

CONTRACT

by and between

Cuyahoga County, Ohio

and

Unify Solutions, Inc.

THIS AGREEMENT ("Contract") is made and entered into this 03 day of October, 2011 by and between Cuyahoga County, Ohio ("the County"), on behalf of the Cuyahoga County Information Services Center and the Department of Human Resources, and **Unify Solutions, Inc.**, a Maryland Corporation, with principal offices at 4 West Rolling Crossroads, Suite #9, Catonsville, MD 21228.

WHEREAS, the County has a present need for professional services to assist and advise the County staff with SAP Application Development and Configuration and ancillary development services; and

WHEREAS, Unify Solutions, Inc., has unique education, training and/or experience in the field of software programming and program development, which would uniquely fulfill the County's need for consultation in said field; and

WHEREAS, the County desires to continue to avail itself of the advice and professional assistance of Unify Solutions, Inc. and Unify Solutions, Inc., is willing to provide such advice and assistance to the County all upon the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Unify Solutions, Inc. and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

- 1.1 **Scope of Agreement.** During the term of this Contract, Unify shall provide consulting services to assist ISC developers with custom Application development. Said services shall include the configuration and development services in areas such as web services and SAP function calls, migration of additional agencies onto the SAP ERP, and a redesign of ABAP programming. Additionally, services will include an enhancement of configuration in preparation for an SAP system upgrade. Further, the design of and coding of the system and the testing of the system in accordance with industry best practices and CCISC Standards. Specific deliverables associated with these consulting services and other terms between the parties are contained in the Statement of Work attached hereto as Schedule A, and incorporated by reference herein. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

- 1.2 Term. The initial term of this Agreement shall commence as of July 1, 2011; and unless earlier terminated in accordance with the provisions of this Agreement, shall continue in effect for a period of one year from the commencement date. (7/1/11 – 6/30/12)

ARTICLE II – SCOPE OF WORK

- 2.1 Rendering of Services. Unify Inc. hereby agrees to render the services identified in Article 1.1 and the Statement of Work at a total price, which shall in no event exceed the amount of **Three Hundred Eighty Thousand Dollars and Zero Cents (\$380,000.00)**.

ARTICLE III – PAYMENT AND INVOICING

- 3.1 Price and Payment Terms. During the term of this Agreement, the County shall pay Unify at an hourly rates listed in Schedule B. Hours will be billable in incremental units of one-tenth (1/10th) of an hour and subject to the “Not to Exceed” limitation of this Agreement.
- 3.2 Invoicing. During the term of this Agreement, the County shall pay the Unify upon acceptance of deliverables for services rendered to the County on the listed hourly rate in Schedule B in incremental units of one-tenth (1/10th) of an hour.

Unify will issue an invoice to the County on a monthly basis to the following address in accordance with terms and conditions set forth herein and acknowledges if any of the actual hours billed exceed those limits set forth in Section 3.2 (a) through (d) above that only the amount set forth therein will be remitted by the County to Unify at the time of payment on the monthly invoices:

Cuyahoga County Information Services Center
c/o Debbie Davtovich
1255 Euclid Avenue, 4th Floor
Cleveland, OH 44115

ARTICLE IV - INDEMNITIES AND LIABILITIES

- 4.1 Subcontracting. This Contract was awarded to Unify based upon Unify’s unique qualifications and skills, and no task required to be performed under this contract by Unify shall be subcontracted to third parties without the express written consent of Cuyahoga County.
- 4.2 Indemnification. Unify shall agree to release, indemnify and to hold harmless Cuyahoga County any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for its gross negligence or willful misconduct under this contract.
- 4.3 Condition Precedent to Indemnification. The indemnities in Article IV are conditioned upon the County providing Unify prompt written notice of the claim, allegation or action for which indemnification is sought, together with full information and reasonable cooperation and full opportunity to control the response thereto and the defense thereof.

4.4 Indemnification for Infringement. Unify warrants that the County will have the full right to use the work product delivered to County and that it will not infringe upon the rights of any third party. In the event a claim is made against County for infringement, Unify will defend the claim on County's behalf and indemnify and hold County harmless from all financial liability (including legal fees) provided:

- (a) Unify is promptly notified in writing,
- (b) Unify is given control of the defense and settlement of the matter,
- (c) County cooperates with Unify, and
- (d) the claims shall not have arisen due to County's negligent or improper acts.

In addition, if, due to Unify fault, County cannot use the software system as a result of the infringement, Unify, at its option and expense, will either:

- (a) obtain a license for County
- (b) provide a non-infringing work-around, or
- (c) refund to County the fee relating to the infringing item.

Once Unify has done one of the above, it shall have no further liability.

4.5 Warranties. All of Unify services will be performed by qualified personnel and will be of a professional quality conforming to best practices of the industry.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 Dispute Resolution.

a) In the event of any dispute or disagreement between Unify and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by Unify or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

(b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

- 5.2 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. Unify, however, shall be paid for all services and/or materials provided on or prior to the date of termination.
- 5.3 Termination for Financial Instability. In the event that Unify becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against Unify of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.
- 5.4 In addition, Cuyahoga County has the right to release any individual resource, at any time during the contract, without reason. A minimum seventy-two hour notification must be provided to Unify Solutions, Inc.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

- 6.1. By entering into this Contract, Unify, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.
- 6.2 Unify further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VII – MISCELLANEOUS

- 7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

The Cuyahoga County Information Services Center
ATTN: Jeff Mowry
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of Unify:

Unify Solutions, Inc.
Attn: Venkat Sana
4 West Rolling Crossroads,
Suite# 9
Catonsville, MD 21228.

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

- 7.2 Severability. If, and only to the extent that, any provision of this Contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Contract is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.
- 7.3 Waiver. No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
- 7.4 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

- 7.5 Record Audit Retention. Unify agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should Unify be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.
- 7.6 Headings and Interpretation. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.
- 7.7 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.
- 7.8 Social Security Act. Unify shall be and remain an independent Unify with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Unify for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Unify also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.
- 7.9 Assignment. Unify shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the Cuyahoga County Chief Executive.
- 7.10 Contract Processing. Unify shall submit one (1) original contractual agreement with original signatures to the following:

Cuyahoga County Information Services Center
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

- 7.11 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by Unify prior to the execution of this agreement by the County Executive, the same will be provided at Unify's risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be

deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

- 7.12 Entire Agreement and Modification. This Contract, including any Schedules and documents referred to in this Contract or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Contract which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

ARTICLE VIII - MISCELLANEOUS

- 8.1 Schedules Incorporated by Reference. The following Schedules are attached hereto and are incorporated herein:

Schedule A: Statement of Work
Schedule B: Pricing / Payment Schedule

- 8.2 Relationship of Parties. Unify Inc. is performing pursuant to this Agreement only as an independent contractor. Unify Inc. has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed its obligations set forth in this Agreement, except as otherwise agreed upon by the parties. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between Unify Inc. and the County. Neither party shall act or attempt to act or represent itself, directly or by implication, as an agent of the other party or its affiliates or in any manner assume or create any obligation on behalf of, or in the name of the other party or its affiliates.
- 8.3 Force Majeure. Neither party will be liable to the other party hereunder or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, acts of the government, the other party hereto, or third parties (excluding subcontractors or agents), fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather.
- 8.4 Notices. Wherever one party is required or permitted to give notice to the other to this Agreement, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Information Services Center
ATTN: Debbie Davtovich
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of Unify Inc.:

Unify Solutions, Inc.
ATTN: Venkat Sana
4 West Rolling Crossroads,
Suite# 9
Catonsville, MD 21228

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

- 8.5 Severability. If, and only to the extent that, any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Agreement is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.
- 8.6 Waiver. No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
- 8.7 Survival of Terms. Termination or expiration of this Agreement for any reason shall not release either party from any liabilities or obligations set forth in this Agreement which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.
- 8.8 Headings and Interpretation. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.
- 8.9 Governing Law. This Agreement shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

- 8.10 Security Standards. Unify Inc. must agree to maintain security standards consistent with the security of the Cuyahoga County Information Services Center. These include strict control of access to data and maintaining confidentiality gained while carrying out its duties. Unify Inc. agrees to consider all knowledge gained from access to Information Services Center applications, systems and programs as proprietary information supplied in the strictest confidence and shall release it only to authorized employees/agents requiring such information, shall not release or disclose it to any other party or use it for manufacture or any other purposes except as required under this Agreement, without the expressed written approval of the County Executive. The term "confidential information" shall mean any device, process, method or technique originated by or peculiarly within the knowledge of Cuyahoga County and its representatives, employees, and those in privy with it, which is not available to the public and is subject to protection as property under recognized principles.
- 8.11 Social Security Act. Unify Inc. shall be and remain an independent contractor with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Unify Inc. for work performed under the terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Unify Inc. also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.
- 8.12 Assignment. Unify Inc. shall not assign, transfer, convey or otherwise dispose of this Agreement, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement without approval of the County Executive.
- 8.13 Contract Processing. Unify Inc. shall submit one (1) original contractual agreements with original signatures to the following:

Cuyahoga County Information Services Center
c/o Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

- 8.14 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this Agreement must be executed by the County Executive before compensation for the services or products set forth in this Agreement can be provided. In the event that services are provided by Unify Inc. prior to the execution of this agreement by the Board of County Executive, the same will be provided at Unify Inc.'s risk, and payment therefore can not, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this Agreement,

however, any and all prior performance under this Agreement shall be deemed ratified and said performance shall be deemed to be included in this Agreement. Payment(s) for said prior performance shall not increase the amount of the Agreement limit.

- 8.15 Entire Agreement and Modification. This Agreement, including any Schedules and documents referred to in this Agreement or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Agreement which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

IN WITNESS WHEREOF, the County and Unify Inc. have each caused this Agreement to be signed and delivered by its duly authorized representative as of the date first written above.

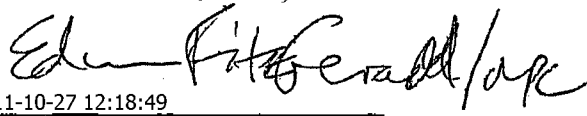
UNIFY SOLUTIONS, INC.

CUYAHOGA COUNTY, OHIO

Edward FitzGerald, County Executive

BY: 

Venkata R Sana, President

BY  2011-10-27 12:18:49

Edward FitzGerald, Chief Executive

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