



SNOHOMISH COUNTY WEB HOSTING AND CODIFICATION SERVICES AGREEMENT

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THIS WEB HOSTING AND CODIFICATION SERVICES AGREEMENT (the "Agreement") is made this _____ day of _____, 2012, by and between Snohomish County, a home rule charter county and a political subdivision of the State of Washington (the "County") and Code Publishing Company, of Seattle, Washington, incorporated under the laws of the State of Washington, and duly licensed to conduct business in Washington State (the "Contractor").

1 Recitals

Whereas, the County has determined that it would be advantageous for the County to publish the Snohomish County Charter and Code ("Charter" and "Code") on a website accessible to the general public; and Whereas, pursuant to the County's Request for Proposal No. 07-12 dated February 15, 2012 (the "RFP"), the County solicited bids from vendors for the hosting services needed to enable the publication and maintenance of the Code and Charter online.

Whereas, the Contractor provided a response to the RFP proposing that the County use the Contractor's web-hosting services for the Code and Charter, which include but are not limited to: maintenance, delivery of custom electronic features, codification, publishing, and print subscription services; and ; and

Whereas, the Contractor was selected as the highest rated vendor to meet the County's codification needs.

Whereas, the County and the Contractor desire to enter into an agreement whereby the Contractor will provide ongoing support and maintenance services for the online County Code, including publication and codification the County's ordinances, as more fully described under the terms and conditions contained in this Agreement.

Now therefore, in consideration for the mutual covenants and agreements herein, the parties agree as follows:

2 Definitions

Acceptance of the Services shall occur only when: (a) the Contractor has provided to the County all Deliverables required to be provided to the County; (b) the Contractor provides to the applicable County Project Manager a written notice stating that no Material Defects have been corrected; and (c) the County notifies the Contractor in writing that all acceptance testing for the System has been completed successfully in accordance with the Software Acceptance Plan and the terms of this Agreement. Nothing else, including payment for any portion of the System or the County's use of the System, or any portion thereof, in a live, operational environment, shall constitute Acceptance (under contract law or the Uniform Commercial Code of the State of Washington) of any portion of the System.

Critical Defect means any Defect that (1) severely impacts the County's ability to use the Software or the System online code or the Contractor's ability to provide Services, or (2) has a significant financial impact on the County.



Defect means (1) any failure of the Electronic Features to operate in accordance with the Documentation, Functional Specifications, or Performance Standards; and/or (2) any failure of the Contractor to perform the Services in accordance with the Service Level Standards.

Deliverable means the Hardware, Software, Documentation, and Services to be delivered under this Agreement.

Documentation means collectively: (a) all of the written, printed, electronic, or other format materials published or otherwise made available by the Contractor that relate to the functional, operational, and/or performance capabilities of the System and/or any Software; (b) all user, operator, system administration, technical, support, and other manuals and all other written, printed electronic, or other format materials published or otherwise made available by the Contractor that describe the functional, operational, and/or performance capabilities of the System and/or any Software, including but not limited to the Functional Specifications and Software Acceptance Plan; and (c) any other Deliverable that is not Hardware or Software. Documentation shall not include Source Code.

Functional Specifications shall mean those specifications to which the Software Electronic Features and the System shall conform as set forth in Exhibit [A], System Implementation, Testing and Acceptance Criteria.

Material Defect means Critical Defect and/or Medium Defects.

Medium Defect means any Defect that adversely affects the County's ability to use the Software or the System or the Contractor's ability to provide services, even if an alternative temporary solution or workaround acceptable to County may be accomplished.

Performance Standards means, collectively the warranties and performance standards set forth in Section 11 and Exhibit A.

Services means, individually or collectively, all implementation, integration, testing, development, conversion, training, consulting, support and maintenance services, and any other professional or other services that may be provided by the Contractor to the County under this Agreement.

Site shall mean the County's facilities in Snohomish County, Washington.

Software means the aggregate of the Web Hosting the County Code: all upgrades, maintenance releases, bug fixes or patches, and other modifications or additional provided under this Agreement.

Warranty Period means the period commencing upon Acceptance of the Services and continuing for five (5) years.

Work Product means all products, devices, computer programs, techniques, know-how, algorithms, procedures, discoveries or inventions, and all materials, texts, drawings, specifications, source code and other recorded information, in preliminary or final form and on any whatsoever, that are conceived, reduced to practice, developed, discovered, authored,



designed, programmed, invented or otherwise created or made by Contractor (whether solely or jointly with others) in connection with or as a result of its performance of the Services.

3 Scope of This Agreement

Scope. This Agreement defines the terms and conditions, under which the Contractor will design, develop, integrate, deliver, install, train, and support the online hosting of the Snohomish County Code and other Deliverables.

Turn-key Basis. The parties acknowledge that the performance by the Contractor of its obligations under this Agreement is to be done on a “turn-key basis.” This expression is understood to mean that the Contractor is fully responsible, pursuant to the terms and conditions of this Agreement, for the delivery of the Deliverables in full conformity with the terms and conditions hereof, and that the Deliverables shall function in conformity with the performance criteria stipulated herein upon delivery, upon Acceptance of the System, throughout the Warranty Period, and throughout the term of the ongoing Support and Maintenance Services.

4 Electronic Features and Web Hosting Services

- 4.1 Ownership. The County will be the exclusive owner of all documents, print or electronic, relating to the Snohomish County Code. Contractor owns the copyright, trademark, trade secrets, patent or other intellectual property rights if any such exist in the production of the electronic features and enhancements provided to the online web hosting of the Snohomish County Code.
- 4.2 Non-Employees. If any individual or entity who is not a direct employee of Contractor performs or otherwise participates in any Services, Contractor will obtain from such non-employee a legally binding, written assignment sufficient to transfer to the County all of the non-employee’s rights, title and interest in and to the Work Product. Upon the County’s request, Contractor will provide the County with copies of all such assignments.
- 4.3 Further Acts. Contractor, its employees, agents, subcontractors and affiliates, will take such action as the County reasonably may request to evidence, transfer, vest or confirm the County’s right, title and interest in the Work Product.
- 4.4 Reverse Engineering. Except as expressly provided in this Agreement, the County shall not translate, reverse engineer, decompile, recompile, update, or modify all or any part of the Software or merge the Software into any other software.
- 4.5 Service Level Standards. The Contractor shall provide the Electronic Features and Web Hosting Services according to the performance criteria set forth in Exhibit A.

5 Term of Agreement

- 5.1 Term of Agreement. The Initial Term of the Agreement shall commence upon execution and continue for five (5) year(s) from the date of Acceptance (“Initial Term”). The term of this Agreement may be extended by the County for two (2) additional one (1) year option terms (“Option Term”) by providing written notice to the Contractor thirty (30) days prior to the expiration of the Initial Term or applicable Option Term.



5.2 The Warranty Period begins at Acceptance of the Services and continues for period of five (5) years, and thereafter ongoing Support and Maintenance Services shall continue throughout the term of the Agreement

6 Termination.

- 6.1 Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may terminate the Agreement if the Contractor has not cured following a thirty (30) day written notice to the Contractor sent certified mail, return receipt requested. If the Agreement is terminated for default, the County may obtain performance of the work elsewhere, and the Contractor shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. The Contractor shall only be paid for work delivered and accepted, or work performed in accordance with the manner of performance set for the in the Agreement less any extra cost or damages to the County caused by or arising from such default(s), which shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any reasonable extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default. The termination of this Agreement for default shall in no way relieve the Contractor from any of its obligations under this Agreement. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued as a Termination for Convenience.
- 6.2 Termination for Convenience. The County for its convenience may terminate this Agreement, in whole or in part, at any time by providing written notice sent certified mail, return receipt requested, to the Contractor. After receipt of a Notice of Termination, and except as directed by the County, the Contractor shall immediately stop work as directed in the notice, and comply with all other requirements in the notice. Whenever the Agreement is terminated for convenience, the Contractor shall be entitled to payment for actual work satisfactorily performed up to the date of termination at unit contract prices for completed items of work and an equitable portion thereof the partially completed items, but shall not be entitled to payment for loss or anticipated profit on deleted or uncompleted work. The Contractor shall promptly submit its request or termination payment, together with detailed supporting documentation. If the Contractor has any property in its possession belonging to the County, the Contractor shall account for the same and dispose of it in the manner the County directs. All termination payment requests may be subject to determine reasonableness and compliance with the Agreement, applicable laws and regulations.
- 6.3 Termination for Non-Appropriation. In the event that sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County may terminate this contract as a matter of public convenience as provided herein. The County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period, provided the County provides the Contractor written notice prior



to the end of the current fiscal period that non-allocation of funds is probable and provides a Notice of Termination within 14 days after the end of the fiscal period.

The County shall notify the Contractor as soon as it becomes aware of any County proposal involving a failure to appropriate funds for the completion of the project. The County shall remain liable to the Contractor for work performed and accepted by the County through the date of any notification of a failure to appropriate.

6.4 Effect of Termination. The termination of this Agreement shall not affect the accrued rights of the County under any other section or paragraph of this Agreement or limit the rights and remedies of the County hereunder in any manner.

7 Acceptance Testing.

Within seven (7) business days of the Contractor providing notice to the county that the County Code or Charter has been uploaded to the internet and County personnel have been trained in accordance with the Agreement, the County shall begin the acceptance testing process at the County Site according to the Functional Specifications listed in Exhibit A..

The acceptance testing shall include thirty (30) days of continuous operation of the Services without Material Defect in accordance with all Functional Specifications, Performance Standards, and Documentation in the County's fully implemented production environment.

If the County accepts the work, the County will send a notice of Acceptance to the Contractor.

If County determines that the work is not acceptable, the County shall notify the Contractor in writing, describing the deficiencies.

The Contractor shall either provide a detailed, written plan to achieve Acceptance or to make correction or replacements within a mutually agreed upon time with no charge to the County. The parties shall mutually agree on a start date for beginning another Acceptance testing period.

Another thirty (30) day successful operation period shall follow any corrections or replacements. A third or additional Acceptance testing period may occur if mutually agreed to by the parties.

If the County Accepts the Services following a second or subsequent Acceptance testing period, the County will send a notice of Acceptance to the Contractor.

If the Contractor does not correct or replace the unacceptable aspects of the Services, the County may declare a breach of the Agreement.

8 Price and Payment.

For the Services provided during the Initial Term, the County shall pay the Contractor One Hundred Eighty Seven Thousand Five Hundred Seventy One Dollars (\$187,571.00), as stated in the schedule of payments described in Exhibit A.

Where the Contractor requires payments by Snohomish County, payment shall be based upon billings, supported by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit



A, or approved in writing in advance by the official executing this Agreement for Snohomish County, (hereinafter referred to as the “Contracting Officer”), the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

The County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly in arrears, through the County voucher system for the Contractor’s service pursuant to the fee schedule set forth in Exhibit A. Payment shall be made on a Net Thirty (30) day basis. This is a five (5) year “Fixed-Price” contract based upon the Deliverables identified in Exhibit A.

Dispute. Should the County dispute any of the charges on its monthly invoice, it shall notify Contractor of such disputed charges in writing. The notice shall set forth all details concerning the disputed charges and reasons for the dispute. The Contractor and the County shall attempt in good faith to resolve any objection to the invoiced amount prior to the payment due date, the County shall pay the invoiced amount minus the disputed amount on the due date of original invoice. If the dispute is subsequently resolved in favor of the Contractor, the Contractor shall re-invoice the disputed amount owed then, including interest at the annual rate of one percent (1%) from the original due date, and the County shall pay all amounts agreed or found to be owing to the Contractor within (30) days of the date of the reissued invoice.

9 Support Services.

Training Services: Contractor will provide onsite training for County employees as needed.

10 Confidentiality and Public Disclosure.

Confidential Data. The County shall use all reasonable efforts not to include confidential data in the ordinances it submits to the Contractor for codification. The County shall indemnify, hold harmless and defend the Contractor from any claims of breach of confidentiality arising out of the Contractor's publication of ordinances that are codified.

In the event that the Contractor is provided with confidential data of the County that would not be produced pursuant to Chapter 42.56 RCW (the Public Records Act), the Contractor shall use its best efforts: (1) not to, at any time, disclose or disseminate confidential data provided by the County to the Contractor to any other person, firm, organization, or employee who does not need to obtain access thereto consistent with the Contractor’s obligations under this Agreement; (2) not to disclose or disseminate such confidential data to any third party not affiliated with this Agreement or for any purpose not required by the Agreement; and (3) to ensure that all persons working for the Contractor, or provided access to the County’s data for any reason, protect the County’s confidential data against unauthorized use, dissemination, or disclosure. The Contractor’s obligations under this section shall not apply to any information that is or becomes available without restriction to the general public by acts attributable to the County or its employees.

Public Disclosure. In the event that the County receives a request pursuant to the Public Records Act to disclose the Contractor’s proprietary software, software documentation, or other information identified by the Contractor in writing as confidential, the County’s sole obligations shall be to: (1) notify the Contractor and (2) refrain from disclosing such records for a period of



up to ten business days to allow the Contractor an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. The county will not withhold requested records beyond the ten business days unless it may do so based on good faith reliance upon an exception to disclosure under the Public Records Act. The County may but shall not be required to join in any legal proceedings relating to the requested disclosure unless required to do so by the court. In the event that the Contractor initiates legal proceedings, or the County initiates legal proceedings or withholds requested records at the Contractor's request, the Contractor shall indemnify and hold the County harmless against all proceedings and/or withholding of the records. The County shall not be liable to the Contractor for any loss, cost or expense relating to the disclosure of requested records if the Contractor fails to obtain legal protection against disclosure and the County releases the records in good faith.

Contractor shall indemnify and hold harmless the County, its officials, agents and employees from all loss or expense, including, but not limited to settlements, judgments, set-offs, attorneys' fees and costs resulting from Contractor's breach of this provision.

11 Reproduction of Documentation

Documentation. The County shall have the right, at no additional charge, to reproduce solely for its own internal use, all Documentation furnished by the Contractor pursuant to this Agreement regardless of whether such Documentation is copyrighted by the Contractor. All Copies of Documentation made by the County shall include any proprietary notice or stamp that has been affixed by the Contractor.

12 Warranty Provisions.

Unless otherwise extended or limited, the warranties and commitments contained in this Section shall remain in full force and effect throughout the term of this Agreement.

General Warranties. Contractor warrants that it owns all rights, title, and interest in and to the Electronic Features and Web Hosting, that all Web Hosting shall conform to the Functional Specifications and Documentation, and that the Web Hosting Services shall be free from material defects in workmanship and materials. This warranty coverage shall include any modifications made to the Web Hosting Services by the Contractor and shall survive the expiration or termination of this Agreement.

System. The Contractor represents and warrants to the County that the System shall function without Defect in accordance with the applicable specifications, Performance Standards, and Documentation.

Electronic Features and Web Hosting Performance. Contractor represents and warrants to the County that the Electronic Features and Web Hosting or System, as applicable, shall meet the Performance Standards set forth in Exhibit A, including the maximum response times and availability. The contractor shall correct any failure of the applicable Software and/or System to operate in accordance with the performance warranties set for the in this Section by providing all additional software, equipment, and/or services to the County at no additional cost to the County. In the event that the Contractor is unable to correct such failure within a forty-eight (48) hour period [an event of "Default" shall be deemed to have occurred. OR the County shall receive from the Contractor credits in the amounts set forth in Exhibit A. In the event the Contractor is



unable to correct such failure within thirty (30) calendar days, an Event of Default shall be deemed to have occurred.

Services. The Contractor represents and warrants to the County that it shall perform the Services and provide the Deliverables required by this Agreement in a workmanlike manner, in accordance with the standards of care and diligence and the level of skill, knowledge, and judgment normally practiced by nationally recognized information technology services firms in performing services of a similar nature, provided, however, that where this Agreement specifies a particular standard or criteria for performance, this warranty is not intended to and does not diminish that standard or criteria for performance. Further, the Contractor represents, warrants, and covenants that it shall provide the services or create any Deliverables using only proven current technology or methods unless otherwise mutually agreed by the parties [in a particular statements or work or Exhibit].

Documentation. The Contractor represents and warrants to the County that it has provided to the County all Documentation for the Electronic Features and Web Hosting and the System and that such Documentation is detailed and complete and accurately describes the functional and operation characteristics of the Electronic Features and Web Hosting and the System. The Contractor further represents and warrants that it will provide to the County updated versions of all such Documentation when It provides updates and other required Maintenance Services and that all such updated Documentation will be complete and accurate and will be at least as detailed as the Documentation issued to the County with the initial version of the Electronic Features and Web Hosting and the System. The warranty and commitments contained in this Section shall remain in full force and effect for as long as Company continues to receive Support and Maintenance Services for the Contractor.

Contractor. Warrants that the Electronic Features and Web Hosting will be compatible with the County's technical environment, including hardware, operating system(s), software application(s), CPU's, and networks specified by the County in [Exhibit [x]/the applicable Request for Proposal].

Future Compatibility. Contractor warrants that all updates, upgrades, and revisions to the Electronic Features and Web Hosting furnished hereunder will be implemented in such a manner as to maintain backward compatibility with the previous version or release of the Electronic Features and Web Hosting furnished under the Agreement, so that such previous versions or releases shall continue to be operable with the Electronic Features and Web Hosting as updated, upgraded, or revised, in materially the same manner and with materially equivalent performance. Without limiting the foregoing, Contractor further warrants that future Support, Maintenance and other Services will not degrade the Electronic Features and Web Hosting, cause a breach of any other warranty, or require the County to purchase new or additional hardware or software for continued operation of the Electronic Features and Web Hosting or the System.

Web Hosting Obsolescence. The Contractor acknowledges that the County is making a significant resource commitment in order to set up Web Hosting and that the County does not want to move involuntarily to a new system prior to August 1, 2017. Having acknowledged the foregoing, the Contractor represents and warrants to the County that it will continue to notify the County of enhancements to the Web Hosting (meaning notifying the County of new features and



functionality, in addition to ordinary course defect corrections), as long as the County continues to pay for and receive Maintenance and Support Services from the Contractor.

Virus Warranty. The Contractor warrants that the Web Hosting does not contain any malicious code, program or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), that could damage, destroy, or alter any computer program, firmware, or hardware or which could, in any manner, reveal damage, destroy, or alter any data or other information accessed through or processed by the Electronic Features and Web Hosting in any manner. The Contractor shall immediately advise the County, in writing, upon reasonable suspicion or actual knowledge that the Electronic Features and Web Hosting may result in the harm described above. The Contractor shall indemnify and hold the County harmless from any damage resulting from the harm described above. This warranty shall survive the expiration or termination of this Agreement. Conversely, the County shall not hack or infect the Contractor's website or public server.

Disabling or Restrictive Code. Without limiting any other provision to the Agreement, the Contractor warrants that the Electronic Features and Web Hosting does not contain and the Contractor will not introduce any code, date block, time-bomb, Trojan horse, encrypted software keys, back door, or remote disabling function that may restrict the County's use of or access to the Electronic Features and Web Hosting or the System or related data or equipment. The Contractor understands and agrees that the County's inability to use the Electronic Features and Web Hosting or System or its related data or equipment will cause substantial injury or harm to the public health or safety or grave harm to the public interest substantially affecting third persons. No limitation of liability, whether contractual or statutory, shall apply to a breach of this warranty. This warranty shall survive the expiration or termination of this Agreement.

Intellectual Property. The Contractor represents and warrants to the County that the County's use of the Web Hosting does not and shall not infringe upon any United States or Canadian patent, trademark, copyright, trade secret or other intellectual property, or proprietary right of any third party, and there is currently no actual or threatened suit against the Contractor by any third party based on an alleged violation of such right. This warranty shall survive the expiration or termination of this Agreement.

Authority. Each Party represents and warrants to the other that it has the right to enter into this Agreement. Contractor further represents and warrants that there are no outstanding assignments, grants, licenses, encumbrances, obligations, or agreements (whether written, oral, or implied) that are inconsistent with this Agreement and the rights granted or transferred herein. This warranty shall survive the expiration or termination of this Agreement.

13 Indemnification.

General Indemnification. The Contractor shall hold harmless from and indemnify the County, its elected and appointed officials, employees, and agents, against all claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property of any person or party and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly or indirectly, by reason of the performance of this Agreement or any act, error or omission of the Contractor, Contractor's employees, agents, or subcontractors, whether by negligence or otherwise;



provided, that if the claims for damages arise out of bodily injury to persons or damage to property and caused by or result from the concurrent negligence: (1) of the County and its elected or appointed officials, employees, or agents, and (2) the Contractor and its agents, employees, or subcontractors, the hold harmless and indemnity provisions of this Agreement shall be valid and enforceable only to the extent of the negligence of the Contractor, its agents, employees, or subcontractors. The Contractor's obligation shall include, but not be limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission or breach of any common law, statutory or other delegated duty by the Contractor, Contractor's employees, agents, or subcontractors.

Contractor shall have no liability for the content of ordinances that the County enacts and submits for codification.

With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and any similar law of any other jurisdiction, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Agreement.

14 Patent and Other Proprietary Rights Indemnification.

14.1 Indemnification. Contractor will indemnify and hold the County harmless from and against any and all claims, losses, liability, damages, costs, and expenses (including attorney's fees, expert witness fees, and court costs) directly or indirectly arising from or related to any actual or alleged infringement (including contributory infringement), misappropriation, or violation of any third party's patents, copyrights, trade secret rights, trademarks, or other intellectual property or proprietary rights of any nature in any jurisdiction in the world, resulting from the use of the Web Hosting by the County. If the County's continued use of the Web Hosting is restricted or prohibited as a result of any such infringement, misappropriation, or violation of third party rights, the Contractor shall, at the County's option and at no charge to the County, and in addition to the County's other rights and remedies, (1) secure for the County the right to continue using the Web Hosting as allowed under this Agreement, (2) modify or replace the infringing components of the Web Hosting so that they are non-infringing with no loss or degradation of features, functionality, or performance, or (3) refund to the County all amounts paid by the County for the Web Hosting.

14.2 Exclusions. Notwithstanding the foregoing, the Contractor will not be obligated to indemnify the County to the extent that an infringement or misappropriation claim is based upon (1) use of the Electronic Features and Web Hosting in breach of this Agreement, if such infringement or misappropriation would not have occurred but for such breach; (2) use of the Web Hosting in combination with other products not supplied or recommended by the Contractor or specified by the Contractor as being compatible with the Web Hosting, if such infringement or misappropriation would not have occurred but for such combined use; (3) use of any release of the Web Hosting other than the most current release made available to the County, if the most current release was furnished to the



County Specifically to avoid such infringement or misappropriation and if such infringement or misappropriation would have been avoided by use of the most current release; or (4) any modification of the Web Hosting made by the County (other than at the Contractor's direction), if such infringement or misappropriation would not have occurred but for such modification.

15 Insurance.

15.1 No Limitation. Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by insurance or to limit the County's recourse to any remedy indemnification and payment to the County under the terms of a required insurance policy.

15.2 Minimum Scope of Insurance and Limits. The Contractor shall obtain and maintain continuously and for the duration of the Agreement, and for three years following termination, the following insurance:

15.3 Commercial General Liability Insurance with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and endorsed to include Snohomish County, its officers, elected officials, agents, and employees as an additional insured with respect to the work performed for the County. Insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage.

15.4 Worker's Compensation Coverage as required by the industrial Insurance laws of the State of Washington. The Contractor's obligation shall extend to itself and any subcontractors working on behalf of the Contractor and must be obtained before performing any work under the Agreement. The County will not be responsible for payment of workers' compensation premiums or for any other claim or benefit for the Contractor, its employees, consultants, or subcontractor that might arise under the Washington State Industrial Insurance laws

15.5 Professional Technical Liability insurance appropriate to the Contractor's profession with limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. The policy shall have a retroactive date prior to or coincident with the date of the Agreement, and the Contractor shall maintain coverage for the duration of the Agreement and for three years following termination of the Agreement.

15.6 Other Insurance Provisions. The required Commercial General Liability Insurance and Professional Technical Liability Policies shall meet the following requirements:

The Contractor's insurance coverage shall be placed with insurance carriers licensed to do business in the state of Washington with a current A.M. Best rating of not less than A:VII.

The Contractor's insurance coverage shall be primary insurance with respect to the County. Any insurance or self-insurance coverage maintained by the County shall be excess of the Contractor's insurance and shall not contribute with it. The County reserves the right to receive a certified copy of required insurance policies and to approve any deductible.



The Contractor's insurance shall be endorsed to state that the insurer shall provide at least thirty days prior written notice by certified mail, return receipt requested, of any impending cancellation, non-renewal, expiration, or reduction in coverage.

Contractor shall furnish the County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. The County reserves the right to receive a certified copy of required insurance policies and to approve any deductible.

16 Obligations that Survive Termination.

In addition to any other specific provisions that so state, the parties recognize and agree that their obligations under Sections 8 (Price and Payment), 10 (Confidentiality and Public Disclosure), 12 (Warranty Provisions), 13 (Indemnification), 18 (Assignment and Transfer), 19 (Independent Contractor), 20 (Compliance with Laws), 22 (Governing Law and Venue), 23 (No Waiver), 26 (Covenant of Good Faith), 27 (Third Party Beneficiaries), 28 (No Construction Against Drafter), and 30 (Access to Books and Records) of this Agreement survive the cancellation, termination, or expiration of this Agreement.

17 Amendments.

No modification or amendment to this Agreement will be valid or binding unless reduced to writing and duly executed by authorized representatives of both parties.

18 Assignment and Transfer.

No party may assign, delegate, or otherwise transfer of any rights or obligations under this Agreement without the prior written consent of the other party, which may be granted or withheld in the other party's sole discretion. In the event that Contractor assigns, or otherwise transfers this Agreement, or any part hereof, or delegates any of its duties hereunder to any Third Party or Affiliate and, within eighteen (18) months after such transfer, the County, in its sole discretion, is not satisfied with the level of service provided under this Agreement, the County shall have the right to terminate this Agreement for convenience and transition to a new vendor. All Services provided by Contractor's transferee during the transition Period shall be provided at no cost.

19 Independent Contractor.

All work performed by the Contractor in connection with the Electronic Features and Web Hosting and/or Services described in this Agreement shall be performed by the Contractor as an independent contractor and not as the agent or employee of the County. All persons furnished by the Contractor shall be for all purposes solely Contractor's employees or agents and shall not be deemed to be employees of the County for any purpose whatsoever. The Contractor shall furnish, employ, and have exclusive control of all persons to be engaged in performing Services under this Agreement and shall prescribe and control the means and methods of performing such Services by providing adequate and proper supervision. The Contractor shall be solely responsible for compliance with all rules, laws, and regulations relating to employment of labor, hours of Social Security, and other payroll taxes including applicable contributions from such persons when required by law.



20 Compliance with Laws.

The Contractor each shall with all applicable federal, state, county and local laws, ordinances, regulations, and codes including, but not limited to, it's obligations as an employer with regard to health, safety, and payment of its employees, and identification and procurement of required permits, certificates, approvals, and inspections in the Contractor's performance of this Agreement.

21 Security, Access, and Safety Requirements.

The Contractor shall instruct its employees, agents, and subcontractors that they shall comply with the County's security, access, and safety requirements for the protection of the County's facilities and employees while on the County's premises.

22 Governing Law and Venue.

The validity, construction, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Washington, except as to its principals of conflicts of laws, and the parties hereto irrevocably submit to the exclusive venue of the Superior Court, Snohomish County, Washington to resolve any disputes arising hereunder or related hereto, except that the County may waive the exclusive venue provision and submit a dispute to any state superior court or federal district court of competent jurisdiction in the State of Washington.

23 No Waiver.

No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the Agreement, nor shall any such action or failure to act by the County constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically provided in writing and signed by and authorized representative of the County.

24 Force Majeure.

Neither party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, civil or military authority, act of God, or other similar causes beyond its control. If any party is rendered unable, wholly or in part by such a force majeure event to perform or comply with any obligation or condition of this Agreement, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Agreement, including Termination for Default. Whenever a force majeure event causes the Contractor to allocate limited resources between or among the Contractor's customers, the County shall receive no less priority in respect to such allocation than any of the Contractor's other customers.

25 Disaster Recovery.

Contractor represents and warrants to the County that the Contractor has a specific disaster and recovery plan ("Disaster and Recovery Plan") designed to safeguard the County's Customer's data and a data processing capabilities and the Contractor's ongoing ability to perform its obligations under this Agreement in the event of a disaster affecting: (1) Contractor's Host Site;



and/or (2) the County. The Contractor further represents and warrants to Customer that the plan comes with all applicable industry standards and regulations (including AICPA requirements).

25.1 **Costs.** Costs for implementing the Disaster and Recovery Plan shall be borne by the Contractor.

26 Covenant of Good Faith.

Each party agrees that, in its respective dealings with the other party under or in connection with this Agreement, it shall act in good faith.

27 Third Party Beneficiaries.

This Agreement is entered into solely for the benefit of the County and the Contractor. No third party shall have the right to make any claim or assert any right under it, and no third party shall be deemed a beneficiary of this Agreement and, as such, [list exception] is entitled, subject to the terms and conditions of this Agreement, to all remedies entitled to third-party beneficiaries under law.

28 No Construction against Drafter.

The parties agree that any principle of construction or rule of law that provides that an agreement shall be construed against the drafter of the agreement in the event of any inconsistency or ambiguity in such agreement shall not apply to the terms and conditions of this Agreement.

29 Notices.

All notices, demands, or other communications herein provided to be given or that may be given by any party to the other under this Agreement shall be deemed to have been duly given when made in writing and delivered in person or upon the date of recorded receipt if deposited in the United States mail, postage prepaid, certified mail, return receipt requested, as follows:

Snohomish County: Clerk of the Council, Snohomish County Council, 8th. Floor, County Administration Building East, M/S609, Everett, WA 98201-4046

Contractor: Code Publishing Company, 9410 Roosevelt Way NE, Seattle, WA 98115,

or to such address as the parties may provide by notice to each other from time to time.

30 Access to Books and Records.

The Contractor agrees that an authorized representative of the County shall, upon reasonable notice, have access to and the right to examine any pertinent books and records of the Contractor related to the performance of this Agreement. The Contractor shall maintain such books and records for this purpose for no less than six (6) years after the termination or expiration of this Agreement.

31 Severability.

Whenever possible, each provision of this Agreement shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid,



illegal and unenforceable provision., If it is not possible to modify the provision to render it legal, valid and enforceable, then the provision shall be severed from the rest of this Agreement. The invalidity, illegality or unenforceability of any provision shall not affect the validity, legality or enforceability of any other provision of this Agreement, which shall remain valid and binding.

32 Incorporation of Exhibits.

Exhibit A referred to in this Agreement and attached hereto is an integral part of this Agreement and is incorporated herein by this reference.

33 Entire Agreement and Order of Precedence.

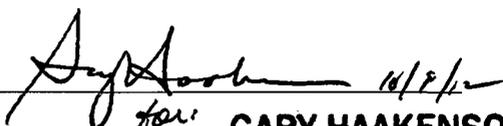
This written Agreement and its corresponding Exhibits constitutes the entire agreement between the parties with respect to the subject matter contained herein, superseding all previous agreements, statements or understandings pertaining to such subject matter. In the event of any conflict between this Master Document and any of the attached Exhibits, the precedence of Documents shall be as follows:

33.1 This Agreement

33.2 Exhibit A

33.3 Original Request for Proposal/ RFP-07-12

33.4 Code Publishing RFP Response dated March 7, 2012

| | |
|---|---|
| COUNTY OF SNOHOMISH: | CONTRACTOR: |
|  By: Aaron Reardon <i>for</i> GARY HAAKENSEN Deputy County Executive Snohomish County Executive |  By: 9-17-12 Title: <i>President</i> |
| Approved as to Snohomish County Code Section 2.350:  By: Gage Andrews Director of Information Services | |
| Approved as to insurance provisions: | |



By: Keith Mitchell

Risk Manager

Approved as form:

Sydney M. Doney 9/13/12
Deputy Prosecuting Attorney

Exhibit A

Requirements Analysis Report Snohomish County Online Code/ ASP Solution/ RFP-07-12

Description of the services and products to be provided by Code Publishing Inc.

Initial implementation followed by ongoing county code supplement service (Codification)

Editorial services to be provided include but are not limited to:

- Internal comparison of code ordinances to identify conflicts, inconsistencies, preemptions and other potential problems;
- Ongoing codification of regularly scheduled code supplements will be provided as new ordinances are uploaded to Code Publishing's web site. The online code will be updated and posted to the web on the effective date of each ordinance upon submission of ordinances when they are passed unless conflicts, inconsistencies or other problems arise during the internal comparison process.
- Code Publishing will create an HTML file set of the County code for hosting the code on the Internet within four weeks of delivery of word processing files of the current County code.
- Following the creation of the HTML file set, Code Publishing will host the code on the Internet on the Code Publishing's public server.
- Code Publishing will maintain the electronic version of the code on its public server that is fully searchable.

One print document, one PDF file of said print document, and one hypertext link to said PDF file.

How Code Publishing services and products will be provided

- Code Publishing will provide the County with the URL for the online code. It is the County's responsibility to provide this URL as a link on its web site and also to County personnel.
- Code Publishing will update the online code as ordinances are submitted by the County to the Code Publishing. Code Publishing provides a unique web site for ordinance submission. Ordinances are not to be emailed as attachments. Submittal by email will be acceptable in the event the unique website is temporarily unavailable.
- Code Publishing will email the designated County employee after each update to the online code. Other users can also be emailed if requested.
- On a schedule determined by the County, paper supplements will be shipped to the County. County personnel will be responsible for ensuring that the paper supplements to the loose-leaf code are distributed to County personnel, as necessary..
- Code Publishing will email a cutoff notice one month prior to the scheduled delivery of the print supplement.

Project implementation payment schedule based on milestone deliverables

Full payment based on one invoice delivered to the Clerk of the Snohomish County Council when online code is presented to County for review and acceptance prior to release to the general public.

Exhibit A

Requirements Analysis Report Snohomish County Online Code/ ASP Solution/ RFP-07-12

Future invoices will be submitted to the Clerk of the Snohomish County Council upon delivery of online updates or print updates. The County shall have Net Thirty (30) days from receipt of invoice to make payment in accordance with the Master Contract.

Implementation project plan

Work tasks

1. County provides print volume and electronic files of County Code to Code Publishing.
2. Code Publishing reviews print volume and County file sets for consistency.
3. County approves page layout and style formats for print volume.
4. Code Publishing converts County file sets to publishing system and HTML formats.
5. Code Publishing creates online code with requested enhanced features.
6. Code Publishing prints paper version of County Code.

Milestone deliverables

1. Print volume and electronic file sets provided to Code Publishing by County.
2. Style sheet provided to County for approval.
3. County approves style sheet.
4. Conversion of County's file sets to Code Publishing's publishing system.
5. Delivery of proof copy of code to County.
6. Proof copy returned to Code Publishing for corrections.
7. Conversion of Code Publishing's publishing system files to HTML format.
8. HTML files uploaded to Code Publishing's public server.
9. County reviews the online code.
10. Corrections to online code made.
11. Online code made public.
12. Print volume delivered to County.

Resources required by Code Publishing for Implementation and Supplement Service

1. Editorial staff.
2. Web development staff.
3. Development server and public server.

Resources required by the County for implementation:

1. Electronic file set and one paper copy of existing County Code.
2. Response to Code Publishing questions regarding ordinance inconsistencies or other problems in a timely manner.
3. Provide an open architecture which allows Code Publishing's enhanced online features selected by the County to work with the online County Code.

Resources required by the County for supplement service:

1. Signed ordinances (scanned PDF or TIF format accepted).
2. Word processing files of all ordinances to be codified.
3. Response to Code Publishing questions regarding ordinance inconsistencies or other problems in a timely manner.
4. Provide an open architecture which allows Code Publishing's enhanced online features selected by the County to work with the online County Code.

Exhibit A

Requirements Analysis Report
Snohomish County Online Code/ ASP Solution/ RFP-07-12

Project schedule

| Milestones for the Snohomish County Code Conversion | Timelines | Delivery |
|--|--------------------|------------------|
| Code Publishing Company is selected by Snohomish County. Negotiations, if any, begin. | 2 weeks from award | 6/15/12 |
| The signed contract, electronic files of the code, an up-to-date print volume, and new materials are delivered to CPC. | | 10/01/12 |
| Page layout and consistent formatting style approved by County. Files are converted from the County to CPC's publishing system. Code and new material is edited, indexed, proofed, and codified. Proof is sent to County. | 5 weeks | 11/02/12 |
| Publishing files are converted to HTML for Internet hosting by CPC's web team. County-provided graphic files, colors, etc., for the custom banner are incorporated. The HTML files are uploaded and proofed on CPC's internal server. Additional electronic features selected by the County are: set up. | 1 week | 11/09/12 |
| County performs testing and acceptance. Proof is returned by County to CPC. HTML files are uploaded to company's public server for testing by the County. Adjustments, if any, are made. URL link is emailed to the County to link to its website from CPC's server. | 2 – 3 weeks | 11/12 – 11/30/12 |
| The new electronic code is completed and officially online for the public. Training, if any required, is conducted with employees of the County. | 1 week | 12/07/12 |
| New printed code copy is published and delivered to County.(Same time as on-line code goes live) | 1 week | 12/14/12 |
| Invoice for implementation is submitted to the Clerk of the Snohomish County Council | 1 week | 12/21/12 |

Exhibit A

Requirements Analysis Report Snohomish County Online Code/ ASP Solution/ RFP-07-12

System implementation testing and acceptance criteria

Code Publishing will inform the County when the online code is ready for County review. The online code will not be viewable by the public. Once the County accepts the online code, Code Publishing will change access so that it is viewable by the public.

Testing Criteria: The County will test the following aspects of the system and all of the following questions must be answered affirmatively before the system will be accepted by the County.

1. One complete paper copy and electronic copy of the Snohomish County Code, including tables and index, have been delivered to the County.
2. The web-based code is available and functioning properly, ready for unlimited public viewing.
3. The online help feature is functional.
4. The system is set up to allow for the county to submit electronic code changes and has been tested.
5. All contracted features are included and functioning properly.
6. All aspects of functionality have been tested and work in the following browsers: Microsoft IE (current and prior version), Firefox, Google Chrome, Opera, and Safari. Mobile version of the online code has been tested and functions properly using Safari on an iPad.
7. The system complies with all technical, system, security, and hosted implementation requirements as set out in Form 12 of RFP 07-12.

Exhibit A

Requirements Analysis Report
Snohomish County Online Code/ ASP Solution/ RFP-07-12

SUMMARY AND ITEMIZED COSTS FOR ALL SERVICES AND PRODUCTS

ALL PRICES ARE FIRM-FIXED FOR A FIVE YEAR PERIOD

Initial Implementation and Conversion Costs:

| Service/Product | Cost | Extended |
|---|-------------|---------------------------|
| Electronic Conversion of the Code County will provide electronic copy of the online code. Code Publishing will add digests to titles and chapters in the new print and online version | \$3600 | One-time charge \$3600 |
| Online Hosting subscription will include the following basic services: a. Webhosting b. Custom logo or seal on code page c. Advanced search features d. Bookmarks to code sections e. Expandable text sizes f. Collapsible table of contents g. Hyperlinked sections. h. IT support i. Timely updates j. Print/save selections And, the additional enhanced services a. Frameless/wireless b. RCW/WAC citations c. Share d. Scope Searching (does this include the "save your search") | \$600 plus | \$600 Annually |

Exhibit A

Requirements Analysis Report
Snohomish County Online Code/ ASP Solution/ RFP-07-12

| | | |
|--|-----------------|----------------------------|
| feature?) e. OrdSearch | | |
| Indexing Code Publishing will scan and OCR paper copy provided by County and update with new ordinances | \$22 per page | One-time 10 pages \$220 |
| Tables Code Publishing will scan and OCR paper copy provided by County and update with new ordinances | \$22 per page | One-time 2 pages \$44 |
| Ordinance Linking | \$75 set up fee | One-time \$75 |
| Printing copy of County Code | \$180 per copy | One-time \$180 1 copy |
| Security Password Protection for Upload website | \$150 | One-time \$150 |
| Maintenance and Support | \$0 | |

On-going Supplemental Services

| Service/Product | Cost | Extended |
|---|---------------|--|
| On Demand Online Supplements between printed supplement intervals. Online code will be updated and published on the effective date each time there is a code amendment | \$0 | |
| Ordinance Codification | \$22 per page | \$31,372 annually (based on average of 1426 pages per year) |

Exhibit A

Requirements Analysis Report
Snohomish County Online Code/ ASP Solution/ RFP-07-12

| | | |
|---------------------------------------|---|---|
| Graphics, tables, maps | \$15 per page | \$150 annually (based on average of 10 new graphics, tables, maps per year) |
| Indexing | \$22 per page | \$352 annually (based on average of 4 pages per quarterly supplement) |
| Ordinance Tables | \$22 per page | \$176 annually (based on average of 2 pages per quarterly supplement) |
| Printing | \$.10/impression | \$143 annually (alternatively the County may choose to accept PDF or RTF copy and do in-house printing) |
| Color copies | \$15 each | No color copies currently |
| | \$0.25 additional per page for printed supplement | No color copies currently |
| Code Publishing hosting of ordinances | \$200 | \$200 annually <i>Will not use this option at this time. The county will maintain ordinances on county network</i> |
| Maintenance and Support | \$0 | |

Additional Options and Custom Features

| Service/Product | Cost | Extended |
|-------------------------------|------------------|-------------------|
| Custom Table Header | \$195 | One-time \$195 |
| Viewing Older Versions of the | \$600 set up fee | One-time |

Exhibit A

Requirements Analysis Report
Snohomish County Online Code/ ASP Solution/ RFP-07-12

| | | |
|--------------------------------------|-----------------|---|
| Code | | \$600 |
| | \$75 ea version | \$450 annually (estimate is that there would be 6 versions a year) |
| Comparing Older Versions of the Code | \$75 set up fee | One time \$75 |

Estimated One-time costs: \$5,339
Sales Tax: 9.5% \$ 507
Sub-Total One-time: \$5,846

Estimated Annual Costs: \$32,643
Sales Tax: 9.5% \$ 3,102
Annual Subscription Fee (no tax) \$ 600
Sub-Total Annual: \$36,345

Year One Estimated Total: \$42,191
Subsequent Years Total: \$36,345