

**MEETING DATE:** July 26, 2018

**TITLE:** Authorization to Execute Contracts for Professional Services (Government Relations, Managed Services Provider)

**RESOLUTION NUMBER:** 18-068

**PREPARED BY:** Cathy Reynolds

**E-MAIL:** creynolds@minnehahacreek.org

**TELEPHONE:** 952-641-4503

**REVIEWED BY:**  Administrator  Counsel  Program Mgr. (Name): \_\_\_\_\_  
 Board Committee  Engineer  Other:

**WORKSHOP ACTION:**

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): <b>Final Action on July 26, 2018</b>	

**PURPOSE or ACTION REQUESTED:**

It is requested that the Board authorize the District Administrator to enter into professional services contracts for government relations and information technology managed services.

**PROJECT/PROGRAM COST:**

The costs for the professional services contracts are in the budget and the new contracts are not expected to have a significant change on the costs of the services.

**PAST BOARD ACTIONS:**

The Board authorized the release of the RFQ's at the March 22, 2018 board meeting. At the May 24, 2018 meeting the Board approved the selection of vendors and authorized the District Administrator to enter into contract negotiations.

**SUMMARY:**

Pursuant to Minnesota Statute 103B.227 a watershed district is required to solicit interest proposals for legal, professional, or technical consultant services at least every two years. MCWD professional services contracts were due for renewal and at the March 22, 2018 Meeting the Board of Managers authorized the release of requests for qualifications (RFQ) for the following services:

- Accounting
- Legal Services
- Engineering Services
- Government Relations
- Information Technology Managed Services

Notice of the RFQs was posted in the Star Tribune on April 4 and 7, 2018. The RFQs were also posted on the District website and distributed to companies in the metro area. Responses were due to the District by April 30, 2018.

At the May 24, 2018 meeting the Board of Managers approved the selection of vendors based on responses to the RFQ's and authorized the District Administrator to enter into contract negotiations with the selected vendors.

The District Administrator has completed contract negotiations for the following professional services and is recommending to the Board that they approve the contracts and authorize the District Administrator to enter into the contracts.

Government Relations:

Joel Carlson

Information Technology Managed Services:

Corporate Technologies



## GOVERNMENT RELATIONS CONSULTING AGREEMENT

Between

Minnehaha Creek Watershed District and Joel Carlson, Inc.

WHEREAS, by vote of the Board of Managers on May 24, 2018, the Minnehaha Creek Watershed District (hereinafter MCWD) selected Joel Carlson, Inc. (hereinafter CONSULTANT) to provide lobbyist services to the MCWD as described herein:

NOW, THEREFORE, this Agreement is entered into by the Minnehaha Creek Watershed District, a public body with powers set forth at Minnesota Statutes chapters 103B and 103D (MCWD), and Joel Carlson, Inc., a private Minnesota corporation. In consideration of the terms and conditions set forth herein, including the obligations of mutual consideration, the sufficiency of which is hereby acknowledged, MCWD and CONSULTANT agree to CONSULTANT's work under the Agreement (hereinafter, the Services) as follows:

### 1.0 Scope of Work

1.1 Retainer Services. CONSULTANT will furnish consulting services and advice to MCWD and its designees at all times reasonably requested by MCWD. These services will include:

- Meet annually with MCWD staff and Board Members to develop a legislative policy agenda that supports the District's strategic priorities;
- Provide legislative research and updates on legislative proposals that may affect the MCWD and its operations;
- Conduct weekly verbal briefings with MCWD staff during the legislative session;
- Provide monthly written reports to MCWD staff during the legislative session on proposals that may affect the MCWD and its operations
- Meet with MCWD staff and Board Members to debrief and adjust the policy agenda, after each legislative session.
- Provide legislative representation for the MCWD by coordinating with others interested in legislation, meeting with legislators, attending appropriate committee hearings, developing written lobbying materials and providing or arranging testimony before legislative committees as needed.

1.2 Consultant will observe the policies and objectives of the MCWD in rendering the services described herein.

### 2.0 Compensation

2.1 Retainer. CONSULTANT agrees to provide the general professional services on retainer identified in paragraph 1.1 for the amount of \$28,000 annually, which will be billed and paid monthly in the amount of \$ 2333.33. MCWD and CONSULTANT agree to review and evaluate the retainer arrangement annually.

2.2 Reimbursable Expenses. The MCWD will reimburse CONSULTANT for mileage at the IRS rate, and for car rental, meals, lodging and airfare costs CONSULTANT reasonably incurs to attend local, regional or national meetings or conferences as directed or approved by MCWD. MCWD will not reimburse CONSULTANT for mileage or parking incurred within the metropolitan area. Expenses incurred by CONSULTANT must be approved by the MCWD in advance and submitted to the MCWD for payment with the necessary supporting documents.

2.3 If CONSULTANT, for any reason, is not available or able to provide services during any portion of this period, the MCWD's obligation to compensate CONSULTANT will be reduced pro rata.

### **3.0 Conflict of Interest**

During the term of the Agreement, CONSULTANT may not represent another governmental or non-governmental entity with interests in conflict with or perceived conflict with MCWD on a shared item of interest without prior written approval of the MCWD Administrator. If CONSULTANT becomes aware of any conflict or a perceived conflict on an item of interest to MCWD, CONSULTANT shall notify the MCWD Administrator within 5 days.

### **4.0 Independent Contractor**

CONSULTANT is an independent contractor under this Agreement. CONSULTANT will select the means, method and manner of performing the Services except as specifically directed by the MCWD. Nothing herein contained is intended or should be construed to constitute CONSULTANT as an agent, representative or employee of the MCWD in any manner. Personnel performing the Services on behalf of CONSULTANT will not be considered employees of the MCWD and will not be entitled to any compensation, rights or benefits of any kind from the MCWD.

### **5.0 Professional Standards**

CONSULTANT will perform all duties under this Agreement in accordance with applicable standards of professional care, ethics and practice

### **6.0 Compliance with Laws**

CONSULTANT will be registered as a lobbyist on behalf of the MCWD with the Minnesota Campaign Finance and Disclosure Board (CFB), will remain in good standing with CFB at all times, will file all reports as required by CFB and otherwise will conform to all laws and regulations applicable to CONSULTANT's performance of services hereunder.

CONSULTANT will comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services and will procure all licenses, permits and other rights necessary to perform the services.

In performing the Services, CONSULTANT will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

CONSULTANT will maintain all records pertaining to fees or costs incurred in connection with the services for six years from the date the Agreement terminates. CONSULTANT agrees that any authorized MCWD representative or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

## **7.0 Minnesota Data Practices Act**

The requirements of Minnesota Statutes Chapter 13, Data Practices Act, apply to CONSULTANT. If CONSULTANT receives any request under the Minnesota Data Practices Act concerning MCWD data, he will consult with the MCWD before responding.

## **8.0 Termination; Continuation of Obligations**

This Agreement is effective when fully executed by the parties and will remain in force until December 31, 2019 unless earlier terminated as set forth herein.

The MCWD may terminate this Agreement at its convenience, by a written termination notice stating specifically what prior authorized or additional tasks or services it requires CONSULTANT to complete. CONSULTANT will receive full compensation for all authorized work performed, except that CONSULTANT will not be compensated for any part performance of a specified task or service if termination is due to CONSULTANT's breach of this Agreement.

Document retention and data practices requirements will survive the completion of the Services and the term of this Agreement.

## **9.0 Notices**

Any written communication required under this Agreement to be provided in writing will be directed to the other party as follows:

### **To MCWD:**

Administrator  
Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard  
Minnetonka, MN 55345

### **To CONSULTANT:**

Joel Carlson  
6 West Fifth St, Suite 700  
St Paul, MN 55102

Either of the above individuals may in writing designate another individual to receive communications under this Agreement.

## **10.0 Choice of Law, Venue and Jurisdiction**

This Agreement will be construed under and governed by the laws of the State of Minnesota. Venue for any action hereunder will lie in Hennepin County.

## **11.0 Whole Agreement**

The entire agreement between the two parties is contained herein and this Agreement

supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this Agreement is valid only when reduced to writing as an amendment to the Agreement and signed by the parties hereto. The MCWD may amend this Agreement only by action of the Board of Managers acting as a body

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto execute and deliver this Agreement.

**JOEL CARLSON**

\_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**MINNEHAHA CREEK WATERSHED DISTRICT**

\_\_\_\_\_ Date: \_\_\_\_\_

James Wisker  
District Administrator

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
MINNEHAHA CREEK WATERSHED DISTRICT AND  
CORPORATE TECHNOLOGIES LLC**

**Managed Information Technology Services**

This agreement is entered into by the Minnehaha Creek Watershed District, 15320 Minnetonka Blvd., Minnetonka, MN 55345, a public body with powers set forth at Minnesota Statutes chapters 103B and 103D (MCWD), and Corporate Technologies LLC, 6210 Bury Drive, Eden Prairie, MN 55346, a private Minnesota limited liability company (CONSULTANT).

In consideration of the terms and conditions set forth herein, and mutual exchange of consideration, the sufficiency of which is hereby acknowledged, MCWD and CONSULTANT agree as follows:

1. Scope of Managed Services; Services Beyond Scope of Managed Services

CONSULTANT will perform the work described in the Scope of Services attached as **Exhibit A** (the Managed Services and the Additional Services described therein are hereinafter referred to together as the Services). **Exhibit A** is incorporated into this agreement and its terms and schedules are binding on the parties as a term hereof. MCWD, at its discretion, may at any time suspend work or amend the Scope of Services to delete any task or portion thereof by written notice to CONSULTANT. Authorized work by CONSULTANT on a task deleted or modified by MCWD will be compensated in accordance with paragraphs 5 and 6. Time is of the essence in the performance of the Services.

2. Independent Contractor

CONSULTANT is an independent contractor under this agreement. CONSULTANT will select the means, method and manner of performing the Services. Nothing herein contained is intended or should be construed to constitute CONSULTANT as the agent, representative or employee of MCWD in any manner. Personnel performing the Services on behalf of CONSULTANT will not be considered employees of MCWD and will not be entitled to any compensation, rights or benefits of any kind from MCWD.

3. Subcontract and Assignment

CONSULTANT will not assign, subcontract or transfer any obligation or interest in this agreement or any of the Services.

4. Duty of Care; Indemnification

CONSULTANT warrants that it possesses the personnel, expertise, qualifications, capability and resources to perform the Services under the agreement. CONSULTANT will perform the Services with due care and in accordance with national standards of



professional care for the information technology managed services industry. CONSULTANT will indemnify, defend and hold harmless MCWD, its officers, board members, employees and agents from any and all actions, costs, damages and liabilities of any nature to the degree they are the result of CONSULTANT's professional negligence or other action or inaction by CONSULTANT that is the basis for CONSULTANT's liability in law or equity, including but not limited to ordinary negligence. CONSULTANT's obligation to perform with due professional care does not extend to materials provided to CONSULTANT by MCWD or any portion of the Services that is inaccurate or incomplete as the result of CONSULTANT's reliance on materials provided to CONSULTANT by MCWD. CONSULTANT's obligation to perform with due professional care does not extend to actions taken by CONSULTANT at the direction of MCWD that are contrary to a recommendation by CONSULTANT made in writing, received by MCWD prior to the action's having been taken.

CONSULTANT DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OF ANY KIND, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR ARISING BY STATUTE, RULE, CUSTOM, COURSE OF DEALING OR TRADE USAGE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT OR IN CONNECTION WITH THIS AGREEMENT, EXCEPT AS SET FORTH IN THE FIRST PARAGRAPH OF THIS SECTION 4. EXCEPT AS SET FORTH IN THE FIRST PARAGRAPH OF THIS SECTION 4, CONSULTANT SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR THAT THE SERVICES RENDERED OR WORK DELIVERED WILL BE ERROR FREE OR UNINTERRUPTED.

MCWD will indemnify, defend and hold harmless CONSULTANT, its governors, officers, employees and agents from any and all actions, costs, damages and liabilities of any nature to the degree they are the result of any action or inaction by MCWD that is the basis for MCWD's liability in law or equity.

MCWD acknowledges that no computer system or software can be made completely stable or secure, and that CONSULTANT cannot guarantee the stability, safety or security of MCWD's network or data or uninterrupted operation of MCWD's information technology systems and network provided or maintained by CONSULTANT.

CONSULTANT will not be liable for indirect, special, incidental or unforeseeable consequential damages arising from the Services, including but not limited to loss of profits or revenue.

#### 5. Compensation

MCWD will compensate CONSULTANT for the Services monthly in accordance with Exhibit A. Invoices will be submitted monthly for work performed during the preceding month. Payment for undisputed work will be due within 30 days of receipt of invoice. Direct costs not specified in **Exhibit A** will not be reimbursed except with prior written approval of the MCWD administrator or his designee.

CONSULTANT will maintain all records pertaining to fees or costs incurred in connection with the Services for six years from the date of completion of the Services. CONSULTANT agrees that any authorized MCWD representative or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

6. Termination; Continuation of Obligations

This agreement is effective when fully executed by the parties and will remain in force until December 31, 2019, unless earlier terminated as set forth herein.

MCWD may terminate this agreement by a written termination notice within Forty Five (45) days of the date of proposed termination of this agreement. CONSULTANT will receive full compensation for all authorized work performed under this agreement, except that CONSULTANT will not be compensated for any part performance of a specified task or service if termination is due to CONSULTANT's breach of this agreement. Upon termination of this agreement, the parties shall work with each other to transition the MWCD network to any new managed service provider, if any, of MWCD. MWCD shall compensate CONSULTANT for its necessary out of pocket and hourly technician costs for its managed services at the rate under this agreement until the cut off and transfer of the managed services to a new managed services provider of the MWCD.

Either party may terminate this agreement at any time after written notice to the other party and the expiration of a thirty (30) day period to cure such breach of the agreement by the breaching party. CONSULTANT may suspend services to MCWD should MCWD fail to pay for services under the terms of this agreement until such time as MCWD is current in payments due under this agreement.

Insurance obligations; duty of care; and obligations to defend, indemnify and hold harmless; will survive for six months after the term of this agreement. CONSULTANT's document-retention obligations will survive as provided in this agreement.

7. No Waiver

The failure of either party to insist on the strict performance by the other party of any provision or obligation under this agreement, or to exercise any option, remedy or right herein, will not waive or relinquish such party's rights in the future to insist on strict performance of any provision, condition or obligation, all of which will remain in full force and affect. The waiver of either party on one or more occasion of any provision or obligation of this agreement will not be construed as a waiver of any subsequent breach of the same provision or obligation, and the consent or approval by either party to or of any act by the other requiring consent or approval will not render unnecessary such party's consent or approval to any subsequent similar act by the other.

Notwithstanding any other term of this agreement, MCWD waives no immunity in tort. This agreement creates no right in and waives no immunity, defense or liability limit with respect to any third party.

8. Insurance

At all times during the term of this agreement, CONSULTANT will have and keep in force the following insurance coverages:

- A. General: \$1.5 million each occurrence and aggregate, covering completed operations and contractual liability on an occurrence basis.
- B. Professional liability covering errors and omissions: \$1.5 million each claim and aggregate; coverage may be on a claims-made basis, in which case CONSULTANT must maintain the policy for the term of this agreement.
- C. Automobile liability: \$1 million combined single limit each occurrence coverage for bodily injury and property damage covering all vehicles on an occurrence basis.
- D. Workers' compensation: in accordance with legal requirements applicable to CONSULTANT.

CONSULTANT will not commence work until it has filed with MCWD a certificate of insurance clearly evidencing the required coverages and naming MCWD as an additional insured for general liability, along with a copy of the additional insured endorsement establishing coverage for CONSULTANT's work and completed operations as primary coverage on a noncontributory basis. The certificate will name MCWD as a holder and will state that MCWD will receive written notice before cancellation, nonrenewal or a change in the limit of any described policy under the same terms as CONSULTANT.

9. Compliance With Laws

CONSULTANT will comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services and will procure all licenses, permits and other rights necessary to perform the Services.

In performing the Services, CONSULTANT will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

10. Materials; Intellectual Property

All materials obtained or generated by CONSULTANT in performing the Services, including documents in hard and electronic copy, software, and all other forms in which the materials are contained, documented or memorialized, are the property of MCWD. CONSULTANT hereby assigns and transfers to MCWD all right, title and interest in: (a) its copyright, if any, in the materials; any registrations and copyright applications relating to the materials; and any copyright renewals and extensions; (b) all works based on, derived from or incorporating the materials; and (c) all income, royalties, damages, claims and

payments now or hereafter due or payable with respect thereto, and all causes of action in law or equity for past, present or future infringement based on the copyrights. CONSULTANT agrees to execute all papers and to perform such other proper acts as MCWD may deem necessary to secure for MCWD or its assignee the rights herein assigned.

MCWD may immediately inspect, copy or take possession of any materials on written request to CONSULTANT. On termination of the agreement, CONSULTANT may maintain a copy of some or all of the materials except for any materials designated by MCWD as confidential or non-public under applicable law, a copy of which may be maintained by CONSULTANT only pursuant to written agreement with MCWD specifying terms.

#### 11. Data Practices; Confidentiality

If CONSULTANT receives a request for data pursuant to the Data Practices Act, Minnesota Statutes chapter 13 (DPA), that may encompass data (as that term is defined in the DPA) CONSULTANT possesses or has created as a result of this agreement, it will inform MCWD immediately and transmit a copy of the request. If the request is addressed to MCWD, CONSULTANT will not provide any information or documents, but will direct the inquiry to MCWD. If the request is addressed to CONSULTANT, CONSULTANT will be responsible to determine whether it is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with MCWD and its legal counsel before replying. Nothing in the preceding sentence supersedes CONSULTANT's obligations under this agreement with respect to protection of MCWD data, property rights in data or confidentiality. Nothing in this section constitutes a determination that CONSULTANT is performing a governmental function within the meaning of Minnesota Statutes section 13.05, subdivision 11, or otherwise expands the applicability of the DPA beyond its scope under governing law.

CONSULTANT agrees that it will not disclose and will hold in confidence any and all proprietary materials owned or possessed by MCWD and so denominated by MCWD. CONSULTANT will not use any such materials for any purpose other than performance of the Services without MCWD written consent. This restriction does not apply to materials (i) already possessed by CONSULTANT, or (ii) that CONSULTANT received on a non-confidential basis from MCWD or another party, or (iii) arising out of materials that CONSULTANT already developed from third-party or public sources unrelated to MCWD's proprietary materials. Consistent with the terms of this section 11 regarding use and protection of confidential and proprietary information, CONSULTANT retains a nonexclusive license to use the materials and may publish or use the materials in its professional activities. Any CONSULTANT duty of care under this agreement does not extend to any party other than MCWD or to any use of the materials by MCWD other than for the purpose(s) for which CONSULTANT is compensated under this agreement.

Subject to its obligation to comply with the DPA, MCWD agrees that it will not disclose and will hold in confidence any and all proprietary materials owned or possessed by CONSULTANT and so denominated by CONSULTANT.

12. MCWD Property

All property furnished to or for the use of CONSULTANT or a subcontractor by MCWD and not fully used in the performance of the Services, including but not limited to equipment, supplies, materials and data, both hard copy and electronic, will remain the property of MCWD and returned to MCWD at the conclusion of the performance of the Services, or sooner if requested by MCWD. CONSULTANT further agrees that any proprietary materials are the exclusive property of MCWD and will assert no right, title or interest in the materials. CONSULTANT will not disseminate, transfer or dispose of any proprietary materials to any other person or entity unless specifically authorized in writing by MCWD. Any property including but not limited to materials supplied to CONSULTANT by MCWD or deriving from MCWD is supplied to and accepted by CONSULTANT as without representation or warranty including but not limited to a warranty of fitness, merchantability, accuracy or completeness. However, CONSULTANT's duty of professional care under paragraph 4, above, does not extend to materials provided to CONSULTANT by MCWD or any portion of the Services that is inaccurate or incomplete as the result of CONSULTANT's reasonable reliance on those materials.

13. Notices

Any written communication required under this agreement to be provided in writing will be directed to the other party as follows:

To MCWD:

Administrator  
Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard  
Minnetonka, MN 55345

To CONSULTANT:

Mary Bradford  
Corporate Technologies LLC  
6210 Bury Drive  
Eden Prairie, MN 55346

Either of the above individuals may in writing designate another individual to receive communications under this agreement.

14. Choice of Law, Venue

This agreement will be construed under and governed by the laws of the State of Minnesota. Venue for any action will lie in Hennepin County, Minnesota.

15. Miscellaneous

(a) Whole Agreement. The entire agreement between the two parties is contained herein and this agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this agreement is valid only when reduced to writing as an amendment to the agreement and signed by the parties hereto. MCWD may amend this agreement only by action of the Board of Managers acting as a body.

(b) Force Majeure. Neither party shall incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the reasonable control of the party excused from such performance. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, failures of the internet or the MCWD network (caused by third parties or acts of MCWD), earthquakes, fire and explosions, lack of timely shipment from third party vendors (but not caused by the negligence of the CONSULTANT). The inability to meet financial obligations of a party is expressly excluded.

(c) No Third-Party Beneficiaries. The parties hereto expressly agree that there are no third-party beneficiaries of any kind under this agreement.

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto execute and deliver this agreement.

**Corporate Technologies LLC**

\_\_\_\_\_  
By \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

*Approved as to Form and Execution*

\_\_\_\_\_  
MCWD Attorney

**Minnehaha Creek Watershed District**

\_\_\_\_\_  
By \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES**

CONSULTANT will provide the Services in accordance with the agreement to which this Scope of Services is attached (hereinafter, the Agreement). CONSULTANT will provide a primary contact for the duration of the Agreement. The primary contact will have primary responsibility for the performance of the Services and for all matters relating to performance under the Agreement.

#### 1.1 Description of Managed Services

CONSULTANT will provide ongoing maintenance of MCWD's client and server computing environment as specified herein (Managed Services) on an ongoing basis. Managed Services will be provided for MCWD's network, equipment and software. MCWD represents that MCWD either is the owner of the equipment or is authorized by the owner to include such equipment under the Agreement. Managed Services will include the following:

- (a) Onsite Technical Services and Problem Analysis. CONSULTANT will determine the cause of, and take steps to correct, a reported problem in the MCWD network and computing environment onsite or by remote means. If CONSULTANT determines correction is outside the scope of Managed Services, it will consult with the MCWD director of operations and support services, or his designee, as to the scope and cost of correction, confirm agreement that the correction is not within Managed Services, and take further action at MCWD's request, in accordance with subsection 1.2.
- (b) Needs Assessment and Technology Provisioning. CONSULTANT will assist in network and computing-environment needs assessment and recommend hardware or software purchases to accomplish specific tasks or goals. CONSULTANT will provide quotes on hardware and software, and will acquire or facilitate leasing of the selected equipment on behalf of the MCWD, as directed by the administrator. MCWD will bear the cost to purchase or lease, maintain or replace the equipment, if any.
- (c) Engineering Changes. On CONSULTANT's receipt of manufacturer notification of applicable and warranted engineering changes to the equipment or software, CONSULTANT, with reasonable notice to MCWD, will install the changes or cause them to be installed by the manufacturer.
- (d) CONSULTANT will provide onsite installation and maintenance of our Onsite Manager (OM). The OM will provide us with up to date information on the healthiness of the environment and alert our team of techs of issues. Patches and updates will be deployed through the OM on a Schedule day determined between the MCWD and CONSULTANT. Network security and virus protection appropriate for a computer network and system of similar capacity, complexity, accessibility and feasibility of reinstatement. CONSULTANT will manage the installation of critical software and anti-

virus definition updates. Network security and virus protection services are not guaranteed to prevent network intrusions, virus attacks, or loss of data or system performance.

Monitoring Services. CONSULTANT will provide system monitoring to MCWD through a remote monitoring service of only the servers that MCWD places on the managed services plan. Remote monitoring will occur on a 24/7 basis. CONSULTANT will use systems and software that it selects at its discretion to conduct the remote system monitoring. MCWD agrees that CONSULTANT may install equipment on the MCWD's network, and configure MCWD's firewall and/or router if necessary, to permit the monitoring equipment to operate. CONSULTANT will retain ownership of the monitoring equipment it installs at MCWD's premises. The MCWD may not move, tamper with or disconnect the electrical power to the monitoring equipment, and the MCWD will advise its employees of this requirement. The MCWD agrees that it will follow CONSULTANT'S recommendations to permit it to perform the monitoring services. The monitoring services provided are limited to the monitoring of approved and contracted components which are identified in the "Inventory of Devices to be Monitored on the attached Exhibit A, Attachment 2". MCWD acknowledges that the CONSULTANT'S ability to conduct monitoring services depends on the MCWD having adequate connectivity to its network. Accordingly, MCWD understands and agrees that CONSULTANT will not be responsible for connectivity problems at MCWD's premises or those associated with MCWD's service or network, and that CONSULTANT will not be responsible for any inability to perform monitoring attributable to connectivity problems. At the end of the service, MCWD will allow CONSULTANT to remove the remote monitoring equipment that it owns from MCWD's premises.

- (e) Technical Assistance and Support. CONSULTANT will also provide technical assistance and support for the MCWD's network, computers, peripheral devices and servers that are covered by the managed services agreement. Technical assistance and support will be provided through a combination of Tier I help desk support, remote Network Operations Center Technicians or Tier II and Onsite support. The following apply with regard to each method of providing technical assistance and support:
  - i) Tier I Help Desk Support. CONSULTANT will provide MCWD with a phone number for Tier I telephonic Help Desk support to assist in resolving problems for covered equipment. Tier I Help Desk support is included in Managed Services and CONSULTANT's time spent provide Tier I Help Desk support will not be deducted from the schedule of hours on page 1 of Exhibit A – Attachment 1. Tier I Help Desk support is available for only the MCWD's devices included in the sheet "Inventory of Devices to be Monitored". The help desk will be staffed by CONSULTANT during normal business hours, which are listed in Exhibit A. CONSULTANT reserves the right to restrict the amount of Tier I support it will provide via its help desk in the event it determines in its



discretion that MCWD is abusing help desk privileges with an abnormal number of calls to the help desk. MCWD understands that this agreement does not obligate CONSULTANT to provide training to MCWD's staff on the use of software owned or licensed by MCWD. If the Tier I Help Desk Support is unable to resolve the problem from the Help Desk, then CONSULTANT at its own discretion may escalate the problem to its Tier II support or dispatch On-Site Network Support services to address the problem. All On-Site Network Support Labor and Tier II Support Labor is billed on an hourly basis at CONSULTANT'S current managed services Hourly Labor Rate in excess of the monthly hour allotment under the managed services contract, will be billed at the CONSULTANTS standard monthly rate under a SOW to be proposed to the MCWD as an Additional Service. A list of common Tier I, Tier II, and On-Site Network Support tasks will be provided to MCWD upon request.

- ii) Remote Support. MCWD will provide CONSULTANT with access to its computer network to enable CONSULTANT to provide technical assistance and support remotely through remote access to MCWD's network and hardware. MCWD will designate a single primary MCWD employee contact, with telephone number and e-mail address, to notify in the event of monitoring alerts. If MCWD chooses the Managed Server options with this contract, CONSULTANT'S Network Operations Technicians will access the MCWD network a minimum of one time during each calendar month to perform routine server and network maintenance.
- iii) Onsite and Remote Tier II Hours. On site and remote Tier II support. Onsite and remote Tier II support are contemplated for routine maintenance and troubleshooting of the MCWD's network. If the CONSULTANT, in its own discretion, decides onsite network supported is needed it will dispatch a technician to MCWD's location. In the event that MCWD requires additional onsite labor for projects, the MCWD is responsible for contacting the CONSULTANT to schedule on site visits. The MCWD shall provide the CONSULTANT with reasonable access to its premises and hardware and installations to enable the CONSULTANT to provide Onsite support. Onsite and Tier II support is available during normal business hours. Onsite and Tier II support time will be drawn from the MCWD's monthly allotment of Onsite hours under the managed services program. Travel time of CONSULTANT'S technicians is included in the time allocation for Onsite services. Onsite and Tier II support outside normal business hours or provided on a requested expedited time frame by MCWD will be charged at 2 times the hourly rate from MCWD's allotted monthly Onsite time allotment.
- iv) Network Support Labor. Network support labor, whether provided by Tier I, remote, Tier II or Onsite support, or at the CONSULTANT'S offices, is provided under all versions of server and equipment coverage under the managed services offering. The amount of network support (regardless of the level of service provided as described above) will be allotted to the number of monthly hours allotted to network services under the managed services contract as provided in the attached Exhibit A. Any need for extra Network Support

Labor will be only done under a SOW for Additional Services approved in advance by the MCWD.

- v) No Monthly Carry Over of Allotted Monthly Time. Allotted time for Onsite, Remote Tier II and Network Support services not used in one month do not accrue and carry over to subsequent months under the managed services program.
  - vi) On Site Additional Service Hours. CONSULTANT shall not dispatch services for Onsite or Tier II above the allotment for managed services contract Onsite hours without the advanced written approval for such Additional Work as outlined in the attached Exhibit A.
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- (f) Microsoft Software Training. CONSULTANT will offer training as requested by the MCWD on the network, hardware and software (limited to Microsoft office 365 or related Microsoft software products), within the limit of the managed services monthly Onsite allotment of hours. Other such training outside the allotted monthly hours would be provided under Additional Services only.
  - (g) Consultant shall provide services for and monitor the backup of MCWD data to an offsite location. If monthly allotted hours are exceeded, onsite backup work will be billed at the CONSULTANTS current hourly billing rate for standard work.
  - (h) Emergency Services. Emergency services include responding to a loss of computer, computing, or network service, including but not limited to a loss of server or email functionality. The managed services process includes help desk, remote services, and Onsite service responses that are geared to the severity of the network system, hardware or software issue of MCWD. Managed services response time will be tiered to include off site monitoring, phone support and Onsite visits when the issue is critical in the reasonable judgment of the MCWD or the CONSULTANT. The on-site response is ordered when the network issue is so severe that a more immediate response is required to fix the issue. A majority of the network, equipment and software issues can be resolved remotely or by telephone service support, but in the case of a site Down/Server Down, on site technicians are dispatched immediately.
  - (i) Manage Outside Support. Manage interactions with outside support providers listed in the MCWD consultant list, including product support services.
  - (j) Provide for a secure and reliable core environment including individual workstations, Network, Server and Printer Management. Individual workstations shall be setup to allow for routine updates by Level Platforms dictated by Group Policy. All patches, updates and monitoring that may interfere with workflow shall be done off hours when possible.

- (k) Hosted Exchange. The MCWD owns and operates a hosted exchange environment. It is the role of the consultant to provide connectivity, remote access, security and timely updates of the system.
- (l) Implement MCWD best management practices and provide recommendations to keep them updated to current industry offerings and standards. The MCWD has developed best management practices including on and off boarding employees, hardware replacement, permissions for data access and software needs, server access, etc.

**Excluded From Managed Services.** Managed Services does is not apply to servers, desktop and laptop computing devices not inventoried on Exhibit A, Schedule 1 to this agreement. CONSULTANT does not warrant or guaranty that the MCWD network will be problem free and MCWD acknowledges that the CONSULTANT is not responsible for problems with the MCWD network. CONSULTANT will use its best effort to provide commercially reasonable managed services maintenance services to MCWD according to the terms and conditions of this agreement. This agreement is a maintenance agreement, and does not insure against hardware, software or network failure of MCWD's network or equipment. Managed services is not a disaster recovery agreement or service. MCWD is responsible for reviewing the adequacy of its back up, back up procedures and the integrity of the data that it maintains and backs up on its network. Managed services does not include the cost of hardware, software or other devices MCWD may need to purchase in the future to maintain or upgrade its network. CONSULTANT will not provide Onsite Support for servers or equipment removed to outside CONSULTANT'S local service area, which is the seven-county Twin Cities metropolitan area.

## 1.2 Managed Services Hours.

- (a) Managed Services will be provided 8am – 5pm Monday -Friday, excluding the following holidays:

New Year's Day – January 1  
Memorial Day – Last Monday in May  
Independence Day – July 4  
Labor Day – First Monday in September  
Thanksgiving Day-Third Thursday in November  
Christmas Day-December 25

- (b) Managed Services includes emergency service from 5:00 p.m. to 8:00 a.m., seven days a week and from 8:00 a.m. to 5:00 p.m. on weekends and holidays.

## 1.3 Additional Services

Additional Services are defined as those services provided by CONSULTANT beyond the scope of Managed Services, including but not limited to:

- Work on special IT projects of the MWCD.

- Temporary staffing of IT personnel by the CONSULTANT at MWCD.
- Recommended purchase of new hardware or software and the cost of it.
- Phone system purchases and/or installations.
- Hourly IT work on site work outside the allotted number of IT hours per month included within the managed services program.
- Training for non-Microsoft Software applications or other general IT training of employees.

CONSULTANT will provide Additional Services at the request of the Board of Managers or Administrator in accordance with the following protocol:

- (a) Basis for Work: Prior to the initiation of any Additional Services the parties shall agree if the service is part of the monthly Managed Services deliverables or outside the scope of the Managed Services. For each item of Additional Services, a scoping document (SOW) will be created for the Board of Managers or Administrator. The S.O.W. shall include the deliverable (project), timeline, cost and parties' roles and responsibilities.
- (b) The CONSULTANT agrees to perform authorized Additional Services to completion, regardless of whether the project schedule extends beyond the term of the Agreement.

## 2.0 RATES FOR CONSULTANT SERVICES; EXPENSES

### 2.1 Managed Services

CONSULTANT will provide Managed Services in accordance with the itemized and per-device and monthly hour rates in Attachment 1 to Exhibit A, which are attached to and incorporated herein as a term of the Agreement, except that Managed Services costs will not exceed \$4,500 per month without prior approval of the MCWD administrator. MCWD and CONSULTANT agree to review and evaluate the managed service pricing annually.

### 2.2 Additional Services

Rates for project work outside of covered Managed Services shall be quoted to the MCWD on an hourly basis under a Statement of Work ("SOW").

CONSULTANT will provide Additional Services as described in subsection 1.3 in accordance with rates stated and at a not-to-exceed cost that will be specified in the SOW.

## 3.0 NONSOLICITATION OF EMPLOYEES

During the period of the Agreement and for 12 months thereafter, neither MCWD nor CONSULTANT will directly or indirectly solicit or offer employment to or hire any employee of the other either as an employee or as an independent contractor.



**Attachment 1**  
**Managed Services Rates**  
**(June 1, 2018 to December 31, 2019)**

<b>Service Offering</b>	<b>Number of Devices</b>	<b>Monthly Price Per Device</b>	<b>Monthly Service Hours</b>	<b>Total Per Offering</b>
<b>Managed Desktop:</b>				
Managed Desktop – Standard Edition	59	\$50.00	29.5	\$2950.00
Managed Desktop – Premium Edition		\$70.00		
<b>Managed Server:</b>				
Managed Server – Standard Edition	6	\$125.00	6	\$750.00
Managed Server – Premium Edition		\$200.00		
<b>Backup &amp; Monitoring Services</b>				
Protect Local Backup Service (up to 750G)		\$75.00		
Protect Local Backup Monitoring, Management, and Restore		\$50.00		
Backup Monitoring and Administration for all other Backup Solutions	1	\$100.00		\$100.00
Microsoft Exchange Monitoring and Maintenance		\$100.00		
<b>Managed Network</b>				
Managed Network – Standard Edition	1	\$59.00		\$59.00
<b>Service Contract Totals</b>	<b>67</b>		<b>35.5</b>	<b>\$3859.00</b>

**Attachment 2**  
**Inventory of Devices**  
**(June 1, 2018 to December 31, 2019)**

## DEVICE SUMMARY

Member Workstation				Total : 36
DEVICE NAME	MANUFACTURER	MODEL	PRODUCT	SP
10511 - OM-CT	HP	ProLiant ML110 G5	Microsoft Windows 10 Pro	0.0
84418 - Boardroom	HP	HP ProBook 640 G2	Microsoft Windows 10 Pro	0.0
87979 - Katherine	HP	HP ProBook 640 G2	Microsoft Windows 10 Pro	0.0
87980 - Yvette	HP	HP ProDesk 400 G4 SFF	Microsoft Windows 10 Pro	0.0
87981 - Eric	HP	HP ProBook 640 G2	Microsoft Windows 10 Pro	0.0
89263 - Lars	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89265 - Quietroom 2	Acer	Aspire U5-620	Microsoft Windows 8.1 Pro with Media Center	0.0
89266- dead laptop	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89270 - Tiffany	Dell Inc.	Latitude E5430 non-vPro	Microsoft Windows 7 Professional	1.0
89271 - James	Dell Inc.	Latitude E5430 non-vPro	Microsoft Windows 7 Professional	1.0
89272 - Renae	Dell Inc.	Latitude E5430 non-vPro	Microsoft Windows 7 Professional	1.0
89273 - Mike	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89274 - Anna	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89275 - Laura	Dell Inc.	Latitude 3440	Microsoft Windows 7 Professional	1.0
89277 - Finance PC	Dell Inc.	OptiPlex 390	Microsoft Windows 7 Professional	1.0
89278 - Theresa	LENOVO	10B00005US	Microsoft Windows 7 Professional	1.0
89279 - Maddie	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89280 - David	Dell Inc.	Latitude E5440	Microsoft Windows 7 Professional	1.0
89281 - Heidi	LENOVO	10B00005US	Microsoft Windows 7 Professional	1.0
89282 - Rachel	Dell Inc.	OptiPlex 3010	Microsoft Windows 7 Professional	1.0
89283 - Matt	Dell Inc.	Latitude 3440	Microsoft Windows 7 Professional	1.0
89286 - Luke	Dell Inc.	OptiPlex 3010	Microsoft Windows 7 Professional	1.0
89287 - Kristin	Dell Inc.	OptiPlex 3010	Microsoft Windows 7 Professional	1.0
89288-Receipt1	Hewlett-Packard	HP Compaq Pro 4300 SFF PC	Microsoft Windows 7 Professional	1.0
89289 - Kaile	LENOVO	0958B2U	Microsoft Windows 7 Professional	1.0
89290 - Yvette OLD	LENOVO	33476UU	Microsoft Windows 8.1 Pro	0.0
89291 - Kelly	LENOVO	0958B2U	Microsoft Windows 7 Professional	1.0
89293 - Eric OLD	LENOVO	33476UU	Microsoft Windows 8.1 Pro	0.0
89294 - Jill	LENOVO	10B00005US	Microsoft Windows 7 Professional	1.0



89295 - Shared GIS PC 1	LENOVO	10B00005US	Microsoft Windows 7 Professional	1.0
89296 - Shared GIS PC 2	Dell Inc.	OptiPlex 960	Microsoft Windows 7 Professional	1.0
89297 - Marcie	LENOVO	0958B2U	Microsoft Windows 7 Professional	1.0
89298 - Shared R&M PC	LENOVO	0958B2U	Microsoft Windows 7 Professional	1.0
89299 - R&M Marketing Laptop	Panasonic Corporation	CF-53JALZY1M	Microsoft Windows 7 Professional	1.0
89301 - Community Room	Dell Inc.	Latitude E5430 non-vPro	Microsoft Windows 7 Professional	1.0
89302 - Credit Card PC	LENOVO	10B00005US	Microsoft Windows 7 Professional	1.0

<b>Backup Domain Controller</b>				<b>Total : 1</b>
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DEVICE NAME	MANUFACTURER	MODEL	PRODUCT	SP
88832 - DC02 - BDC-DHCP-DNS-FILE	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 R2 Standard	0.0

<b>Member Server</b>				<b>Total : 4</b>
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DEVICE NAME	MANUFACTURER	MODEL	PRODUCT	SP
00000 - AVANTE - FILE	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 Standard	0.0
88833 - SQL01 - FILE	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 Standard	0.0
88834 - EXCHANGE01 - FILE-MX	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 Standard	0.0
88835 - MDM01 - APP-FILE	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 R2 Standard	0.0

<b>Primary Domain Controller</b>				<b>Total : 1</b>
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DEVICE NAME	MANUFACTURER	MODEL	PRODUCT	SP
88831 - DC01 - PDC-DHCP-DNS-FILE-PRINT	Microsoft Corporation	Virtual Machine	Microsoft Windows Server 2012 Standard	0.0

				<b>Total : 17</b>
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DEVICE NAME	MANUFACTURER	MODEL	PRODUCT	SP
84352-Will				
87980-Chase				
87981-Eric				
89263-Brian				
89277-Finance				
89281-Heidi				
89282-ElizShow				
89285-Vacant				
89286-Megan				
89289-Kaile				
89291-KellyD				
89294-Jill				
89295-Shared GIS PC 1				
89296-Shared GIS PC 2				

89297-Alex

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89298-WQ Software

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89300-Shared GIS

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