Assessor's PPDMS 83MISC02 Personal Property (2)

COPY

THIS Letter of Intent is entered into this _____day of _____, 2006, by and between the Vermillion County Commissioners on behalf of the Vermillion County Assessor, hereinafter referred to as "Assessor" and Appraisal Research Corporation, hereinafter referred to as "ARC".

WHEREAS the Assessor has the need to lease software to perform personal property data organization and calculations; and

WHEREAS ARC is willing and able to provide such software and services in the form of Personal Property Data Management Software hereinafter referred to as "PPDMS".

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein and outlined in Exhibit A "Licensing/Maintenance Terms" included with this Letter of Intent, and viewable on the Internet at http://appraisalresearch.cc (Products, PPDMS, PPDMS Licensing Maintenance), the Assessor and ARC enter into this Letter of Intent.

ARTICLE I
WORK IN PROGRESS

ARC shall be responsible for providing a license to the Assessor for their use of ARC's PPDMS. PPDMS shall provide the necessary tools to allow the Assessor to accurately calculate personal property values and totals for reporting.

ARTICLE II
MAINTENANCE

ARC shall provide maintenance on a yearly basis. This maintenance shall consist of yearly updates to the tables, rolling of pool data from one year to the next, archiving previous year's data and any upgrades and improvements necessary to update the software to Indiana Department of Local Government Finance (DLGF) standards. The maintenance shall also apply to any problems, which are determined to be PPDMS programming errors.

Maintenance fees from 1/1/06 to 12/31/06 and prorated pending the date of install. Maintenance consideration shall remain the same from year to year unless ARC notifies

the Assessor before March 1st of the year preceding the due date of the maintenance consideration.

Maintenance/Technical support shall be provided via telephone (800) 626-7743 extension #327, or via email at arcin@appraisalresearch.cc. Messages are retrieved three (3) times daily, and calls returned within 24 hours. If additional on-site support is needed for reasons other than stated above, there is an additional charge of $50.00 per hour (minimum 4 hour increments), plus round-trip mileage from the technical support person's home office to the Assessor's office. Additional programming charges are $50.00 per hour (minimum ½ hour increments), if applicable.

ARTICLE III
TIMEFRAME

ARC shall install the software within two (2) weeks of notification by the Assessor that hardware necessary to run the software is in place (See Article V), and this Letter of Intent has been executed. Either party shall have the opportunity of terminating this agreement with thirty (30) days written notice to the other party.

ARTICLE IV
CONSIDERATION

The Assessor shall pay ARC a fee of six thousand nine hundred fifty dollars ($6,950) for one (1) network server license, and three (3) workstations and one (1) stand alone license for Clinton Township. Maintenance shall be at a rate of $499.00 per unit per year, and prorated from the date of installation.
Billing shall be sent directly to the Assessor's office unless otherwise indicated.

Hon. Kimberly Ann Major
Vermillion County Assessor
P.O. Box 268
Newport, IN 47966

ARTICLE V
MINIMUM SYSTEM REQUIREMENTS*

The Assessor is required to obtain the following minimum system before installation is performed.

PLATFORM
- PC Compatible
- Pentium III

MEMORY
- 256 MB available

DISC STORAGE
- 1GB FIXED available
- 700 MB REMOVEABLE

PRINTER
- System Compatible Laser or Ink Jet**

SOFTWARE
- Windows 98, 2000, XP, NT
- Access 97, 2000, XP

*Failure to meet the minimum system requirements requires a written waiver from ARC.
**PPDMS does not support duplex printing.

IN WITNESS THEREOF, the parties have executed this Letter of Intent by their duly authorized offices.

VERMILLION COUNTY, INDIANA

Commissioner

Date: 7-3-06

Commissioner

Date:

Commissioner

Date: 7-3-06

ATTEST

Auditor

Date: 7-27-06

Assessor

Date:

APPRAISAL RESEARCH CORPORATION

Virginia R. Whipple, AAS
Regional Manager

Date: 6-23-2006

EXHIBIT A

Personal Property Data Management System (PPDMS)
LICENSING / MAINTENANCE TERMS
Rev. 1/25/2006

The following is the PPDMS Licensing Agreement by and between Appraisal Research Corporation, hereinafter referred to as "Consultant" and an Authorized Software User, hereinafter referred to as "Client".

1. DEFINITIONS:

For the purposes of this document, the definitions set forth in this Section 1 entitled "Definitions" shall apply to the respective bolded terms in quotations:

A) **"Agreement"** This Licensing Agreement, including any Exhibits attached hereto.

B) **"Authorized User(s)"** Those who have purchased an initial or renewed an existing valid license, from Consultant, for the use of the licensed program.

C) **"Derivative Work"** shall mean work that is based upon one or more pre-existing works, such as a revision, modification, translation, abridgement, condensation, expansion, or any form in which such a pre-existing work may be recast, transformed, or adapted, and that, if prepared without authorization by the owner of the pre-existing work, would constitute a copyright infringement.

D) **"Enhancement(s)"** Computer program modifications or additions, other than error corrections, that may be integrated with the licensed programs or offered separately by Consultant and that improves its function, adds new functions, or substantially enhances its performance. Enhancements shall not include programs that have a value and utility separate from the use of the Consultant programs, and that, as a practical matter, may be priced and offered separately from the said program.

E) **"Error"** A defect in the licensed program which can, with reasonable effort, be recreated using a supported operating environment, that prevents, said Program from functioning in substantial conformity with the published specifications pertaining thereto.

F) **"Error Corrections"** Computer software changes to correct an error in the licensed program that is in a form that allows its application to the said Program to establish material conformity with the State of Indiana's requirements pertaining thereto.

G) **"Licensed Program"** The computer software referred to as the Personal Property Data Management System (PPDMS) and incorporated by reference, including any extracts from such software derivative works of such software, enhancements of such software, or collective works constituting such software (such as subsequent releases) to the extent offered to Client under this Terms of maintenance or the License Terms of maintenance covering the described computer software.

H) **"Normal Working Hours"** The hours between 8:00 A.M. and 5:00 P.M. on the days Monday through Friday of each week of the calendar year, excluding regularly scheduled holidays of the Consultant.

I) **"User"** is defined singularly as one (1) stand alone workstation. In the case of network access, the minimum requirement of one (1) server and one (1) workstation shall constitute two (2) users. Each additional workstation requested shall represent one (1) additional user per workstation.

2. TERMS OF AGREEMENT:

This Agreement shall become effective from the date of initial install or upon renewal of the license each January 1st, and will remain in effect until the following January 1st. This Agreement may be otherwise terminated only for cause as set forth in Section 7 of this Agreement entitled "Termination of Agreement."

The Consultant agrees to provide Client with the yearly update to the tables, rolling of pool data from one (1) year to the next, archiving previous year's data and any upgrades necessary to update the software to Indiana Department of Local Government Finance standards. This Agreement shall also apply to any problems that are determined to be PPDMS programming errors.

The payment of the annual maintenance fees shall constitute a renewal of this Licensing Agreement under which usage of PPDMS is authorized. Acceptance of all terms specified in this Agreement, through implied consent, is evidenced by the authorized user(s) action of selecting "OK" in the opening screen of PPDMS.

3. SUPPORT:

During the term of this Agreement, Consultant shall render the following services during normal working hours in support of the licensed programs and equipment:

A) Telephone hotline support, including consultation on the operation and utilization of the licensed programs. This shall be provided via telephone (800) 626-7743, Extension # 327 or via email at arcin@appraisalresearch.cc. All messages are retrieved three (3) times daily with calls returned within twenty-four (24) hours and

B) Upon Client promptly reporting and notifying Consultant in writing of errors in the licensed programs and Client not modifying the licensed programs without Consultant's prior written consent, Consultant shall verify such errors and, in accordance with the following schedule or such longer time period as may be agreed to in writing by Client and Consultant, either notify Client that no such errors exist or provide to Client for verified errors, error corrections:

Severity	Client: Up/Down	Debility	Work Around	Correction
1	Down	High	No	2 business days after error is reported to Programmer
2	Up	High	No	5 business days after error is reported to Programmer
3	Up	High / Medium	Yes	15 business days after error is reported to Programmer
4	Up	Low	Yes	By next version release

C) Consultant's support obligations do not include any data conversion or software development services. Consultant shall only be responsible for supporting licensed programs, which are no more than one (1) version prior to the current version of the licensed programs.

4. SUPPORT FEES:

Client shall pay Consultant for error correction and enhancements support the annual sum of four hundred ninety-nine dollars ($499.00) per user as defined above, payable in one (1) lump payment at the beginning of the effective licensing period as outlined in Section 2 of this Agreement entitled "Teams of Agreement".

If additional onsite support is needed for reasons other than those stated in the Terms of Agreement, additional charges of fifty dollars ($50.00) per hour (minimum of four (4) hours), plus round trip mileage from the technical support person's home office to the Client's office for each trip. Additional programming charges are fifty dollars ($50.00) per hour (calculated in minimum of ½ hour increments), if applicable.

5. PROPRIETARY RIGHTS AND CONFIDENTIALITY:

A) Consultant is the exclusive owner of licensed programs, error corrections, enhancements, derivative works, thereof, and related documentation or maintains sufficient rights as a licensee of certain software incorporated into licensed programs to grant to Client the limited rights granted in this Agreement. Nothing in this Agreement shall be construed to grant Client any right, title, or interest in the licensed programs, error corrections, enhancements, derivative works, thereof, and related documentation, except the limited right to use, granted in this Agreement and any end-user license agreement with Consultant.

B) Client recognizes the validity of Consultant's copyrights and trade secrets. Client shall cooperate in good faith to secure and preserve Consultant's right and title to the copyrights and trade secrets for licensed programs and related documentation, respectively, as if said products were its or their own products. No provision or clause in this Agreement shall be interpreted as an assignment or grant to Client of any right, title, or interest in or to copyrights, and trade secrets, all privileges pertaining thereto remaining the exclusive property of Consultant (or in some cases, of its subcontractors), except for the rights granted herein to Client to use the licensed programs and related documentation as specified under the terms of this Agreement. Client agrees upon termination of this Agreement to continue to protect Consultant's copyrights and trade secrets.

C) Client expressly agrees to retain in confidence, and to require its associates, representatives and agents to retain in confidence, all information, ideas, and concepts imparted to it by Consultant concerning the licensed programs. Client agrees to limit its use of any knowledge obtained from Consultant, to those activities covered under the terms of its end-user license agreement and this Agreement. Client's obligations under these provisions extend past the termination of this Agreement to the earlier of such time as the information protected herein in the Public Domain, or ten (10) years following the termination of this Agreement.

6. INDEPENDENT CONTRACTOR:

Consultant shall be an independent contractor, and this Agreement does not and is not intended to create, in any way or manner or for any purpose whatsoever, an employer-employee relationship or a principal-agent relationship. In its capacity as an independent contractor, Consultant agrees and represents, and Client agrees, as follows:

A) Consultant has the right to perform services for others during the term of this Agreement.

B) Consultant has the sole right to control and direct the means, manner and method by which the services required by this Agreement shall be performed.

C) Consultant has the right to perform the services required by this Agreement at any place or location and at such times as Consultant may determine and as possible under the terms of this Agreement.

D) Consultant shall perform the services required by this Agreement, or Consultant's staff, and Client shall not be required to hire, supervise, or pay any assistants to help Consultant.

E) Consultant is responsible for paying all ordinary and necessary expenses of its staff.

F) Neither Consultant nor Consultant's staff shall be required to devote full-time to the performance of the services required by this Agreement.

G) Client shall not provide any insurance coverage of any kind for Consultant or Consultant's staff.

H) Consultant's agents or employees shall not be considered, in any manner, as employees of Client or have any rights to any benefits that Client grants its associates.

I) Consultant shall not be considered or deemed to be an agent, employee, joint venture, or partner of Client.

J) Consultant shall have no authority to contract for or bind Client in any manner and shall not represent itself as an agent of Client or as otherwise authorized to act for or on behalf of Client.

7. TERMINATION OF AGREEMENT:

A) Each party has the right to terminate this Agreement if the other party has materially breached any obligation herein and such breach remains uncured for a period of thirty (30) days after notice thereof is sent to the other party.

B) If, at any time after commencement of the services required by this Agreement, Client shall, in its sole reasonable judgment, determine that such services are inadequate, unsatisfactory, or substantially not conforming to the descriptions, warranty representations contained in this Agreement, Client may begin to terminate this Agreement upon thirty (30) days written notice to Consultant.

C) Full termination takes place when Client provides Consultant with written notification of intent to terminate and complies fully with Section 8 of this Agreement entitled "Return of All Materials". Upon full termination of this Agreement, that is, where the Client has given written notice of intent to terminate but still retains the program and other property of the Consultant, shall not relieve Client from the obligation to pay Consultant for all services rendered up to the date of full termination included an Extended Use Fee, which shall not exceed one-twelfth (1/12) of the yearly maintenance fee per user per month.

8. RETURN OF ALL MATERIALS:

Upon written notification of intent to terminate this Agreement, Client shall promptly return to Consultant all of the Consultant's data, materials (including all materials

embodying any trade secrets), reports and all other property (and all copies of same) held by the Client. Consultant shall promptly return any property of the Client's held by Consultant. It also allows only the Consultant to physically remove all the computer application and all associated element from all machines of which it is installed.

9. WARRANTIES AND REPRESENTATIONS:

Consultant warrants and represents that:

A) Consultant shall not knowingly infringe upon any copyright, patent, trade secret or other property right of any former Client, employer or third party in the performance of the services required by this Agreement.

B) Consultant has not granted any rights or licenses to any intellectual property or technology that would conflict with Consultant's obligations under this Agreement.

C) The warranties and representations above set forth in Section 9 of this Agreement entitled "Warranties and Representations" are the only warranties and representations made by Consultant under this Agreement. Consultant makes no other warranty or representation of any kind whatsoever express or implied. Any, and all, implied warranties of merchantability and fitness for a particular purpose are expressly disclaimed and excluded by Consultant.

10. LIMITATION OF CONSULTANT'S LIABILITY TO CLIENT:

A) In no event shall Consultant be liable to Client or any other person for any direct, indirect, consequential or incidental damages (including damages for business interruption, loss of business information or similar losses) due to breach by Consultant of the Limited Warranty contained herein even if Consultant has been advised of the possibility of such damages.

B) The cumulative liability of Consultant to the Client for all claims related to the support services for the licensed programs provided under this Agreement, including any cause of action sounding in contract, tort, or strict liability, shall not exceed the total amount of all fees paid to Consultant by Client under this Agreement.

C) Consultant shall not be liable for any claim or demand made against Client by any third party, except as provided in Section 9 of this Agreement entitled "Warranties and Representations" and the cumulative liability of Consultant to such third party for all such claims shall not exceed the total amount of all fees paid to Consultant by Client under this Agreement.

D) Client shall indemnify Consultant against all claims, demands, and costs, including reasonable attorney fees, of defending any claim or demand by any third party, except as to the items contained in Section 9 of this Agreement entitled "Warranties and Representations" arising out of or in connection with Client in writing of any such claim or demand and Client shall have the right to fully control the defense and any settlement of the claim or demand.

11. EMPLOYMENT OF ASSISTANTS OR SUBCONTRACTORS:

Consultant may, at Consultant's own expense, employ such assistants or subcontractors, as Consultant deems necessary to perform the support services required by this Agreement. Client shall have the right, upon reasonable notice to Consultant, to reject any of Consultant's assistants or subcontractors whose qualifications in Client's good faith and reasonable judgment are insufficient for the satisfactory performance of the support services required by this Agreement.

12. MEDIATION AND ARBITRATION:

Except for the right of Consultant to bring suit on an open account for simple moneys due Consultant, any dispute arising under this Agreement shall be resolved through a mediation-arbitration approach. The parties agree to select a mutually agreeable, neutral third party to help them mediate any dispute that arises under the terms of this Agreement. If the mediation is unsuccessful, the parties agree that the dispute shall be decided by binding arbitrations under the rules of the American Arbitration Association. The decision of the arbitrators shall be final and binding on the parties and may be entered and enforced in any court of competent jurisdiction by either party. The parties shall share costs and fees associated with the mediation equally. The prevailing party in the arbitration proceedings shall be awarded reasonable attorney fees, expert witness costs and expenses, and all other costs and expenses incurred directly or indirectly in connection with the proceedings, unless the arbitrators shall for good cause otherwise determine.

13. GENERAL PROVISIONS:

A) This Agreement, together with any Exhibits attached hereto and incorporated by reference, is intended by the Consultant and Client to be the final expression of their agreement, and constitute the full entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements, oral or written, to the contrary heretofore made. The Consultant may amend this Agreement at any time without notification.

B) In the event that any of the terms of this Agreement is or becomes, or is declared to be invalid, unenforceable or void by any court or tribunal of competent jurisdiction, such term or terms shall be null and void and shall be deemed severed from this Agreement, and all the remaining terms of this Agreement shall remain in full force and effect.

C) This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

D) Client represents and acknowledges that Client is not relying on any representation or warranty from Consultant regarding support services, except as specifically set forth in this Agreement, including, but not limited to, any representation as to future product offerings.

E) Client shall not assign, or otherwise transfer, any of the obligations undertaken or rights granted under this Agreement without the prior written consent of Consultant. The parties to this Agreement agree that any assignment would increase materially the burden of risk imposed on Consultant by this Agreement and impair materially Consultant's chance of obtaining return performance.