

AGREEMENT TO PROVIDE PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT is entered into this 12 day of April, 2011, by and between MAXIMUS Consulting Services, Inc., a wholly owned subsidiary of MAXIMUS, Inc. (hereinafter "Consultant"), and the Muskegon County, Michigan (hereinafter "Client"). The parties hereto, in consideration of mutual promises and covenants, agree as follows:

- (1) Scope of Services. Consultant shall perform in a professional manner the services as detailed in Exhibit A, incorporated herein by reference as if fully set forth as part of this Agreement.
- (2) Term. This Agreement shall be in full force and effect for the term as stated in Exhibit A.
- (3) Compensation. Client shall pay Consultant a fee for services rendered as set forth in Exhibit B, incorporated herein by reference as if fully set forth as part of this Agreement.
- (4) Termination. Upon Consultant's material breach, Client may terminate this Agreement upon thirty (30) days prior written notice to Consultant wherein Client shall specify the nature of the default and the effective termination date. Upon such notice, Consultant shall be entitled to the opportunity to cure any such default prior to the effective date of termination.

Client may terminate this Agreement for any reason upon sixty (60) days prior written notice to Consultant.

Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant in full for all goods and/or services provided to, and accepted by, Client under this Agreement, or any amendment thereto, as of the effective date of the Agreement. In no event shall the making of any payment to Consultant constitute or be construed as a waiver by Client or shall in no way impair or prejudice any right or remedy available to Client.

- (5) Services and Materials to be Furnished by Client. Consultant shall provide guidance to Client in determining the data required. The Client acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data provided by the Client to perform the work under this contract.
- (6) Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for six (6) years after the completion of the Services. During such period, Client shall

have the right to examine and audit the records and to make transcripts therefrom. Client shall provide thirty (30) days written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during Consultant's normal business hours. Any Client's employee, consultant, subcontractor or agent who may have access to such records shall execute a non-disclosure agreement prior to being granted such access.

- (7) Copyright for Consultant's Proprietary Software. To the extent that the service and/or deliverables provided by Consultant are generated by Consultant's proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide such software to Client. Client agrees that all ownership, including copyright, patents or other intellectual property rights to the software, lie with Consultant. Nothing herein shall be construed to entitle Client to any pre-existing Contractor materials.
- (8) Insurance. Consultant shall maintain appropriate general liability insurance in accordance with the County's contractor insurance requirements.
- (9) Indemnification. Consultant shall defend, indemnify and hold harmless Client from and against damages, liability and costs (including reasonable attorney fees) directly caused by the negligent actions or willful misconduct of Consultant, its employees or agents. Consultant shall not be responsible for any damages or liability directly caused by the negligence or willful misconduct of Client, its employees, consultants, or agents or any third party.
- (10) Limitation of Liability. Client agrees that Consultant's total liability to Client for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed \$150,000 annually.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim by Client against Consultant relating to this Agreement must be made in writing and presented to Consultant within three (3) years after the

date on which Consultant completes performance of the services specified in this Agreement.

- (11) Consultant Liability if Audited. The Client represents that all financial and statistical information provided to Consultant by Client, its employees and/or agents is accurate and complete to the best of Client's knowledge. Consultant shall, upon notice of audit, make work papers and other records available to the auditors. The Consultant's sole responsibility under an audit shall be to provide reasonable assistance to the Client through the audit and to make those changes to the work product as required as a result of the audit. Under no circumstances shall the Consultant be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the services provided pursuant to this Agreement.
- (12) Notices. Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties in the United States mail, postage paid, to the address noted below:

Muskegon County, Michigan
141 E. Apple Avenue
Muskegon, Michigan 49442

MAXIMUS Consulting Services, Inc.
3941 Traxler Court, Suite 300
Bay City, Michigan 48706
(989) 684-4111 phone
(989) 684-6062 fax

Such notice shall be deemed delivered five (5) days after deposit in the U.S. mailbox.

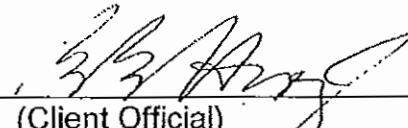
- (13) Changes. The terms of this Agreement may be changed via a mutually executed written instrument.
- (14) Miscellaneous.
- a. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.
 - b. The parties intend that Consultant, in performing the services specified in this Agreement shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and Consultant's employees are not to be considered agents or employees of Client for any purpose
 - c. Should any part, term, portion, section or provision of this Agreement be decided finally to be in conflict with law or otherwise be

unenforceable or ineffectual, the remaining parts, terms, portions, sections or provisions shall be deemed severable and shall remain in full force and effect.

- d. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.
- e. This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.
- f. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.
- g. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.
- h. Nonexclusive agreement. Consultant understands that this is not an exclusive Agreement and the County shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as the County desires.
- i. Assignment. Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
- j. Time is of the essence. Time is of the essence in this Agreement and each covenant and term is a condition herein.
- k. Compliance with the law. Consultant shall, at his sole cost and expense, comply with all local, state, and Federal ordinances, laws, rules, regulations and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Consultant in any action or proceeding against Consultant, whether County be a party thereto or

not, that Consultant has violated any such ordinance or statute shall be conclusive of that fact as between Consultant and County.

- I. Execution of counterparts. This agreement may be executed in any number of counterparts and each such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument. IN WITNESS WHEREOF, the Client and the Consultant have executed this Agreement as of the date first written below.


By: 
(Client Official)

Name: Bonnie Hammersley

Title: County Administrator

Date: April 13, 2011

MAXIMUS Consulting Services, Inc.

By: 

Name: Frank J. Mirkow
Director of Contracts
Senior Counsel

Title: _____

Date: 5-3-11

EXHIBIT A
Term and Scope of Services

This Agreement shall become effective on April 12, 2011 and shall terminate in 2015 upon client's payment of the invoice for the 2014 cost plan. The services to be performed hereunder by the Consultant shall be undertaken and completed in such sequence as to assure their expeditious completion and to best carry out the purposes of this Agreement.

Consultant represents that it has, or will secure at its own expense, all personnel required in the performance of services under this Agreement. All of the services required hereunder will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified to perform the services described herein. Consultant shall commence, carry on, and complete the services with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with the provisions herein and all applicable laws.

Consultant reserves the right to subcontract for services hereunder. Consultant will only subcontract services under this Agreement with the prior written consent of Client, which consent will not be unreasonably withheld.

The Consultant shall do, perform, and carry out in a good and professional manner the following services:

- A) Development of both a Full Cost and an A-87 central services cost allocation plan, which identifies the various costs incurred by the Client to support and administer Federal and State programs. The plan will contain a determination of the allowable costs of providing each supporting service, such as purchasing, legal counsel, disbursement processing, etc. The plans will be based upon the Client's year-end financial data for 2010, 2011, 2012, 2013 and 2014.
- B) Negotiation of the completed cost allocation plan with the representatives of DHHS and/or the State when required.
- C) Consultant will, upon request, provide assistance in preparing the initial claims to the State for recovery of funds due the Client. Consultant will also monitor the progress of claims through the State to insure the Client receives recoveries due it.
- D) Consultant shall prepare a limited salary survey of wages for positions within the central services departments of five counties similar in size to Muskegon County. The survey will be delivered with the 2010 cost plan in 2011. An updated survey will be delivered as requested though the term of this contract.

**EXHIBIT B
Compensation**

For services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of **Seventy-Seven Thousand Four Hundred Dollars (\$77,400)**. This fee will be payable at a rate of Fifteen Thousand Dollars (\$15,000) for each cost plan year and Two Thousand Four Hundred Dollars (\$2,400) for the salary survey detailed in section D of exhibit A. Client agrees to pay Consultant Twenty-Four Thousand Four Hundred Dollars (\$2,400) for each salary survey update provided in subsequent years. The following table provides a summary of the fixed costs (excluding optional salary survey updates):

Deliverable	Year of Payment	Payment Amount
2010 Cost Plan	2011	\$15,000
Salary Survey	2011	\$2,400
2011 Cost Plan	2012	\$15,000
2012 Cost Plan	2013	\$15,000
2013 Cost Plan	2014	\$15,000
2014 Cost Plan	2015	\$15,000
		(Total) \$77,400

Payment will be made by the Client to the Consultant within one month after Consultant submits its invoice to the Client. Consultant will submit its invoice upon delivery and acceptance of the final cost allocation plan. The Consultant shall be entitled to interest on overdue payments, those payments made after one month after the Consultant submits its invoice, at the lesser of 1.5% per month or the highest rate permitted by law.