

**COUNTY OF CUYAHOGA**  
**CONTRACT AMENDMENT FOR**  
**MAINTENANCE SERVICES**

THIS CONTRACT AMENDMENT to CE1200053-01 entered into by and between County of Cuyahoga on behalf of the Office of Procurement & Diversity (hereinafter referred to as the "County"), a political subdivision of the State of Ohio, and Novusolutions, a Florida Corporation, with offices located at 10012 N. Dale Mabry Highway, Suite 115, Tampa, Florida 33618, hereinafter referred to as the "Contractor").

WHEREAS, the Office of Procurement & Diversity desires to enter into a contract amendment with Contractor for maintenance on the customized NovusAgenda software.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the County and the Contractor agree as follows:

**1. Scope of Services.**

The County hereby retains Contractor to provide preventative maintenance services as follows:

- Repair of all bugs discovered during the Contract Amendment term
- Timely response to all technical inquiries
- Provide update to technical documentation as these items are developed
- Access to product enhancements made to the base product (some new features may require service fees to implement)
- All issues will receive response from Contractor within 24 hours from time of reporting.
- Resolution to issue will be resolved based on categorized priority level, as determined by County and Contractor.

Contractor services, as outlined in Exhibit A, are to be provided in accordance with the terms and conditions set forth in this Contract Amendment. All work performed will be in accordance with the specifications and to the satisfaction and acceptance of the Office of Procurement & Diversity. The Contractor hereby covenants and agrees that he has full knowledge of the conditions relative to the performance contemplated by this Contract Amendment and made an essential part thereof, and that the affixing of his signature hereto shall constitute complete acceptance of and compliance with aforesaid specifications and conditions.

**2. Term of Contract Amendment.**

This Contract Amendment shall extend the original time period of December 4, 2011 through December 3, 2013 to June 4, 2014. The County and the Contractor each reserves the right to terminate this Contract Amendment for cause by

submitting written notification with a minimum of thirty (30) days advance notice of the intent to terminate this Contract Amendment. Ownership of data entered into NovusAgenda by users of Cuyahoga County shall remain property of County.

**3. Payment to Contractor.**

In consideration of faithful performance of services as set forth in this Contract Amendment the Contractor shall receive compensation in the total amount not-to-exceed \$1,900.00. Payment for maintenance shall be paid upon execution of the contract amendment by the County Executive.

**4. Independent Contractor.**

Both the County and Contractor agree that the Contractor will act as an independent contractor in the performance of its duties under this Contract Amendment. Accordingly, the Contractor shall be responsible for payment of all taxes, including federal, state and local taxes arising out of the Contractor's performance under this Contract Amendment, and shall be responsible for his own Workers' Compensation coverage. County acknowledges and agrees that Contractor may be an independent Contractor for several different clients, and is not expected to be an exclusive Contractor for the County.

**5. Confidential Information.**

The Contractor agrees that any information received by Contractor from the County of a confidential and/or proprietary nature will remain confidential and will not be revealed to any other persons, firms or organizations, except as may be required in the furtherance of the Contractor services provided under the terms of this Contract Amendment.

**6. Binding Effect.**

This Contract Amendment shall bind, and benefits thereof shall inure, to the respective parties hereto, their legal representatives, executors, administrators, successors and assigns.

**7. Indemnity.**

The Contractor shall defend, hold harmless and indemnify the County from and against all claims, actions, suits, liabilities, damages and expenses (including attorney's fees) for personal injury (including death), property damage or other claims and liabilities arising out of, related to, or in connection with the Contractor's services pursuant to this Contract Amendment, including any services performed by any agent of the Contractor, excepting only such claims, actions, suits, liabilities,

damages and expenses arising directly of the County's willful misconduct or gross negligence.

8. **Third Party Exclusion.**

Nothing under this Contract Amendment shall be construed to give any rights or benefits in this Contract Amendment to anyone other than the County and Contractor, and all duties and responsibilities undertaken pursuant to this Contract Amendment will be for the sole exclusive benefit of County and Contractor, and not for the benefit of any other party.

9. **Controlling Law.**

The laws of the State of Ohio shall govern this Contract Amendment. The venue will be in Cuyahoga County.

10. **Severability.**

The provisions of this Contract Amendment shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of any other provision hereof. If any provision of this Contract Amendment is unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable.

11. **Survival.**

The above terms and conditions regarding limitation and indemnification shall survive the completion of services under this Contract Amendment and the termination of this Contract Amendment for any cause.

12. **Titles.**

The titles used in this Contract Amendment are for general reference only and are not part of the Contract Amendment.

13. **Modifications.**

By the mutual written consent of the County and the Contractor, this Contract Amendment may be modified whenever such modifications are deemed necessary. Any such modifications to the Contract Amendment shall be reduced to writing, signed by both parties, and sent via the United States Postal Service, first class prepaid, to the following:

If to the County:     Cuyahoga County Office of Procurement & Diversity  
                              Attn: Lenora Lockett, Director  
                              1219 Ontario Street, Room 110  
                              Cleveland, OH 44113

**If to the Contractor: Novusolutions  
Attn: John Kercher  
10012 N. Dale Mabry Highway  
Suite 115  
Tampa, Florida 33618**

**14. Insurance/Worker's Compensation.**

**The Contractor shall procure, maintain, and pay premiums for the following forms of insurance:**

- a) Worker's Compensation Insurance as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).**

**For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:**

**\$1,000,000 each accident for bodily injury by accident;  
\$1,000,000 each employee for bodily injury by disease;  
\$1,000,000 policy limit for bodily injury by disease.**

**Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.**

- b) Commercial General Liability Insurance with limits of liability not less than:**

**\$1,000,000 each occurrence bodily injury & property damage;  
\$1,000,000 personal & advertising injury;  
\$2,000,000 general aggregate;  
\$2,000,000 products/completed operations aggregate.**

**Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.**

- c) Business Automobile Liability Insurance covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage)**

each accident;

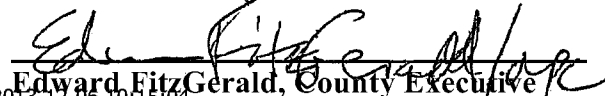
#### **Requirements for All Insurance Coverage**

- 1. The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the “County of Cuyahoga, Ohio and its employees” as an Additional Insured and shall contain the following provisions:**
  - i) Thirty (30) days prior notice of cancellation or material change;**
  - ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.**
- 2. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best’s rating of A VII or above.**
- 3. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.**
- 4. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.**
- 5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.**
- 6. The Contractor shall furnish a Worker’s Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.**


BY ENTERING INTO THIS [AGREEMENT/CONTRACT/AMENDMENT TO AGREEMENT OR CONTRACT] OR [BY SUBMITTING A BID] OR [BY SUBMITTING A PROPOSAL] I AGREE ON BEHALF OF THE CONTRACTING OR SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, 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 THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. I ALSO AGREE ON BEHALF OF THE AFOREMENTIONED ENTITIES AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 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.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Amendment as of the day and year written below.

COUNTY: Cuyahoga County

By:   
Edward FitzGerald, County Executive  
2013-12-06 10:15:04

CONTRACTOR: Novusolutions

  
By: \_\_\_\_\_  
John Kercher – Managing Partner

Date: 12-4-13