writing.

37.0 MISCELLANEOUS

37.1 Electronic Documents

To the extent possible, and under the terms required by County, County and Contractor may communicate by electronic means, including but not limited to facsimile documents. Both parties agree that: a signature or an identification code ("USERID") contained in an electronic document is legally sufficient to verify the sender's identity and the document's authenticity; an electronic document that contains a signature or USERID is a signed writing; and that an electronic document, or any computer printout of it, is an original when maintained in the normal course of business.

38.0 SOURCE CODE ESCROW

38.1 The Contractor shall provide all source code and any updates or fixes for the Contractor Commercial off the Shelf (COTS) application software that County has purchased from Contractor for safekeeping with a mutually acceptable escrow agent within thirty (30) days of award. The Contractor shall execute an escrow agreement between the Contractor, the County, and the escrow agent to achieve the purposes of this section and shall name the County as sole beneficiary of the escrow agreement. The software source deposited with the escrow agent will be a snapshot of all source code maintained by Contractor in the form of an archive in a recognized version control system (e.g., Vault or Visual SourceSafe). In this way, as beneficiary of the escrow agreement between Contractor and escrow agent, County will have access to all source code of the products that they license for all versions of the software. Furthermore, the escrowed code shall include all code specifically developed for County including, but not limited to: interfaces, Extraction-Transformation-Loading (ETL) routines for data conversion, and all custom code. Upon taking possession of the source code, County will have the right to use the source for products that they license in the versions currently installed on the System or any subsequent versions in the archive. Contractor will make a deposit of the Source Safe Archive with the escrow agent once every six (6) months.

38.2 County hereby agrees to pay the yearly standard fee for a beneficiary of the source code.

38.3 County shall have access to the source code in the event any of the following circumstances:

38.3.1 the sale, assignment, or transfer to any third party of any of Contractor's rights in the licensed product (or any portion thereof) if such sale, assignment, or transfer would prevent Contractor from fully performing any of its obligations under any agreement with County;

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- 38.3.2 Contractor becomes insolvent or commits any affirmative act of insolvency, or generally fails to pay, or admits in writing its inability to pay, debts as they become due, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under, or case in, any bankruptcy or insolvency law, or Contractor takes any action to authorize, or in the furtherance of, any of the foregoing;
 - 38.3.3 Contractor has ceased to do business or improperly refuses to provide any services pursuant to any agreement with County;
 - 38.3.4 Contractor has breached (and if subject to a cure period, has not cured such breach within such period) any material term or condition of any agreement with County;
 - 38.3.5 Any change of control of Contractor or Contractor's parent company, where such party is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of the assets of such party are acquired by any entity, or such party is merged with or into another entity to form a new entity; or
- 38.4 Should County take possession of the source code as a result of an event as specified above, County hereby agrees as follows:
- 38.4.1 County accepts full and total responsibility for the safekeeping of the source code. County agrees that such source code shall be subject to the restrictions of transfer, sale, and reproduction placed on the software itself as stated in the software license signed by all parties.
 - 38.4.2 County agrees to only use source code related to applications for which they own a license. There will be source code from other applications in the archive.
 - 38.4.3 County agrees that any unauthorized release of the source code will cause irreparable harm to Contractor. Therefore, County agrees to compensate Contractor for any and all damages Contractor suffers, to include reasonable attorney's fees, resulting directly or indirectly from, but not limited to, the mishandling, misuse, or theft of the source code, regardless of intent, or the absence thereof, by County, its employees, former employees, agents and third-party associates if so ordered by the court. Notwithstanding the foregoing, County agrees that Contractor is entitled to an immediate injunction to stop any further alleged or actual disclosure.
 - 38.4.4 No license under any trademark, patent, copyright, or any other intellectual property right, is either granted or implied by the disclosure of the source code to County. The Contractor's disclosure of the source code to County shall not

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constitute any representation, warranty, assurance, guarantee or inducement by the Contractor to County of any kind, and, in particular, with respect to the non-infringement of trademarks, patents, copyrights, or any other intellectual property rights, or other rights of third persons or of Contractor.

38.4.5 Contractor will not be responsible for maintaining the source code. Furthermore, Contractor will not be liable for any consequences related to the use of source code modified by County.

39.0 PENALTIES DUE TO NON-PERFORMANCE

39.1 Contractor acknowledges that performance under this Contract and compliance with the Statement of Work, Exhibit B and Implementation Timeline are of the utmost importance, and agrees the County will suffer damages for noncompliance with the Statement of Work and Implementation Timeline. Contractor shall meet or exceed the Implementation Timeline provided in this Contract and agrees that failure to meet or exceed said timeline at any time may be considered a breach of contract and subject to penalties.

39.2 The County acknowledges that performance under this Contract and compliance with the Statement of Work, Exhibit B and Implementation Timeline are of the utmost importance, and agrees the Contractor will suffer damages for noncompliance with the Statement of Work and Implementation Timeline. County shall meet or exceed the Implementation Timeline provided in this Contract and agrees that failure to meet or exceed said timeline at any time may be considered a breach of contract and subject to penalties.

39.3 Penalties for non-performance shall be levied, at a minimum, but not exclusively, beginning July 1, 2014, as provided in the Statement of Work, Exhibit B.

39.4 Notwithstanding any other section of this Contract, either party may notify the other party in writing of nonperformance as required by this Contract and that penalties may be assessed at \$1,000 per day until compliance, or this Contract is terminated. The County shall have the right to retain any assessed penalties from any payment that may be due to the Contractor for every day of non-performance.

39.5 After July 1, 2014, non-performance may impact completion of acceptance forms in Exhibit B. If nonperformance impacts completion of acceptance forms, associated payments may be similarly impacted.

39.6 Penalties for non-performance may be levied for actions by the other party that contribute to unresolved delays to the Implementation Timeline. Any circumstance or situation attributable to that party the delays or interferes with performance relied upon by the party. For example, which is not intended to be exclusive, insufficient resources to complete tasks; inability to provide clean data conversions; training delays; inadequate

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functionality of PbK; foreseeable governmental decisions; incomplete data mappings; inadequate network infrastructure computer systems, or facilities.

- 39.7 Written notice of non-performance shall specify the non-performance and a specific timeframe to establish compliance before penalties begin to be assessed. If additional time is required to comply, the additional time shall be mutually agreed to in writing.
- 39.8 Non-performance agreed to in writing by the parties; or problems with the Internet as provided in Section 6.2 of Exhibit C; or is a result of force majeure shall not result in penalties under this Contract.

40.0 INCORPORATION OF DOCUMENTS

The following are to be attached to and made part of this Contract:

Exhibit A, Pricing;

Exhibit B, Statement of Work;

Exhibit C, Hosting Agreement;

Exhibit D, Software License Agreement; and

Exhibit E, Contractor Travel and Per Diem Policy

CONTRACT
Maricopa County – Karpel Solutions

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR:



AUTHORIZED SIGNATURE

Jeffrey L. Karpel Owner/Software Architect
PRINTED NAME AND TITLE

5714 S. Lindbergh, Blvd, St. Louis, MO 63123
ADDRESS

1/25/14
DATE

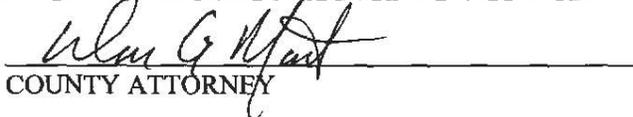
MARICOPA COUNTY:



CHAIRMAN, BOARD OF SUPERVISORS

JAN 29 2014
DATE

MARICOPA COUNTY ATTORNEY'S OFFICE:



COUNTY ATTORNEY

1-27-14
DATE

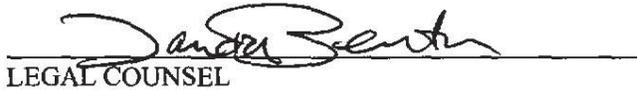
ATTESTED:



CLERK OF THE BOARD

JAN 29 2014
DATE

APPROVED AS TO FORM:



LEGAL COUNSEL

Jan 28 2014
DATE

EXHIBIT A

PROSECUTORbyKARPEL Pricing and Payment Schedule

NIGP
CODE:
RESPONDENT'S NAME: Karpel Solutions
COUNTY VENDOR NUMBER :
ADDRESS: 5714 S. Lindbergh Blvd
St Louis, MO 63123
P.O. ADDRESS:
TELEPHONE NUMBER: 314-892-6300
FACSIMILE NUMBER:
WEB SITE: www.karpel.com
CONTACT (REPRESENTATIVE): Jeff Karpel
REPRESENTATIVE'S E-MAIL ADDRESS: karpel@karpel.com

	YES	NO
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	<input type="checkbox"/>	<input checked="" type="checkbox"/>

CONTRACTOR IS REQUIRED TO PICK ONE OF THE FOLLOWING PAYMENT TERMS.
FAILURE TO INDICATE PAYMENT TERMS WILL RESULT IN A DEFAULT TO NET 30 DAYS.
RESPONDENT MUST INITIAL THEIR SELECTION BELOW.

<input type="checkbox"/> NET 10 DAYS	<input type="checkbox"/> NET 45 DAYS	<input type="checkbox"/> 1% 10 DAYS NET 30 DAYS
<input type="checkbox"/> NET 15 DAYS	<input type="checkbox"/> NET 60 DAYS	<input type="checkbox"/> 2% 30 DAYS NET 31 DAYS
<input type="checkbox"/> NET 20 DAYS	<input type="checkbox"/> NET 90 DAYS	<input type="checkbox"/> 1% 30 DAYS NET 31 DAYS
<input checked="" type="checkbox"/> NET 30 DAYS	<input type="checkbox"/> 2% 10 DAYS NET	<input type="checkbox"/> 5% 30 DAYS NET 31 DAYS

1.0 PRICING:

1.1 SOFTWARE LICENSE PRICE (DOES NOT INCLUDE MAINTENANCE AND SUPPORT)

YEAR 1	YEAR 2	YEAR 3
\$ 1,050,000.00	\$ _____	\$ _____

1.2 IMPLEMENTATION SERVICES

YEAR 1	YEAR 2	YEAR 3
\$ 99,500.00	\$ -	\$ -

1.3 ONSITE TRAINING

YEAR 1	YEAR 2	YEAR 3
\$ 216,000.00	\$ -	\$ -

EXHIBIT A

PROSECUTORbyKARPEL Pricing and Payment Schedule

1.4 CUSTOMIZATION SERVICES		YEAR 1	YEAR 2	YEAR 3
		\$ 40,000.00	\$ -	\$ -
1.5 ANNUAL MAINTENANCE AND SUPPORT		YEAR 1	YEAR 2	YEAR 3
841	Prosecutor by Karpel	\$ 378,450.00	\$ 378,450.00	\$ 378,450.00
1	eSubpoena and external agency view	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
8	Interfaces(based on interface quote)	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00
1	Annual eDiscovery	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00
2.0 HOSTED (ALL INCLUSIVE)		YEAR 1	YEAR 2	YEAR 3
841	Licenses (\$5 per user, per month)	\$ 50,460.00	\$ 50,460.00	\$ 50,460.00
3.0 TRAVEL EXPENSES - INTIAL INSTALLTION		\$ 56,500.00		
TRAVEL EXPENSES SHALL COMPLY WITH THE MARICOPA COUNTY CONTRACTORS TRAVEL POLICY (SEE EXHIBIT E)				
TOTAL ANNUAL COSTS		\$ 1,928,910.00	\$466,910.00	\$ 466,910.00
TOTAL 3-YEAR COST		\$2,862,730.00		
4.0 HOURLY RATES FOR ADDITIONAL WORK OUTSIDE SCOPE		YEAR 1	YEAR 2	YEAR 3
PROPOSER SHOULD SUPPLY CATEGORIES BEING PRICED. I.E. PROJECT MANAGER ETC.				
	Per hour labor rate	150	150	150
5.0 OPTIONAL SERVICES				
	Adobe Acrobat Professional	\$ 200		
	Client Support Tool/Scanning tool and system capability check(per licenses)	\$ 50		
	Document conversion/per document	\$ 25		
	LE Lite (available in release 5.3)	\$ 50,000		
	LE Lite Annual Maintenance	\$ 10,000		
	Additional Data Interfaces	\$ 5,000		
	Annual Maintenance and Support on Additional Data Interfaces	\$ 1,000		
	Post Implementation Training-on site(1 day min.), plus travel	\$ 1,200		
	Post Implementation Training-on site(2 hour min.), plus travel	\$ 300		

EXHIBIT A

PROSECUTORbyKARPEL Pricing and Payment Schedule

6.0 PAYMENT SCHEDULE IN ACCORDANCE WITH SCOPE OF WORK

Payment Date	Acceptance Criteria	Payment	Payment Amount
1/29/2014	Acceptance A Contract Signing	30% of Licenses	\$ 315,000.00
3/24/2014	Acceptance B Application Database Install	20% of Licenses, 4 day onsite pre-implementation meeting, 25% of Data Conversion cost.	\$ 237,900.00
5/7/2014	Acceptance C Third Pre-Implementation meeting	10% of Licenses, 25% of Data Conversion cost, 50% Document Conversion cost	\$ 123,750.00
7/1/2014	Acceptance D 30 Days Post-Start of User Training (Week 1)	30% of Licenses, 1st and 2nd 3 day onsite pre-implementation meetings, Database Install, 50% Data Conversion cost, 50% Interfaces, 50% Document Conversion cost.	\$ 387,850.00
7/27/2014	Acceptance E 30 Days Post-Completion of Week 4 of User Training	Training Cost, 50% Interface cost and first year of support cost and hosted services fees.	\$ 702,910.00
9/5/2014	Acceptance F 90 days Post Go-Live	10% of Licenses	\$ 105,000.00
		Travel During Implementation	\$ 56,500.00
		TOTAL PAYMENTS FOR LICENSES, INSTALLATION, TRAINING, CONVERSION, CUSTOMIZATION, AND FIRST YEAR MAINTENANCE AND SUPPORT	\$ 1,928,910.00
7/1/2015	Monthly Acceptance of Service and Support	11 monthly payments of \$38,909 and 1 payment of \$38,911	\$ 466,910.00
7/1/2016	Monthly Acceptance of Service and Support	11 monthly payments of \$38,909 and 1 payment of \$38,911	\$ 466,910.00
		TOTAL ANNUAL MAINTENANCE AND SUPORT	\$ 933,820.00
		TOTAL PAYMENTS OVER THREE (3) YEARS	\$2,862,730.00

EXHIBIT B STATEMENT OF WORK

PROSECUTORbyKarpel (PbK) CASE MANAGEMENT SOFTWARE AND IMPLEMENTATION SERVICES

This Statement of Work details the effort necessary to install, configure, test, load with data converted from the County's current systems, implement for productive use, and interface the PbK software to meet the functional and technical requirements as stated herein.

The following Project Timeline is established to achieve the "go live" date. Specific milestones and deadline dates are worked into the timeline in order to meet this date. Any changes to the Project Timeline, milestones, or deadline dates shall be mutually agreed upon in writing by Jeff Karpel or his designee and the County.

Estimated Completion	Implementation Timeline
December 20, 2013	Server & PC assessment completed and any necessary hardware or software ordered to meet PbK Installation Prerequisites.
January 13, 2014	<u>4-Day on-site pre-implementation meeting with project manager and System Administrators.</u> Project Team is selected including Karpel Staff and Customer System Administrators. (One Customer System Administrator must be a Policy Setting Attorney). This meeting will begin with application overview, legacy data application analysis, enhancement definitions, interface definitions and critical reports. PbK Pre-load configuration is explained and initial Document Templates are received. Workflow pre-configuration is conducted. Review of timeline to meet scheduled "go live" date.
January 20, 2014	Teleconference status meeting with Contractor and County project manager will occur to review progress on hardware/software assessments, finalize pre-implementation meeting timeline agreement.
January 29, 2014	Final Contract signed. Project Pre-Implementation Meeting scheduled. Minimum Server and Workstation requirements are provided in writing to County project manager. Server Connection Credentials to the County Server are given to Karpel to begin the data extraction. The County project manager will notify local IT support for remote access credentials and coordinate with local County IT to provide Karpel with legacy data if a remote extraction is not possible. Legacy data to be received by Karpel. Karpel and County to begin on the following interface designs using the Karpel Exchange Interface. <ul style="list-style-type: none">- JMS- FAC- IAF- SCE- CRQ

EXHIBIT B STATEMENT OF WORK

Estimated Completion	Implementation Timeline
	<ul style="list-style-type: none">- SUB- CGI- Check Connection/BOOST/Quick Trip <p>Karpel to begin working on SSRS reports.</p>
February 10, 2014	Karpel Support installation and application testing on each workstation should begin at this time. Karpel Solutions or local IT support will schedule workstation application testing and follow Karpel testing procedures to thoroughly test browser functionality, document generation, Outlook Calendaring and email on each workstation.
February 17, 2014	Teleconference status meeting with Contractor and County project manager will occur to review progress and answer additional questions regarding pre-load spreadsheet. Review of timeline to meet scheduled "go live" date.
February 21, 2014	<u>1st Data Conversion Webinar</u> is reviewed on Karpel servers along with the PBK Pre-load worksheets. Agency Document Templates are received. Data validation spreadsheets will be explained and data validation will begin. System Administrator training begins. Workflow pre-configuration is conducted. System enhancements are completed and demonstrated. Interfaces are reviewed and analyzed to define testing procedures. (*at this point, data conversions will be repeated as many times as deemed as necessary over the next 60 days to correct data conversion anomalies reported in the data validation spreadsheets.) Review of timeline to meet scheduled "go live" date.
February 28, 2014	<u>Victim Services Webinar</u> with Karpel and Victim Services administrators to review processes.
March 3, 2014	Teleconference status meeting with Karpel and County project manager will occur to discuss pre-load completion and workstation application installation and testing. Testing to begin on the Law Enforcement and Court interfaces
March 3, 2014	The County project manager will provide Karpel with any additional Legacy Data, additional Legacy Documents and a fully complete PbK Pre-Load Spreadsheet and completed data validation spreadsheets from the first data conversion. The County project manager will notify County IT support to coordinate the legacy data upload for final conversion with Karpel.
March 10, 2014	Training Schedule is completed with assignment of all office staff to specific training sessions. The Policy Setting Attorney must attend the initial Configuration, Case Initiation and Event Entry sessions at a minimum. Training room and equipment are verified. Review of timeline to meet scheduled "go live" date.

EXHIBIT B STATEMENT OF WORK

Estimated Completion	Implementation Timeline
March 14, 2014	<u>Bad Check Webinar</u> with Karpel and bad check administrators to review processes.
March 24, 2014	<u>3-4 day on-site pre-implementation meeting - 2nd data conversion review webinar</u> - Karpel will install the preliminary data conversion on the County's pre-production site for this Webinar including completed Document templates and Event Entry Configuration. County will continue validating the accuracy of Defendants, Co-Defendants, Cases, Court Dates, Events, Dispositions, and Financials. Application testing will begin. Agency project manager will report all inaccuracies to Karpel. All Custom Enhancements are tested and verified. Agency will begin testing document templates for accuracy. Testing of LE and Court interfaces and SSRS reports begin. <u>Investigation's meeting</u> with Karpel to review processes of investigations. <u>Charges</u> review conversion of charges, charge language, POC for accuracy. Training begins on submittals and charging process.
April 7, 2014	Teleconference status meeting with Karpel and County project manager to review current data validations and acceptance testing. Review of timeline to meet scheduled "go live" date. 2 nd Round of data validation forms to be returned to Karpel. Document template revisions to be submitted to Karpel.
April 14, 2014	<u>Pre-live data conversion review webinar</u> - Karpel will install another data conversion on the County's pre-production site for this webinar. County will continue validating the accuracy of data. County project manager will report all inaccuracies to Karpel. Application and interface testing continues. Review of timeline to meet scheduled "go live" date.
April 23, 2014	Pre-live data validation forms to be returned to Karpel.
May 5, 2014	<u>3-day on-site pre-implementation meeting with project manager and System Administrators.</u> System overview conducted with converted data and required modifications. Workflow (business processes), reports and system configurations are refined and tested. Review of timeline to meet scheduled "go live" date. Agency will continue to review document templates for modifications. All interface testing to be completed and approved. All SSRS testing to be completed and approved.

EXHIBIT B STATEMENT OF WORK

Estimated Completion	Implementation Timeline
May 20, 2014	Complete installation and testing of all workstations by Karpel or local IT support. All final document template modifications to be provided to Karpel.
May 30, 2014	Final teleconference status meeting with Karpel and County project manager to verify final data accuracy and training area is prepared for scheduled training.
June 2, 2014	Karpel trainers arrive at the Training Room. Final Configuration of PbK is performed with all System Administrators present. <u>User training begins with first four groups of users.</u>
June 6, 2014	Final legacy data received by Karpel.
June 9, 2014	<u>Final data conversion is loaded.</u> User training continues. Customer begins using PbK in a live state.
June 16 - 27, 2014	Onsite Post Implementation support continues for 2 weeks after “go live”.
June 30, 2014	Hard final date for implementation and full operation of PbK.
July 1, 2014	First instance to impose penalties for noncompliance with Hard final date

EXHIBIT B STATEMENT OF WORK

Management and Procedures regarding Acceptance Forms:

1. Authorized signers of all acceptance forms in this Contract shall be the Maricopa County Attorney, or his designee and Jeff Karpel, principle of Karpel Solutions, or his designee. Any change, revisions or amendment to any acceptance form shall be made by the Maricopa County Attorney, or his designee and Jeff Karpel, principle of Karpel Solutions, or his designee.
2. Any changes to the content or requirements in an acceptance form shall be mutually agreed upon by the parties and put into writing.
3. Any changes to an acceptance for that may result in an impact to the Pricing Sheet, Exhibit A or the Statement of Work, Exhibit B, any such impact shall be mutually agreed upon by the parties and put into writing.

Acceptance

County Acceptance of the PROSECUTORbyKarpel implementation will occur upon seven (7) milestones:

1. Contract Signing (Project Initiation Acceptance Form A)
2. Application Database Install (Acceptance B)
3. Third Pre-Implementation Meeting (Acceptance C)
4. 30 Days Post-Start of User Training (Acceptance D)
5. 30 Days Post-Completion of User Training (Acceptance E)
6. 90 Days Post Go-Live (Acceptance F)

**EXHIBIT B
STATEMENT OF WORK**

PROJECT INITIATION ACCEPTANCE FORM A

Purpose

The purpose of the Project Initiation Acceptance Form is to confirm that the Contract has been approved and signed by the Parties.

Deliverables

1. Approved and signed Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): *[Signature]* Date: *1/29/14*
Title: *Owner / Software Architect*

**EXHIBIT B
STATEMENT OF WORK**

ACCEPTANCE FORM B

Purpose

The purpose of Acceptance B is to document that the following deliverables have occurred.

Deliverables

1. The Contractor has conducted the first onsite pre-implementation meeting with the County.
2. The Contractor has received and reviewed all databases to be converted under this contract.
3. The Contractor has conducted an interface meeting with ICJIS and the County.
4. The Contractor has conducted a Victim Services webinar to review that function's business processes.

The work is accepted and timely delivered under the terms and conditions of the Statement of Work and this Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): _____

Date: _____

Title: _____

**EXHIBIT B
STATEMENT OF WORK**

ACCEPTANCE FORM C

Purpose

The purpose of Acceptance C is to document that the following deliverables have occurred.

Deliverables

1. The Contractor has conducted the Bad Check webinar to review the Check Enforcement Bureau's business functions.
2. The Contractor has conducted first and second Data Conversion Review meetings with the County.
3. The Contractor has provided data validation spreadsheets to the County.
4. The Contractor has conducted system administrator training for data validation to the County.

The work is accepted and timely delivered under the terms and conditions of the Statement of Work and this Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): _____

Date: _____

Title: _____

**EXHIBIT B
STATEMENT OF WORK**

ACCEPTANCE FORM D

Purpose

The purpose of Acceptance D is to document that the following deliverables have occurred.

Deliverables

1. The Application Database have been installed and verified as operational in the County’s environment (hosted).
2. The Contractor has performed an initial data conversion loading codes tables and creating an Excel workbook.
3. The Contractor has conducted second onsite pre-implementation meeting with the County.
4. The Contractor has conducted preliminary testing of all interfaces.
5. The Contractor has completed Week 1 of user training.
6. The Contractor has completed the final (live) data conversion.
7. The “Go Live” date has been achieved.

The work is accepted and timely delivered under the terms and conditions of the Statement of Work and this Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): _____

Date: _____

Title: _____

EXHIBIT B STATEMENT OF WORK

ACCEPTANCE FORM E

Purpose

The purpose of Acceptance E is to document that the following deliverables have occurred.

Deliverables

1. Document Templates have been converted and loaded by the Contractor into PROSECUTORbyKarpel.
2. Contractor has developed PROSECUTORbyKarpel portions of the interfaces outlined above.
3. MCAO staff has each been provided system administrator, technical and user training on their instance of PROSECUTORbyKarpel.
4. MCAO staff is using PROSECUTORbyKarpel in a live environment.
5. Mutually agreed modifications have been implemented in the PROSECUTORbyKarpel system.

The work is accepted and timely delivered under the terms and conditions of the Statement of Work and this Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): _____

Date: _____

Title: _____

**EXHIBIT B
STATEMENT OF WORK**

ACCEPTANCE FORM F

Purpose

The purpose of Acceptance Form F is the 90-day Post “Go-Live’ Acceptance to document that the following deliverables have been provided.

Deliverables

1. Optional components selected by the County (External View, eSubpoena, eDiscovery and additional data exchange interfaces) have been implemented in a live application environment.
2. The support processes have been tested and verified by the County.

The work is accepted and timely delivered under the terms and conditions of the Statement of Work and this Contract.

Completed on _____.

Accepted by:

(County): _____

Date: _____

Title: _____

(Contractor): _____

Date: _____

Title: _____

EXHIBIT C

PROSECUTOR by Karpel HOSTING

This exhibit between Contractor and County addresses terms and conditions for Contractor to provide internet-based software hosting through HOSTEDbyKarpel of the PROSECUTORbyKarpel® software that has been licensed to County.

1.0 DEFINITIONS

- 1.1 “Confidential Information” means information of either Contractor or County which is disclosed under this Contract in oral, written, graphic, machine recognizable, electronic, sample or any other visually perceptible form by one of us to the other, and which is considered to be proprietary or trade secret by the disclosing party. Confidential Information of Contractor expressly includes, without limitation, the Software and Documentation. The Confidential Information of County includes, without limitation, Personally Identifiable Information and County Content. Confidential Information shall not include information which the party receiving the information can document: (i) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information, (ii) is or becomes general public knowledge through no act or fault of the party receiving the information, (iii) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality, or (iv) is independently developed by the receiving party without the use of any Confidential Information.
- 1.2 “County Content” means all data, information, documents, and file County uploads or inputs into PbK on the Service through the website, including, without limitation, Personally Identifiable Information.
- 1.3 “Enhancements” means any specific configurations or customizations to the Software, which County may request and Contractor agrees in writing to provide.
- 1.4 “Documentation” means any operating instructions, specifications and other documentation related to the operation, description and function of PbK, the Service or Website provided by Contractor whether supplied in paper or electronic form.
- 1.5 “Intellectual Property” means any patents, patent applications, copyrights, mask works, trademarks, service marks, trade names, domain names, inventions, improvements (whether patentable or not), trade secrets, Confidential Information, moral rights, and any other intellectual property rights.
- 1.6 “Personally Identifiable Information” means any information that may be used to identify specific persons or individuals, which is collected by either Contractor or County for use in conjunction with the use of PbK on HOSTEDbyKarpel. Personally Identifiable Information shall be considered Confidential Information.
- 1.7 “PbK” means the PROSECUTORbyKarpel criminal case management system and specifically the County’s licensed copy of PROSECUTORbyKarpel.

EXHIBIT C

PROSECUTOR by Karpel HOSTING

- 1.8 “Service” means the HOSTEDbyKarpel hosting platform provided by Contractor which allows internet based hosting of the County’s licensed copy of PbK through the Website.
- 1.9 “Service Level Requirements” means the technical service levels Contractor shall meet for Services as set forth below in the Service Level Commitments for the delivery of the Services.
- 1.10 “Software” means the County’s licensed copy of the PbK application, and includes any and all updates, enhancements, underlying technology or content, law enforcement transfer interfaces, other Enhancements and any Documentation as may be provided the County by Contractor.
- 1.11 “Website” means the content and functionality currently located at the domain www.hostedbykarpel.com on the internet, or any successor or related domain that provides access to the Software and Service.

2.0 SERVICE LEVEL COMMITMENT

2.1 Availability

Contractor is committed to providing the Software, Website and Service in a consistent and reliable manner, which conforms to industry-accepted performance standards. Contractor will provide the Software, Website and Service to Client with a stated minimum uptime of 99.5% to County. Uptime percentage is calculated based on 24 hours per day; 7 days per week; 365 days per year.

2.2 Scheduled Maintenance

Contractor periodically performs scheduled maintenance including, but not limited to preventative and/or emergency maintenance of the Software, Website, and/or Service. County understands that scheduled maintenance may affect availability of the Service, Website, and/or Software. If scheduled maintenance is to be performed, Contractor will provide notice to County three (3) days prior to the scheduled maintenance. Contractor will make every effort to schedule maintenance outside of normal business hours of the County between the hours of nine (9) p.m. and four (4) a.m. Mountain Standard Time.

2.3 Data Retention and Backups

As a part of the Service and Website, Contractor will maintain under this Agreement consistent, regular and validated backups both onsite and offsite of the County Content, Confidential Information and Software. Backups occur and will be maintained pursuant to Contractor internal backup policies, which shall be reviewed and approved by the County prior to implementation. Contractor will provide written notification to County of any changes made to current backup policies and procedures within 10 business days. Upon written request, Contractor will make available to County a copy of Contractor’s current backup policies and procedures. Contractor will provide County with a complete

EXHIBIT C

PROSECUTOR by Karpel HOSTING

and full copy of the most recent County Content and backup logs within 24 hours of written request.

2.4 Audits and Security

2.4.1 Contractor is committed to maintaining the security of County Content, Confidential Information, and Software on Contractor's Service and Website. Contractor will maintain the Software, Website and Service in a secure manner subject to the Customer Obligations outlined below.

2.4.2 Contractor will perform annual security audits and risk assessments of the Website and Service, conducted by an independent third-party at no additional cost to the County, to ensure the integrity and security of the Website and Service. Results of the audits and risk assessments will be made available to County within ten business days. Contractor will provide written notification to County of any changes made to current Security and Audit policies and procedures within 10 business days.

2.4.3 No County data shall be transferred or made available to a 3rd party in unencrypted form without the express, written consent of the County. See the "Backups" section for what shall be considered "encrypted."

2.4.4 No County data shall be transferred or transmitted outside the United States for any reason without the express, written consent of the County.

2.4.5 The system must support password policy enforcement, such as mixed case, numerals, and non-alphanumeric characters.

2.4.6 The system must support the ability to disable or lock out user accounts after a given number of login failures.

2.5 System Auditing

2.5.1 The system must log all material user actions, including but not limited to, logon and log off.

2.5.2 The system must log all material administrator actions, including but not limited to, user creation, user deleting, password resets, and privilege level changes.

2.5.3 The system must log failed login attempts.

2.5.4 Logs shall be made available to the County at any time.

2.6 Breach Notification

2.6.1 Contractor must report all suspected breaches to the County within 2 business hours and in writing. A "breach" shall be defined as "any incident that results in

EXHIBIT C

PROSECUTOR by Karpel HOSTING

unauthorized access of data, applications, services, networks and/or devices by bypassing their underlying security mechanisms. A security breach occurs when an individual or an application acts without authority and illegally or illegitimately enters a private, confidential or unauthorized logical an information technology perimeter.” The report of the breach (both oral and written) must contain, at minimum, names, times, extent of breach, nature of breach, root cause of breach, attempts at mitigation, resolutions to correct and prevent. Contractor must also fully cooperate with any County investigation into the breach, unless prohibited by law.

2.6.2 Should a breach of the hosted service occur, Contractor must bear the full cost of breach notification and any follow-up services. Follow-up services include, but are not limited to, credit monitoring of affected individuals.

2.6.3 Should a breach of the hosted service occur, Contractor shall pay all fines associated with the breach.

2.6.4 Contractor shall make the information security incident response policy and procedure available to the County at any time upon request.

2.7 Compliance

The Contractor shall comply with all Criminal Justice Information Systems (CJIS) guidelines that directly correspond to the Contractors focus including data and infrastructure security. Any event of noncompliance shall be managed and reported in the same manner as a Breach Notification.

2.8 Data Transmission

Contractor ensures that all data transmitted to and from the Service and Website is transmitted at a minimum level of 128-bit SSL encryption using digital certificates issued by an internationally-recognized domain registrar and certificate authority. In the event data is not transmitted at the minimum level requirements, the Contractor shall manage the noncompliance in the same manner as a Breach Notification. Contractor further agrees that the County shall not be financially responsible for networking equipment at the Contractor’s site.

2.9 Data Location

Contractor will maintain the Service, Software, County Content and Confidential Information of County in a SAS 70/SSAE 16 certified data facility.

3.0 PENALTIES FOR NON-PERFOMANCE

3.1 The availability and access to the PbK hosted solution is critical to the successful operation of the Maricopa County Attorney’s Office. Therefore, maintaining the

EXHIBIT C
PROSECUTOR by Karpel HOSTING

minimum uptime standard of 99.5%, 24 hours a day, 7 days a week, 365 days a year is essential. Therefore, the parties agree that if uptime performance falls below the standards set forth herein, then penalties may be assessed.

- 3.1.1 “Total Scheduled Uptime” is the total minutes in a 30 day period that PbK is scheduled to be available, based on 99.5% of 24 hours a day, 7 days a week, 365 days a year. This excludes Scheduled Downtime.
- 3.1.2 “Total Actual Uptime” means the total minutes in a 30 day period of actual availability of the PbK software.
- 3.1.3 “Unscheduled Downtime” does not reduce the amount of Total Scheduled Uptime and may be, but are not limited to, unscheduled incidents of unavailability which are reported by either the Contractor or the County. Unscheduled downtime does not include incidents that are not attributable to the Contractor or incidents that are beyond the control of the Contractor.
- 3.1.4 “Scheduled Downtime” does not reduce the amount of Total Actual Uptime and include, but is not be limited to, downtime requested by the County; scheduled maintenance; or any other incident of downtime caused or created by the County. Other incidents of Scheduled Downtime may be mutually determined by the Parties.
- 3.1.5 “Uptime Percentage” means the total percentage of time PbK is available to all users, excluding Scheduled Maintenance. The Uptime Percentage shall be 99.5%, 24 hours a day, 7 days a week, 365 days a year.

Total Actual Uptime minus Scheduled Downtime	
Uptime Percentage = _____	divided by _____ X 100
Total Scheduled Uptime	

- 3.2 Contractor shall maintain logs of Uptime Percentages for each 30 day period. Such logs and backup data shall be made available to the County. Contractor shall report the Uptime Percentages to the County on a monthly basis in a form mutually agreed to by the Parties.
- 3.3 If Uptime Percentages fall below 99.5% consecutively for two (2) months or occur more than a total of five (5) times, counted consecutively or individually, in any consecutive 12 month period, the County may assess penalties. The penalty shall be a 5% reduction of the total invoiced Annual Support Fees established in Exhibit A, and shall be assessed against the invoice following the month the non-performance penalty is determined.

EXHIBIT C

PROSECUTOR by Karpel HOSTING

3.4 General Service Level Performance Requirements. As host of the PbK software solution, the Contractor acknowledges it must commit to a minimum service level performance standard to ensure availability and operational integrity to the County. Service level performance standards include, but are not limited to maintenance, data retention, audits, and security. If these performance standards are not maintained, serious concerns arise as to the integrity of the case management by the Maricopa County Attorney's Office, and may lead to concerns about public safety. The Parties agree that non-performance of services levels may be subject to penalties.

3.4.1 Contractor shall maintain, and make available at any time upon request by the County, all scheduled maintenance logs; data retention and backup logs; any Contract or 3rd Party audits system audit logs; and all breaches (suspected and actual).

3.4.2 Any lapses in general maintenance requirements as described in this section may be subject to 5% assessed penalty against the next month's Annual Support Fee invoice: Any two (2) consecutive scheduled maintenance operations that are not performed; any data backup that is not performed; any requested audit that is not produced within two (2) weeks of a written request; any notification of any type of breach, either actual or suspected that is not provided upon request may result in an assessed penalty.

4.0 CUSTOMER OBLIGATIONS

4.1 Password Protection

Access to the Software through the Service and Website is password-protected. Contractor provides multiple authentication alternatives for access to the Website and Software. **CONTRACTOR STRONGLY ENCOURAGES THE USE OF STRONG PASSWORD AUTHENTICATION.** Contractor is not responsible for County's use of the Service, Website or Software. Only the number of users set forth in Exhibit A, Pricing Sheet, may access the Service and Website. County must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. County is fully responsible for the activities of County's employees and authorized agents who access the Service and Website. Contractor is not liable for any unauthorized access to the Service and Website, including without limitation, access caused by failure to protect the login and password information of users.

4.2 Restrictions on Use

County agrees to conduct all activities on the Service and Website in accordance with all applicable laws and regulations. Access to the Service, Website, Software and Documentation must be solely for County's own internal use. County may not (and may not allow any third party to) (i) decompile, mirror, translate, disassemble or otherwise reverse engineer any part of the Software, source code, algorithms, or underlying ideas of

EXHIBIT C

PROSECUTOR by Karpel HOSTING

the Software; (ii) provide, lease, lend, subcontract, sublicense, re-publish or use for timesharing, service bureau or hosting purposes any or all of the Software or Documentation; or (iii) reproduce, modify, copy, distribute, publish, display or create derivative works of any or all of the Software or Documentation or (iv) alter, remove, or obscure any copyright, trademark or other proprietary notices or confidentiality legends on or in the Software or Documentation.

4.3 Suspension

Contractor reserves the right to immediately suspend access to Software without notice and at any time that Contractor suspects or has reason to suspect a security, data breach or if suspension is necessary to protect its rights, County's rights or the rights of a third party. **UPON SUSPENSION OF THE SERVICE AND WEBSITE, CONTRACTOR SHALL IMMEDIATELY CONTACT THE COUNTY, BEING NO LONGER THAN 10 MINUTES FROM THE MOMENT OF SUSPENSION.** Contact information shall be provided by the County.

5.0 OWNERSHIP OF INTELLECTUAL PROPERTY

5.1 Contractor Ownership

Contractor retains all right, title and interest in and to the Software, Documentation, Website, Service and related Intellectual Property. Any suggestions, solutions, improvements, corrections or other contributions County provides regarding the Software, Documentation, Website or Services will become the property of Contractor and County hereby assigns all such rights to Contractor without charge.

5.2 County Ownership

County retains all rights, title and interest in and to the County Content, and all related Intellectual Property. County hereby grants to Contractor and Contractor hereby accepts a non-exclusive, non-transferable, worldwide, fully-paid license to use, copy, and modify the County Content solely to the extent necessary and for the sole purposes of providing access to the Software, Documentation, Website, and Services or otherwise complying with its obligations under this Agreement.

6.0 WARRANTY

6.1 Limited Warranty

Contractor warrants it will provide the Services and Website in a professional manner by qualified personnel. Contractor warrants it has the requisite power and authority to enter into and perform its obligations under this Agreement. Contractor warrants that the performance by Contractor of any services described in the Agreement shall be in compliance with all applicable laws, rules and regulations. Contractor warrants it will provide access to and use of the Software, Service and Website in material accordance

EXHIBIT C

PROSECUTOR by Karpel HOSTING

with the Service Level Commitment outlined above. No representations or warranties as to the use, functionality or operation of the Website, Software, or Service are made by Contractor other than as expressly stated in this Agreement.

6.2 Internet

Contractor makes the Website, Software and Services available to County through the internet to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in Internet communications. County recognizes that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of County's computer systems, may prevent, interrupt or delay County's access to the Service, Website or Software. Contractor is not liable for any delays, interruptions, suspensions or unavailability of the Website or Software attributable to problems with the Internet or the configuration of County's computer systems or network.

6.3 System Requirements

Contractor provides the Services and Website based upon the system requirements as specified by Contractor for County. Contractor has no liability for any failure of the Services or the Software based upon County's failure to comply with the system requirements of Contractor.

6.4 Warranty Limitation

The warranties set forth in this Agreement do not apply if non-compliance is caused by, or has resulted from (i) County's failure to use any new or corrected versions of the Software or Documentation made available by Contractor, (ii) use of the Software or Documentation by County for any purpose other than that authorized in this Agreement, (iii) use of the Software or Documentation in combination with other software, data or products that are defective, incompatible with, or not authorized in writing by Contractor for use with the Software or Documentation, (iv) misuse of the Software or Documentation by, (v) any malfunction of County's software, hardware, computers, computer-related equipment or network connection, (vi) any modification of the Software not performed by or otherwise authorized by Contractor in writing, or (vii) an event of Force Majeure.

6.5 DISCLAIMER

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS AND IMPLIED, WHICH ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING OUT OF A USE IN TRADE OR COURSE OF DEALING OR PERFORMANCE. CONTRACTOR

EXHIBIT C PROSECUTOR by Karpel HOSTING

DOES NOT WARRANT (i) THAT ACCESS TO OR USE OF ALL OR ANY PART OF THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE CONTINUOUS, ERROR-FREE OR UNINTERRUPTED, (ii) THAT THE RESULTS ARISING OUT OF COUNTY'S USE OF THE SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE ACCURATE, COMPLETE OR ERROR-FREE, OR (iii) THAT THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL MEET COUNTY'S NEEDS.

6.6 Exclusive Remedies

If the Website, or Services provided under this Agreement does not materially comply with the requirements stated in the Limited Warranty Section outlined above, Contractor sole obligation shall be to correct or modify the Website or Services, at no additional charge. If Contractor determines it is unable to correct what is non-conforming, County's sole remedy will be to receive a refund of the fees paid for the non-conforming or Services, even if such remedy fails of its essential purpose. You may also terminate this Agreement as set forth in the termination provision of this Agreement.

7.0 LIMITATION OF LIABILITY

CONTRACTOR IS NOT RESPONSIBLE FOR ANY LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, WHETHER ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTE OR OTHERWISE. UNLESS OTHERWISE SPECIFICALLY STATED, ALL REMEDIES AVAILABLE UNDER THIS AGREEMENT AND ALL REMEDIES PROVIDED BY LAW, WILL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE. REGARDLESS OF THE FORM OF ANY CLAIM COUNTY MAY HAVE ARISING UNDER OR RELATING TO THIS AGREEMENT, CONTRACTOR LIABILITY FOR ANY DAMAGES SHALL NOT EXCEED THE FEES COUNTY HAS PAID TO CONTRACTOR PURSUANT TO THIS AGREEMENT IN THE PRIOR TWELVE (12) MONTHS.

EXHIBIT D

SOFTWARE LICENSE AGREEMENT

This exhibit between Contractor and County addresses terms and conditions of the Software License Agreement for Contractor's copyrighted software program known as PROSECUTORbyKarpel (PbK).

1.0 LICENSE TERMS AND USE

- 1.1 This software, PbK is a proprietary product of Contractor. It is licensed (not sold) and is licensed to County for its use only by the terms set forth in the Contract.
- 1.2 In consideration of payment of a license fee, Contractor hereby grants County a non-exclusive and non-transferable license to use any associated manuals and/or documentation furnished.
- 1.3 County cannot distribute, rent, sublicense or lease the software. A separate license of PbK is required for each user or employee. Each license of PbK may not be shared by more than one full time employee or user (40 hours per week), nor more than two (2) part-time employees or users, working no more than 40 hours per week together. The County agrees that Contractor will suffer damages from the County's breach of this term and further agrees that as such Contractor shall be entitled to the cost of the license, installation and training costs associated for each violation, including Contractor's reasonable attorneys' fees and costs.
- 1.4 This License does not transfer any rights to software source codes, unless Contractor ceases to do business without transferring its duties under this agreement to another qualified software business. Contractor will, at County's expense, enter into an escrow agreement for the storage of the source codes.
- 1.5 PbK and its documentation are protected by copyright and trade secret laws. County may not use, copy, modify, or transfer the software or its documentation, in whole or in part, except as expressly provided for herein. Contractor retains all rights in any copy, derivative or modification to the software or its documentation no matter by whom made. PbK is licensed for a single installation of one full time employee. A separate license is required for each installation of PbK. County shall not provide or disclose or otherwise make available PbK or any portion thereof in any form to any third party. County agrees that unauthorized copying and distribution will cause great damage to Contractor and this damage is far greater than the value of the copies involved.
- 1.6 PbK was developed exclusively at private expense and is Contractor's trade secret. For all purposes of the Freedom of Information Act or any other similar statutory right of "open" or public records the Software shall be considered exempt from disclosure. PbK is "commercial computer software" subject to limited utilization "Restricted Rights." PbK, including all copies, is and shall remain proprietary to Contractor or its licensors.

EXHIBIT D

SOFTWARE LICENSE AGREEMENT

2.0 ANNUAL SUPPORT SERVICES

2.1 Annual Support Fees

County understands that annual support fees will be required annually, in order to receive software updates and annual support. The initial support period shall begin from the date of software installation as part of the initial licensing purchase. The County may elect to purchase subsequent annual support, on a yearly basis at fixed cost, billed annually as referenced Exhibit A, Pricing Sheet. The option to purchase annual support is solely at the County's discretion. The County's license to use PbK is not dependent upon the County purchasing annual support; however, if the County discontinues annual support it will not be provided with updated versions of the software, unless it is purchased. Provided County's computers, network and systems meet recommended specifications set for by Contractor and the County is current with annual support payments then Contractor shall provide updated versions of their system and/or software as they become available during the terms of the contract.

2.2 Support Provided

Contractor will provide support (e.g. software updates, general program enhancements and annual support) for all software provided, including ongoing unlimited telephone annual support problem determination, and resolution as long as annual support and maintenance fees are current.

2.3 Hours of Operation

Contractor will provide annual support Monday through Friday, at a minimum of twelve (12) hours a day. Annual support services shall be available Monday through Friday between the hours of 8:00 a.m. through 9:00 p.m. Mountain Standard Time, and Saturday 8:00 a.m. to 4:00 p.m. Mountain Standard Time. Contractor provides a toll-free number, helpdesk email and remote desktop connectivity to support our customers.

2.4 Included Support

Support services include the detection and correction of software errors and the implementation of all PbK program changes, updates and upgrades. Contractor shall respond to the inquiries regarding the use and functionality of the solution as issues are encountered by Authorized Users.

2.5 Response Times Karpel Solutions shall be responsive and timely to technical support calls/inquires made by the Client. The Client will first make support inquires through their qualified system administrators to assure the policies and business practices of the Client are enforced prior to contacting Karpel Solutions. The timeliness of the response is dependent upon the severity of the issue/support problem, as defined below:

EXHIBIT D

SOFTWARE LICENSE AGREEMENT

- 2.5.1 The severity of the issue/support problem shall determine the average problem resolution response time in any calendar month of the contract as follows:
- 2.5.1.1 Severity Level 1 shall be defined as urgent situations, when the Client's production system is down and the Client is unable to use PbK, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however if such staff is not immediately available, Karpel Solutions shall return the customer's call within one (1) business hour. Karpel Solutions shall resolve Severity Level 1 problems as quickly as possible, which on average should not exceed two (2) business days, unless otherwise authorized in writing by the Client.
- 2.5.1.2 Severity Level 2 shall be defined as critical software system component(s) that has significant outages and/or failure precluding its successful operation, and possibly endangering the customer's environment. PbK may operate but is severely restricted. Karpel Solutions' technical support staff shall accept the customer's call for assistance at the time the customer places the initial call; however if such staff is not immediately available, Karpel Solutions shall return the Client's call within four (4) business hours. Karpel Solutions shall resolve Severity Level 2 problems as quickly as possible, which on average should not exceed three (3) business days, unless otherwise authorized in writing by the customer.
- 2.5.1.3 Severity Level 3 shall be defined as a minor problem that exists with PbK but the majority of the functions are still usable and some circumvention may be required to provide service. Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the customer places the initial call; however if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day. Karpel Solutions shall resolve Severity Level 3 problems as quickly as possible, which should not exceed the next available release of software, unless otherwise authorized in writing by the Client.
- 2.5.1.4 General Assistance: For general software support/helpdesk calls not covered by the above severity level descriptions, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day.

EXHIBIT D

SOFTWARE LICENSE AGREEMENT

3.0 SOFTWARE ANOMALIES

New commercial software releases or upgrades, or any hardware and/or software owned by or licensed to County, used in connection with Contractor services may have anomalies, performance or integration issues unknown to Contractor which can impact the timely, successful implementation of information systems. Contractor will inform the County promptly if this occurs and will attempt to analyze, correct and/or work around the anomalies or performance issues on a "best effort" basis. To the extent that any such anomalies as contemplated by this section, do not effect day-to-day operations; does not adversely impact software functionality; or does not adversely impact the County's ability to utilize the software as promised, the Contractor is not responsible for any delay or inability to complete its services if such anomalies or performance issues occur. County is responsible for payment for all of Contractor's services at the rate stated in the proposal whether or not a successful solution is achieved.

4.0 SOFTWARE AUDIT

County agrees to allow Contractor the right to audit County's use of PbK and licenses of PbK at any time. County will cooperate with the audit, including providing access to any books, computers, records or other information that relate to the use of PbK. Such audit will not unreasonably interfere with County's activities. In the event that an audit reveals unauthorized use, reproduction, distribution, or other exploitation of PbK, County will reimburse Contractor for the reasonable cost of the audit, in addition to such other rights and remedies that Contractor may have. Contractor will not conduct an audit more than once per year.

5.0 COUNTY ENVIRONMENT

County is responsible for the application, operation and management of its information technology environment, including but not limited to: (a) purchasing, licensing and maintaining hardware and software; (b) following appropriate operating procedures; (c) following appropriate protective measures to safeguard the software and data from unauthorized duplication, modification, destruction or disclosure; (d) following adequate backup contingency plans; and (e) employing qualified personnel to obtain the desired results. Karpel is not responsible for the loss of data in PbK or security breaches that result in the unauthorized dissemination of data contained in PbK that is the result of County not following appropriate operating procedures, security and protective measures and/or following adequate backup contingency plans.

6.0 MATERIALS

County will pay Contractor for materials purchased for the County's use. Materials may include computer hardware, software, hosting, facility leases, other services, telecommunications charges, freight, shipping, mailing, document reproduction and any other such costs incurred in performance of services for County. Upon mutual agreement, County will reimburse Contractor for all out-of-town travel expenses, such as automobile/airline travel, hotel, meals, and cab fare. Billing for services rendered on-site on an as needed basis will include portal-to-portal time.

EXHIBIT D SOFTWARE LICENSE AGREEMENT

7.0 COPYRIGHT

Contractor reserves the right to seek damages if County is responsible for a subsequent violation of Contractor's copyright, and County assumes responsibility for the acts and omissions of its agents acting in the course of their duties or otherwise with respect to the protection of Contractor's copyright.

8.0 LIMITED WARRANTIES, LIMITATION OF LIABILITY, INDEMNIFICATION

8.1 Limited Warranty

Contractor warrants it will perform all services in a professional manner by qualified personnel. Contractor warrants it has the requisite power and authority to enter into and perform its obligations under this Agreement. Contractor warrants that the performance by Contractor of any services described in the Agreement shall be in compliance with all applicable laws, rules and regulations. No representations or warranties as to the use, functionality or operation of PbK are made by Contractor other than as expressly stated in this Agreement.

8.2 Any PbK Software, including subsequent releases, is licensed to the County solely in accordance with the Contract and this Software License Agreement. The County hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

9.0 PASSWORD PROTECTION

Access to PbK is password-protected. Contractor provides multiple authentication alternatives for access to PbK. **CONTRACTOR STRONGLY ENCOURAGES THE USE OF STRONG PASSWORD AUTHENTICATION.** Contractor is not responsible for County's use of the PbK. Only the number of users set forth above may access the Service and Website. County must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. County is fully responsible for the activities of County's employees and authorized agents who access to PbK. Contractor is not liable for any unauthorized access to PbK and data or information contained therein, including without limitation access caused by failure to protect the login and password information of users.

10.0 SYSTEM REQUIREMENTS

10.1 Contractor provides PbK based upon the system requirements as specified by Karpel ~~Contractor~~ for County. Contractor has no liability for any failure of PbK based upon County's failure to comply with the recommended system requirements of Contractor.

Operating System	Windows 7, Professional Edition, x64
Memory	4GB
Processor	Intel Core i5-650 dual-core 3.2GHz (or equivalent)

EXHIBIT D SOFTWARE LICENSE AGREEMENT

Hard Drive Configuration – OS	1x250GB 7.2kRPM SATA 3Gbps
Additional Feature 1	Internet Explorer 9,10,11
Additional Feature 2	Microsoft Word 2007,2010,2013, full version
Additional Feature 3	Microsoft Outlook 2007,2010,2013

10.2 Third Party Software

Contractor makes no express or implied warranties as to the quality of third party software or as to Contractor's ability to support such software on an on-going basis.

10.3 Limited Engagement

Due to the limited nature of Contractor's engagement by County, Contractor makes no express or implied warranties as to the quality of, or the ability of software developed by Contractor to operate with, any hardware, network, software, systems and/or external data flows already in place at County's facilities or as may be added by the County

EXHIBIT E

CONTRACTOR TRAVEL AND PER DIEM POLICY

Contractor Travel and Per Diem Policy

- 1.0 All contract-related travel plans and arrangements shall be prior-approved by the County Contract Administrator.
- 2.0 Lodging, per diem and incidental expenses incurred in performance of Maricopa County/Special District (County) contracts shall be reimbursed based on current U.S. General Services Administration (GSA) domestic per diem rates for Phoenix, Arizona. Contractors must access the following internet site to determine rates (no exceptions): www.gsa.gov.
 - 2.1 Additional incidental expenses (i.e., telephone, fax, internet and copying charges) shall not be reimbursed. They should be included in the contractor's hourly rate as an overhead charge.
 - 2.2 The County will not (under no circumstances) reimburse for Contractor guest lodging, per diem or incidentals.
- 3.0 Commercial air travel shall be reimbursed as follows:
 - 3.1 Coach airfare will be reimbursed by the County. Business class airfare may be allowed only when preapproved in writing by the County Contract Administrator as a result of the business need of the County when there is no lower fare available.
 - 3.2 The lowest direct flight airfare rate from the Contractors assigned duty post (pre-defined at the time of contract signing) will be reimbursed. Under no circumstances will the County reimburse for airfares related to transportation to or from an alternate site.
 - 3.3 The County will not (under no circumstances) reimburse for Contractor guest commercial air travel.
- 4.0 Rental vehicles may only be used if such use would result in an overall reduction in the total cost of the trip, not for the personal convenience of the traveler. Multiple vehicles for the same set of travelers for the same travel period will not be permitted without prior written approval by the County Contract Administrator.
 - 4.1 Purchase of comprehensive and collision liability insurance shall be at the expense of the contractor. The County will not reimburse contractor if the contractor chooses to purchase these coverage.
 - 4.2 Rental vehicles are restricted to sub-compact, compact or mid-size sedans unless a larger vehicle is necessary for cost efficiency due to the number of travelers. (NOTE: contractors shall obtain pre-approval in writing from the County Contract Administrator prior to rental of a larger vehicle.)
 - 4.3 The County will not (under no circumstances) reimburse the Contractor for guest vehicle rental(s) or other any transportation costs.

EXHIBIT E

CONTRACTOR TRAVEL AND PER DIEM POLICY

- 5.0 County will reimburse for parking expenses if free, public parking is not available within a reasonable distance of the place of County business. All opportunities must be exhausted prior to securing parking that incurs costs for the County. Opportunities to be reviewed are the DASH; shuttles, etc. that can transport the contractor to and from County buildings with minimal costs.
- 5.1 County will reimburse for the lowest rate, long-term uncovered (e.g. covered or enclosed parking will not be reimbursed) airport parking only if it is less expensive than shuttle service to and from the airport.
- 6.0 Contractor is responsible for all costs not directly related to the travel except those that have been pre-approved by the County Contract Administrator. These costs include (but not limited to) the following: in-room movies, valet service, valet parking, laundry service, costs associated with storing luggage at a hotel, fuel costs associated with non-County activities, tips that exceed the per diem allowance, health club fees, and entertainment costs. Claims for unauthorized travel expenses will not be honored and are not reimbursable.
- 7.0 Travel and per diem expenses shall be capped at 15% of project price unless otherwise specified in individual contracts.



Maricopa County Attorney's Office
Bill Montgomery, County Attorney

Mutual Non-Disclosure Agreement

This Mutual Non-Disclosure Agreement (the "Agreement"), with an effective date of 1/25/14, is made between MARICOPA COUNTY, by and through the COUNTY ATTORNEY'S OFFICE, with its principal place of business in 301 West Jefferson, 8th Floor, Phoenix, Arizona ("County" or "MCAO") and KARPEL SOLUTIONS ("Karpel") with its principal place of business at 5714 S Lindgergh Blvd, St. Louis, Missouri. The parties hereby agree as follows:

1. Definitions. "Confidential Information" means information of either Contractor or County which is disclosed for the Purposes herein, in oral, written, graphic, machine recognizable, electronic, sample or any other visually perceptible form by one of us to the other, and which is considered to be proprietary or trade secret by the disclosing party. Confidential Information of Contractor expressly includes, without limitation, the Software and Documentation. The Confidential Information of County includes, without limitation, Personally Identifiable Information and County Content; information; information systems; networks and/or network devices; databases; application or security procedures or protocols; network topology; internet protocol (IP) addresses; floor plans, diagrams or schematics of computer rooms, closets, or computer centers; equipment layouts; network and/or system specifications or configurations; disaster recovery plans or procedures; incident response plans or procedures; , which is identified as confidential, or which can reasonably be considered confidential due to its nature, or the circumstances surrounding the information. Confidential Information **shall not** include information which the party receiving the information can document: (i) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information, (ii) is or becomes general public knowledge through no act or fault of the party

receiving the information, (iii) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality, or (iv) is independently developed by the receiving party without the use of any Confidential Information.

2. Purpose. The Confidential Information shall be disclosed at the sole discretion of the Parties and used by the Receiving Party solely for the purposes determined by Contract Serial 14002-IGA ("Contract"), which may include, but not limited to, implementation, hosting, and operation of the PROSECUTOR by Karpel ("PbK") case management software, including evaluating, data conversion, training, and/or furthering business transactions or technical discussions between Karpel and the County (the "Purpose").

3. Confidentiality. The parties agree to only use the Confidential Information solely for the Purpose determined by the Contract, and to only disclose the Confidential Information to their affiliates, employees, directors, agents or third party contractors who have a need to know the Confidential Information and are under a similar obligation to keep information confidential. The parties shall exercise a reasonable degree of care to protect the Confidential Information from unauthorized disclosure.

4. Mandatory disclosure. The receiver may disclose Confidential Information to the extent required by law.

5. No Warranty. The parties acknowledge that the discloser retains all rights to the



Maricopa County Attorney's Office
Bill Montgomery, County Attorney

Mutual Non-Disclosure Agreement

Confidential Information and no license is implied by the conveying of Confidential Information hereunder. The Confidential Information is disclosed "as is" and no representation, warranty, or any other obligation with respect to the accuracy or performance of the Confidential Information shall be provided by the discloser or its affiliates.

6. **No Waiver.** The parties agree that a failure to enforce any of provisions of this agreement will not constitute a waiver.
7. **Return or Destruction of Confidential Information.** Upon demand by either Party, the Confidential Information and any copies thereof shall be promptly destroyed or returned. If destroyed, the receiver shall certify in writing that all such information, including all copies, has been destroyed.
8. **Term.** The obligations of confidentiality under this Agreement do not expire and are imposed indefinitely, but may be terminated only at the sole discretion of Maricopa County or MCAO. Upon termination, any and all Confidential information in the possession of the other party shall be returned (i.e., swept and extracted from host servers) or destroyed promptly. Evidence of return or destruction of Confidential information, in a form that is satisfactory to the receiving party, shall be provided by the delivering party. Either party may employ 3rd Party contractors to aid in any extraction or recovery of Confidential information.

9. **Export.** The parties acknowledge that Confidential Information may be subject to the export control laws and regulations of the United States of America and other countries.

10. **Governing Law.** This Agreement will be construed in accordance with the laws of the State of Arizona. The venue for any actions or lawsuits involving this Agreement will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona.

11. **Remedies.** Each party acknowledges that the disclosure of Confidential Information in a manner not authorized by this Agreement may cause irreparable damage that could not be fully remedied by monetary damages. Each party agrees that the County may specifically enforce this Agreement and may seek such injunctive or other equitable relief as may be necessary or appropriate to prevent such unauthorized disclosure without the necessity of proving actual damages. Each party agrees to waive any requirement for the other party to post a bond in order to obtain injunctive or other equitable relief. Any such relief will be in addition to and not in lieu of monetary damages.

12. **Entire Agreement.** This agreement constitutes the complete and exclusive statement of the terms and conditions between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral or written agreements regarding this subject matter.



Maricopa County Attorney's Office
Bill Montgomery, County Attorney

Mutual Non-Disclosure Agreement

Karpel Solutions.

By: *[Signature]*
Name: Jeffery L. Karpel
Title: Owner/Software Architect
Date: 1/15/14

Maricopa County

By: *[Signature]*
Name: DENNY BARNEY
Title: CHAIRMAN
-CLERK, BOARD OF SUPERVISORS
Date: JAN 29 2014

KARPEL SOLUTIONS, 5714 S LINDBERGH BLVD STE. 200, SAINT LOUIS, MO 63123

PRICING SHEET: 20967

Terms:	NET 30
Vendor Number:	2011004302 0
Telephone Number:	314/609-9083
Fax Number:	314/892-8035
Contact Person:	Jeff Karpel
E-mail Address:	karpel@karpel.com
Certificates of Insurance	Required
Contract Period:	To cover the period ending January 31, 2017.