

CONTRACT

MAINTENANCE and SUPPORT AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

and

GOVERNMENT MARKETING & PROCUREMENT, LLC

THIS AGREEMENT (the "Contract") is made and entered into on this 19 day of SEP, 2012 by and between Cuyahoga County, Ohio ("the County") on behalf of the Department of Information Technologies and Government Marketing & Procurement, LLC, ("GMP"), an Virginia Corporation, having principal place of business at 1818 Library Street, Suite 500, Reston, VA 20190. (the "Provider")

WHEREAS, the County has a present need for email defense solutions and archiving solutions at the Cuyahoga County Department of Information Technologies; and

WHEREAS, GMP offers a solution using Sonian Networks Hosted Archiving Email archiving solutions, under GSA pricing # GS35F0858N; and

WHEREAS, the County desires to avail itself of such services at the Cuyahoga County Department of Information Technologies and GMP is willing to provide such service to the County all upon the terms and conditions set forth herein, the GSA Pricing, and further supplemented herein.

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

ARTICLE I – AGREEMENT AND TERM

- 1.1 Scope of Agreement. During the term of this Contract, GMP shall provide to the County email defense solutions and archiving solutions services as outlined in Quote # QSON0644, attached hereto and incorporated by reference herein as Schedule A insofar as the terms of Schedule A concur with this agreement. 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 term of this Contract shall commence as of July 6, 2012; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for one year from the date of commencement (7/6/12 – 7/5/13). This contract shall be in an amount not to exceed **Ninety Six Thousand Two Hundred Ten Dollars and Zero Cents**

(\$96,210.00), per the pricing outlined in Schedule A attached hereto and incorporated by reference herein.

- 1.3 General Terms. The County is the single end-user customer organization signing this Agreement and such is authorized to use GMP's products provided per Schedule A attached hereto and incorporated by reference herein.

ARTICLE II - SCOPE OF WORK

- 2.1. Rendering of Services. GMP hereby agrees to render the services outlined in Schedule A attached hereto and incorporated by reference herein at a total price which shall in no event exceed the amount of not to exceed **Ninety Six Thousand Two Hundred Ten Dollars and Zero Cents (\$96,210.00)**.

ARTICLE III – PAYMENT AND INVOICING

- 3.1 Payment. During the term of this contract, the County shall pay the costs associated with the email defense solutions and archiving solutions, upon receipt of said invoice from GMP, upon the approval of the Cuyahoga County Chief Executive.
- 3.2 Invoicing. GMP shall invoice the County annually for the maintenance and support agreement upon execution of this agreement. GMP shall submit original invoice(s) to the following address:

Cuyahoga County Department of Information Technologies
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES AND LIABILITIES

- 4.1 Subcontracting. This Contract was awarded to GMP based upon GMP's unique qualifications and skills, and no task required to be performed under this contract by GMP shall be subcontracted to third parties without the express written consent of Cuyahoga County.
- 4.2 Indemnification. All provisions relating to indemnities and warranties contained in the GSA contract shall inure to the benefit of Cuyahoga County.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 Dispute Resolution.

- a) In the event of any dispute or disagreement between GMP and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by GMP or the County hereunder, which can not 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. GMP, 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 GMP 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 GMP 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.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

6.1 Electronic Signature. By entering into this Contract, GMP, 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 Compliance with O.R.C. GMP 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 VI – 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:

Cuyahoga County Department of Information Technologies
ATTN: Jeff Mowry
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of GMP:

Travis Kuykendall
Government Marketing & Procurement, LLC
1818 Library Street, Suite 500
Reston, VA 20190

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 Record Audit Retention. Where applicable, GMP 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 GMP 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.

7.5 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.

7.6 Assignment. GMP 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 County Chief Executive.

7.7 Contract Processing. GMP shall submit one (1) original contractual agreement with original signature to the following:

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

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

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.

IN WITNESS WHEREOF, THE County and GMP have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

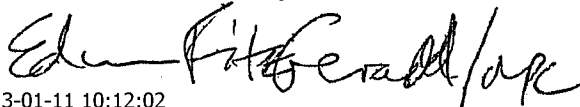
**GOVERNMENT MARKETING
& PROCUREMENT, LLC**

CUYAHOGA COUNTY, OHIO

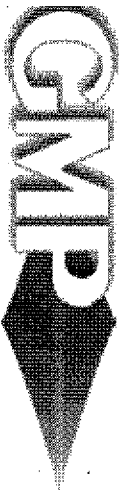
Edward FitzGerald, County Executive

BY: 

TRAVIS Kuykendall
Vice President
Sept 19, 2012


BY: 2013-01-11 10:12:02
Edward FitzGerald, County Executive

CONTRACTOR



Government Marketing & Procurement, LLC

818 Library Street Suite 500 Reston VA 20190

fax # 20-3796064 | Duns # 123922788 | Cage Code 3GCT2

Certified Service Disabled Veteran Owned Small Business

CUSTOMER

CUYAHOGA COUNTY, OHIO

Joe M. Hernandez

jmhernandez@cuyahogacounty.us

QUOTE DETAILS:

Quote ID QSON0644

Contract # GS35F0858N

Quote Date 24 Jul 2012 12:00 AM

Quote Expires 31 Aug 2012 12:00 AM

FOB Destination

ARO 30 Days

Net 30*

QUOTE

PREPARED BY:

Travis Kuykendall

Vice President

703.349.5254

travis@gmpgov.com

Item, as listed under the SIN column indicates items are Open Market and are in accordance with FAR 8.402(f)

CLIN	MFR/PART #	SIN	DESCRIPTION	QTY	UNIT PRICE	EXTENDED PRICE	PERIOD OF PERFORMANCE
0002	SONMAN / SA2-001	132-52	SONMAN-SA-001 - Full Access to Sonian Archive Service, Unlimited Archive Storage, Email Replication to 2 Data Center Clusters (DCC) totaling 8 Data Centers - Amazon S3, Price per mailbox per year	4500	\$21.38	\$96,210.00	06 Jul 12 - 05 Jul 13
TOTAL						\$96,210.00	

(If applicable)