

YADKIN COUNTY

NORTH CAROLINA

AGREEMENT FOR SERVICES

(Munis Contract Number) _____

This Agreement is made and entered into this 1 day of January, 20 2017 ("Effective Date") between Yadkin County, North Carolina ("County") and Bridgeway Solutions ("Provider").

WHEREAS, the County and the Provider wish to enter into a contract under which the Provider will provide certain specified services and/or materials to the County in exchange for payment. NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, conditions, and agreements herein, the County and the Provider agree as follows:

1. **Services To Be Performed.** The Provider agrees to perform the services and to provide the materials (all collectively called the "Services") for the County as authorized by the County Manager. Provider acknowledges that this Agreement does not guarantee that the County will assign the Provider any work; however, that the County from time to time may request the Provider to perform services for Yadkin County.

The Provider warrants that all materials it provides shall be of good quality and shall meet industry standards and the County's expectations and approval, and the Provider warrants that it shall perform all Services in a good and workmanlike manner, in accordance with industry standards and the County's expectations, and to the County's full satisfaction.

See "Exhibit A" attached hereto and incorporated as if fully setout herein. "Exhibit A" lists in detail the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided.

2. **Term of the Agreement.** (Check the one provision that applies.)



This Agreement shall end on December 31, 20 17.



This Agreement shall continue until the Provider has completed the Services to the County's satisfaction.



This Agreement shall continue until terminated in accordance with Section 8 of the Agreement.

3. Payment to the Provider.

The County shall pay the Provider \$ _____ every _____.

The County shall pay the Provider a total not to exceed the amount of \$ **\$ 1,809.41** for all Services performed under this Agreement. The Provider will invoice the County for Services as they are performed, but no more frequently than monthly.

In accordance with Item 3, Payment to the Provider, the County agrees to pay the Provider for Services satisfactorily performed in accordance with this Agreement. The County shall pay each properly submitted invoice within thirty (30) days of its submission. Each invoice shall document, to the County's satisfaction, the work performed and the basis for the amount of payment sought. If the Provider fails to perform in accordance with this Agreement, the County may, without penalty, withhold any payment(s) associated with Services not properly performed until and unless the Provider completes or corrects its performance, as applicable. The County's remedies under this Agreement are not exclusive and are in addition to all other rights and remedies provided by law.

4. E-Verify. North Carolina General Statutes prohibit counties from entering into contracts with contractors and subcontractors under the formal bid process and/or proposals who have not complied with the requirement of Article 2 of Chapter 64 of the NC General Statutes. Said Article 2 of Chapter 64 states *The prohibition applies to all contracts subject to G.S. 143-129, which are purchase contracts with an estimated cost of \$90,000 or more, and construction or repair contracts with an estimated cost of \$500,000 or more. GS 143-129 applies to virtually all public entities, including cities, counties, local school boards, water and sewer authorities, and other special purpose local government districts and authorities.* The Contractor must submit the E-Verify Affidavit with bid proposals and/or contracts as required by NC General Statutes.

5. Non-waiver. If the County at any time does not require the Provider to satisfy any of the Provider's obligations under this Agreement, or if the County fails at any time to exercise any right or privilege granted to it by this Agreement, that shall not waive or limit the County's ability to require the Provider to satisfy those obligations in the future or the County's ability to enforce its rights or privileges in the future. If the County waives any breach of this Agreement by the Provider that shall not be deemed a waiver of any later breach by the Provider, nor shall it be deemed a waiver of this section of the Agreement.

6. Independent Contractor. For purposes of this Agreement, the Provider at all times shall be considered an independent contractor, and the County shall not be deemed the employer of the Provider or of any of the Provider's agents or employees, nor shall the County be responsible for the actions or omissions of the Provider or its agents and employees. For purposes of this Agreement, the Provider and its agents and employees shall not be deemed an employee of the County for any purpose, including (by example only and not for purposes of limitation) federal or state income taxation, unemployment benefits, or worker's compensation benefits.

7. **Insurance**. During this Agreement's term, the Provider shall maintain at its sole expense all insurances as set out in this section. All insurance policies shall be issued by a company authorized to issue insurance in the State of North Carolina. Before beginning to perform under this Agreement, the Provider shall provide the County with a certificate of insurance showing that all insurance required by this Agreement is in effect, and the Provider shall keep that certificate current by submitting to the County updated certificates as the Provider's insurance policies are renewed or otherwise modified. The Provider shall notify the County immediately if any insurance required by this Agreement will be or has been cancelled or not renewed or if the amount of coverage of any such insurance will be or has been reduced.

The Provider shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Provider's employees engaged in any work under the Agreement.

The Provider shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate.
- Workers' Compensation in the amount of \$500,000 employer's liability.
- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 for bodily injury and property damage; and \$1,000,000 uninsured/underinsured motorist coverage.

8. **Indemnity**. The Provider agrees that it shall defend, indemnify, and hold harmless the County and its officials, employees, and agents from and against any and all losses, liabilities, claims, demands, suits, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to this Agreement and/or the Services, including (by example only and not for purposes of limitation) those for bodily injury, death, or property damage. The Provider's obligations under this section shall survive termination of this Agreement.

9. **Termination**. Notwithstanding any other provision of this Agreement, this Agreement may be terminated at any time by mutual written agreement of the County and the Provider, or it may be terminated by the County upon ten (10) days' written notice to the Provider. Ten days' written notice for termination by the County is not required if the County is terminating because the Provider has breached the Agreement.

10. **Entire Agreement**. This Agreement (including any attached Exhibits) constitute the complete and entire Agreement between the County and the Provider concerning the subject matter of the Agreement and supersedes any and all prior agreements, discussions, understandings, promises, or representations concerning that subject matter. This Agreement may be modified only by a writing signed by both the County and the Provider.

11. **Governing Law and Forum for Disputes.** This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. Any lawsuit or other legal proceeding concerning this Agreement and/or the Services must be filed in Yadkin County, North Carolina, unless it is properly filed in Federal Court, in which case it must be filed in the Federal District Court for the Middle District of North Carolina.

12. **Severance Clause.** If any part of this Agreement is deemed unenforceable by a court of competent jurisdiction, then that part shall be enforced to the greatest extent legally possible, and the rest of this Agreement will remain in full force and effect.

13. **Compliance With Laws.** The Provider acknowledges and agrees that it will perform all Services and will satisfy all of its obligations under this Agreement in full compliance with all applicable federal, state, and local laws and regulations.

14. **Repair of Damages.** The Provider shall promptly and fully repair any damages that it or its employees or agents cause to the County's property. Alternatively, the County may choose in its discretion to require the Provider to fully compensate the County for any such damages rather than have the Provider repair them.

15. **Titles and Headings.** Titles and headings used in this Agreement are for convenience only and do not limit or modify the language within each section of this Agreement.

16. **Non-Assignment.** The Provider may not assign its rights or obligations under this Agreement, nor may it sub-contract any part of this Agreement, without written approval from the County.

17. **Notices.** Any notice or communication to the County or the Provider for purposes of this Agreement shall be delivered or shall be deposited in the United States Mail, first class, addressed to the addressee below:

THE COUNTY

Yadkin County Public Health Preparedness
Po Box 998
Yadkinville NC 27055

THE PROVIDER

Bridgeway Solutions, Inc.
6000 East Union St.
Morganton, NC 28605

18. **Number and gender.** This Agreement's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

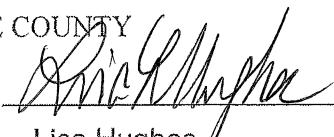


Digitally signed by Gary
DN: cn=Gary, o=Finance, ou=Yadkin Co,
email=groce@yadkincountync.gov,
c=US
Date: 2016.12.12 16:45:05 -05'00'

19. Exhibits. To the extent of a conflict between the above language of this Agreement and any attachments, the above language of this Agreement will control.

IN WITNESS WHEREOF, the County and the Provider have caused this Agreement to be executed as of the Effective Date.

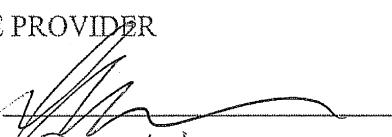
THE COUNTY

BY: 

Name: Lisa Hughes

Title: County Manager

THE PROVIDER

BY: 

Name: David Lee

Title: vice-president

This instrument has been pre-audited in
the manner required by the Local
Government Budget and Fiscal Control Act.

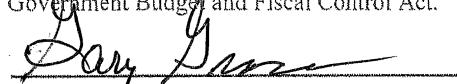
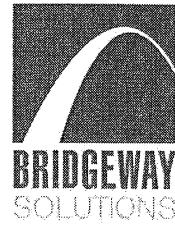

Yadkin County Finance Officer

EXHIBIT A

TO AGREEMENT TO SERVICES

Below is a detailed listing of the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided. (The detailed listing of the scope of services may also be described on one or more sheets attached hereto and incorporated herein, but each must be signed by the Provider and the County.)

See attached Software Maintenance Agreement Terms and Conditions



SOFTWARE MAINTENANCE AGREEMENT

Terms & Conditions

It is agreed that the manufacturer's Terms and Conditions (attached) shall serve as the principal basis upon which Bridgeway Solutions shall purchase and resell SMA coverage to the **CUSTOMER**, at the quoted/published rate, on the specified **SOFTWARE** to insure operating efficiency and continuity of use. This non-refundable Agreement covers the software serial number(s) or licensing key(s) listed on the attached Proposal and/or Inventory List, and consists of the following, all to be performed for the stated time period beginning with the date the software is installed.

All Customer responsibilities, as well as those of the **MANUFACTURER**, are detailed in the attached document. In addition to the benefits to which the Customer is entitled under this SMA, Bridgeway Solutions shall provide the following value-added services for the term of this Agreement:

- ◆ Unlimited telephone support, by appointment, Monday through Friday, 8am – 5pm eastern time, excluding holidays;
- ◆ Up to one software re-installation and/or software re-licensing, via remote connection;
- ◆ Free update- and upgrade installations, as they become available from the Manufacturer, via remote connection.

It is understood that this Agreement does NOT include:

- ◆ Service and/or maintenance of any associated hardware;
- ◆ On-site delivery of services. Support shall be deliverable by Bridgeway Solutions via remote connection. Expenses relating to travel incurred by Bridgeway Solutions to the Customer site shall be billable to the Customer at normal, published rates;
- ◆ Work needed to correct network issues, database issues, or computer malfunction;
- ◆ Reformatting- or changes to media design, batch design, layout, etc. after the initial formatting, card/media design(s) that were included in the initial installation process. This includes, but is not limited to: card designs, metal- or plastic plate formatting, magnetic stripe- or smart chip encoding, wristband- or label design, database connections/paths, and data stream manipulation;
- ◆ Re-creation of media design, batch design, layout, etc. made necessary by accident, abuse, fire, water, storm, burglary, power-surge, power outage, self-repair, acts of God, as well as failure of the Customer to maintain a secure backup of the design- and or data files;
- ◆ Any Customer database manipulation;
- ◆ Access to, or manipulation of, any Third Party software not provided by Bridgeway Solutions AND covered under a separate, current Software Maintenance Agreement purchased by the Customer from Bridgeway Solutions. Requirements).
- ◆ Repairs made necessary by power surges, outages, or any other power issues where equipment is affected due to lack of or insufficient protection by Bridgeway Solutions -approved Uninterrupted Power Supply (UPS).

Any voluntary change to the Customer's server- or local PC operating system after the original software installation that adversely affects the functionality of the software covered under this Agreement shall render the Agreement null and void.

RFP Number (if applicable): _____

Name of Vendor or Bidder: Bridgeway Solutions, Inc.

**IRAN DIVESTMENT ACT CERTIFICATION
REQUIRED BY N.C.G.S. 143C-6A-5(a)**

As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

Dana Halliburton 12-13-16
Signature Date
Dana Halliburton Accounting specialist
Printed Name Title

Notes to persons signing this form:

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nc treasurer.com/iran and will be updated every 180 days.