RESOLUTION APPROVING AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Sarpy County has a need for a consultant to provide indirect cost allocation plan services.; and,

WHEREAS, Maximus Consulting Services, Inc. has the experience required to perform indirect cost allocation plan services.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that the attached agreement for professional consulting services with Maximus Consulting Services, Inc. is hereby approved and the Chairman of such Board is hereby authorized to sign the same.

The above resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 24th day of April, 2018.

ATTEST:

Sarpy County Board Chairman

Sarpy County Clerk
MEMO

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Indirect Cost Allocation Plan

For almost 30 years, Sarpy County has contracted with a consultant to prepare an Indirect Cost Allocation Plan (ICAP). The ICAP is used to determine the amount of indirect costs such as utilities, payroll processing, building space, etc. that may be recovered from federal programs such as Child Support Enforcement and Child Support Collection. The ICAP is also used to determine the daily rate for housing adult prisoners, juveniles, etc.

The preparation of the ICAP is considered a professional service and therefore competitive sealed bids are not required. The agreement from Maximus Consulting Services, Inc., the current vendor, is for a cost of $8,400 per year for three years. This is the same rate as the previous agreements dating back as far as fiscal year 2011.

Maximus is a national firm with over 1,200 governmental clients and 6,000 employees and is fully capable of providing the required services. The County has been very satisfied with Maximus in the past.

April 18, 2018

Beth Garber

cc: Deb Houghtaling
    Dan Hoins
    Scott Bovick
    Brian Hanson
AGREEMENT TO PROVIDE
PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT (this “Agreement”) is entered into by and between MAXIMUS Consulting Services, Inc. (“Consultant”), and Sarpy County, Nebraska (“Client”). In consideration of mutual promises and covenants, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Scope of Services.** Consultant shall perform the services detailed in Exhibit A, attached and incorporated by reference as if fully set forth herein (the “Services”), in a professional and workmanlike manner consistent with the typical standards of the industry.

2. **Term.** This Agreement shall commence on August 1, 2018 (“Effective Date”) and shall remain in effect until June 30, 2021, or until completion of, and payment in full for, the Services specified in Exhibit A, whichever occurs last. The parties may mutually agree to extend this Agreement for two additional one year periods, pursuant to an amendment duly signed by both parties.

3. **Compensation.** Client shall pay Consultant a fee for services rendered as set forth in Exhibit B, attached and incorporated by reference as if fully set forth herein.

4. **Termination.**
   a. **Termination for Cause.** Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have a minimum of 30 days from the date of receipt to cure any such default prior to the effective date of termination.
   b. **Termination for Convenience.** Either party may terminate this Agreement without cause upon 60 days’ prior written notice to the other. In the event Client terminates this Agreement, Client shall reimburse Consultant for all reasonable costs incurred by Consultant due to such early termination.
   c. **Rights Upon Termination.** Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant in full for all Services provided to Client under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.

5. **Data Accuracy.** Consultant shall provide guidance to the Client in determining the data required. 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. The Client further acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data to perform the Services. Client shall provide all such data in a timely manner sufficient to allow Consultant to provide the Services. Consultant shall have no liability to Client whatsoever if Client provides incomplete or inaccurate data or provides data in an untimely manner.

6. **Records and Inspections.** Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for 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 30 days’ prior 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 and no more than once every six months. Any employee, consultant, subcontractor or agent of Client granted access to such records shall execute a non-disclosure agreement prior to being granted access.

MAXIMUS Professional Consulting Services Agreement – last updated November 21, 2016
7. **Copyright for Consultant’s Proprietary Software.** To the extent that the Services 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 it has no claims of ownership, including copyright, patents or other intellectual property rights to Consultant’s software. Nothing in this Agreement shall be construed to grant Client any rights to Consultant’s materials created prior to the execution of this Agreement. All of the deliverables under this Agreement are specifically set out in Exhibit A.

8. **Insurance.** Consultant shall maintain customary general liability insurance in the amounts of $1,000,000 per occurrence / $2,000,000 annual aggregate, workers’ compensation insurance including employer’s liability in the amount of $1,000,000, automobile liability insurance in the amount of $1,000,000, and professional liability insurance in the amount of $1,000,000.

9. **Indemnification.** To the extent allowed by law, Consultant shall defend, indemnify and hold harmless the Client from and against any and all third-party claims and resulting proven direct damages, liabilities and costs (including reasonable attorneys’ fees) to the extent proximately caused by the negligent actions or willful misconduct of Consultant, its employees or agents. Consultant shall not be responsible for any damages, liabilities or costs resulting from the negligence or willful misconduct of the 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 negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed $25,200.

    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 one (1) year after the date on which Consultant completes performance of the Services specified in this Agreement.

11. **Consultant Liability if Audited.** Consultant shall, upon notice of audit, make work papers and other records available to the auditors. Consultant’s sole responsibility under an audit shall be to provide reasonable assistance to Client through the audit and to make changes to the work product required as a result of the audit. Consultant shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.

12. **Notices.** Any notice of default, in accordance with section 4(a) of this Agreement, shall be delivered by certified mail or overnight courier. Any other notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties via email or in the United States mail, postage paid, to the address noted below:
13. Changes. The terms and conditions of this Agreement, including all attached and incorporated Exhibits, may be changed only by written agreement signed by both parties.


   a. If Consultant is requested by Client to produce Consultant deliverables, documents, records, working papers, or personnel for testimony or interviews with respect to this Agreement or any services provided hereunder, Client will reimburse Consultant for reasonable Consultant time and expenses incurred in responding to such requests. The foregoing does not diminish or negate Consultant’s obligation to negotiate and defend, at Consultant expense, all cost allocation plans and State mandated cost claims as specifically provided for under the Description of Services contained in Exhibit A.

   b. Consultant specifically disclaims all warranties, express or implied, including, but not limited to, the warranties of merchantability and fitness for a particular purpose.

   c. Consultant reserves the right to subcontract the Services. Consultant agrees to notify Client in writing of any such subcontracts.

   d. There are no third-party beneficiaries to this Agreement and nothing in this Agreement shall be construed to provide any rights or benefits to any third-party.

   e. 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 its employees are not to be considered agents or employees of Client for any purpose.

   f. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.

   g. 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.

   h. This Agreement and any additional or supplementary document or documents incorporated 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.

   i. Neither party shall be liable by reason of any failure or delay in the performance of its obligations 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.

j. 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.

k. Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.

l. The Consultant agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Consultant is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

IN WITNESS WHEREOF, Client and the Consultant have executed this Agreement as of the date last written below.

Sarpy County, Nebraska

By: 

Name: Donald R. Kelly

Title: Chairman, Sarpy County Board

Date: 4/24/18

MAXIMUS Consulting Services, Inc.

By: 

Name: 

Title: 

Date: 2018.05.09 11:30:20-04'00'

Digitally signed by T. Isadora Huntley
DN: cn=T. Isadora Huntley, o=Director, Contracts, ou=MAXIMUS Consulting Services, Inc., email=tisadorahuntley@maximus.com, c=US

Approved as to form: ___________________

Deputy County Attorney
EXHIBIT “A”
Scope of Services
NE CO Sarpy CAP 18-20

Description of Services:

a) Development of a central services cost allocation plan, which identifies the various cost incurred by the County to support and administer programs that provide services directly to citizens. This plan will contain a determination of the allowable cost of providing each supporting services such as purchasing, legal counsel, disbursement processing, etc.

b) Plan Contents, Consultant Staffing and Client Participation. Each plan will contain a determination of the allowable costs of providing each supporting service, such as: insurance, building maintenance, financial administration, etc. Consultant staff will analyze all data required, perform all cost allocation calculations, and complete the cost allocation plan in a form ready for the Client to submit for Federal and State approval. Client personnel involvement will be limited to locating and providing access to accounting and payroll records, answering questions to enable Consultant to appropriately interpret Client records, and participation in brief interviews by selected personnel to enable Consultant to determine appropriate allocation of costs across Client programs.

c) Negotiation. Consultant shall negotiate use of the completed cost allocation plan with the appropriate Federal and State representatives if necessary.

d) Instruction and Monitoring. Consultant shall instruct Client personnel in preparing the claims to the State and other appropriate sources for recovery of funds due the Client. Consultant will monitor the progress of Client claims to insure the Client receives recoveries due it.

e) Detention Services. Consultant shall prepare a Cost Sheet for Detention Services for the Sarpy County Jail, Juvenile Detention Center, and CARE Program on an annual basis.

f) Rates: Consultant shall calculate the following rates for the Client;
   a) Indirect Reimbursement Rate for the County Attorney Child Support expenses.
   b) Indirect Reimbursement Rate for District Court Child Support expenses.
   c) County-wide Indirect Cost Rate.
EXHIBIT “B”
Compensation
NE CO Sarpy CAP 18-20

For Services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of Eight Thousand Four Hundred Dollars ($8,400) per year.

Consultant will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

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