Print Form

PRESCRIBED CONTRACT FOR COMPUTER SOFTWARE, SERVICES, AND EQUIPMENT

This Contract is entered into by and between
X-Soft, Inc.
("Contractor," which term shall include the Contractor's principals), the Adams County Assessor, and the Board of County Commissioners of Adams County, Indiana (hereinafter jointly and severally the "County," which term shall also mean Adams County, Indiana), and the Department of Local Government Finance ("Department"), a party solely for the limited purposes of approving the employment of the Contractor and exercising statutory oversight pursuant to IC 6-1.1-31.5-2(c).

RECITALS

A. The County has determined it is in the County's best interest to employ the Contractor as an information technology provider pursuant to the provisions of IC 6-1.1-31.5-2 for the purpose of providing computer software, services, and/or equipment as required by IC 6-1.1-31.5-2 and 50 IAC 26;

B. The County and the Contractor have complied with IC 5-22 in obtaining bids, proposals, or a special procurement, and the purchase of the Contractor's software, services, and/or equipment is in compliance with Indiana law;

C. The Contractor's software, services, and/or equipment are certified by the Department pursuant to 50 IAC 26-18;

D. The County is awarding the Contract to the Contractor after compliance with IC 5-22, and the Contractor is willing to contract with the County subject to the terms and conditions of this Contract;

E. This Contract is subject to the provisions of IC 6-1.1-31.5 and 50 IAC 26 and the Contractor will comply with the provisions of IC 6-1.1-31.5 and 50 IAC 26 in connection with this Contract; and

F. The Department has final approval authority for the employment of the Contractor pursuant to this Contract, and, as a signatory to the Contract, has the right to exercise its statutory right of oversight of the performance of the Contractor as contemplated by IC 6-1.1-31.5-2.

AGREEMENT

In consideration of the promises, mutual covenants, and obligations of the parties, the County, the Department, and the Contractor agree as follows:

1. Incorporation of Recitals. The foregoing recitals are adopted by the parties as being true and accurate statements and are hereby incorporated as binding representations of this Contract.

2. Products and Services Provided by Contractor. The Contractor agrees to provide to the County certain hardware, software, and/or services, including but not limited to consulting, project management, training, configuration or installation (collectively the "System Package"), all as more particularly described on a Work Plan that must be attached to this Contract as "Exhibit A". From time to time, the Contractor and the County may agree upon additional hardware, software, and/or services to be provided by the Contractor (the "Additional Products and Services"), which shall be designated on additional Work Plan(s) and attached as Addenda to this Contract and executed by the Parties pursuant to the same formalities as the execution of this Contract. The System Package, Work Plan, and Additional Products and Services shall be governed by the terms of this Contract, and to the extent the terms of this Contract and the Work Plan contradict, the terms and provisions of this Contract shall control.

3. Contractor's Product Compliance with Indiana Law. If the Contractor's duties pursuant to this Contract are to provide a property tax management system, the Contractor agrees as follows in compliance with 50 IAC 26-19-1(b)(3) and (5) and 50 IAC 26-19-2(b)(2):

A. The Contractor guarantees and warrants that the products covered by this Contract meet the provisions of 50 IAC 26-19, and if any party subsequently discovers a failure by the Contractor's products to meet the provisions of 50 IAC 26-19, the failure will be corrected at the Contractor's expense.

B. The Contractor will make any product or service change that is required as a consequence of a change in any law, rule, or state policy relating to the System Package, provided that Contractor is compensated equitably, based on common industry rates, as are reasonably agreed by the parties.

C. The Contractor will provide assistance to the County as may be required to modify the property tax management system to comply with changes in stated law, Department rules, Department policy statements, or 50 IAC 26-19 within the time period prescribed by the law, rule, or Department.

4. Contractor to Provide Maintenance Agreement. The Contractor agrees, in compliance with 50 IAC 26-19-2(b)(1) and (4) and 50 IAC 26-19-3, that if it is a vendor of assessment software and tax and billing software, it will provide (i) a software maintenance agreement that meets the standards prescribed in 50 IAC 26-19; (ii) the Contractor will reimburse the County for all costs incurred as a result of the Contractor's failure to continue to support the assessment software or tax and billing software during the life of the maintenance agreement; and (iii) the Contractor must offer a maintenance contract for ongoing maintenance services of the property tax management system that includes (1) telephone support, (2) problem diagnostic support for the Contractor's

personnel by any necessary combination of remote and on-site services, (3) system modification initiated by the Contractor, and (4) services to correct defects in software that are provided at the Contractor's expense.

5. Contract Representative. The County Assessor shall be the Contract Representative to serve as the primary contact person under the Contract.

6. Contractor Employees: Project Manager. The Contractor assigns Brian Bucher as the project manager, with whom the County and the Department shall discuss all issues related to the Contract, and the contact information for the project manager is:

Address:	21691 Anchor Bay Dr.
	Noblesville, IN 46062
Work telephone:	(317) 753-8716
Home telephone:	Same
Cell number:	Same
Email:	brianb@xsoftin.com

7. Work Plan. Attached hereto, and incorporated fully herein as Exhibit A, is the Work Plan developed and approved by the Contractor and the County setting forth the schedule for the completion of work under this Contract. The Contractor and the County warrant and represent that the Work Plan ensures that all information technology requirements necessary to fully comply with the obligations of 50 IAC 26 have been met. The Department will not approve this Contract if a Work Plan complying with the provisions of paragraph 2 is not attached.

8. Performance Bond. If the County requires surety and performance bonds, the Contractor must purchase a performance bond or bonds from a surety licensed to do business in the State of Indiana. The performance bond(s) must be in the same amount as the price of this contract and must entitle the County to call upon the surety to complete the contract in one of three ways: 1) the surety completes the contract by hiring a completion contractor; 2) the surety and the County choose a new contractor to complete the contract and the surety pays the costs; or 3) the County alone chooses a new contractor and the surety pays the costs. If the surety chooses to complete the contract by hiring a completion contractor, the surety assumes the same risk as the original Contractor. A requirement that the Contractor provide surety and performance bonds may be attached to this Contract as an addendum to be signed by all parties. Alternatively, the Contractor and County may agree to a performance retainer and attach an addendum signed by all parties to this Contract to provide for such a retainer.

9. Disaster Recovery. The Contractor ☐shall/ ☒shall not provide a Continuity Plan. The Continuity Plan shall provide, at minimum, the following:

A. provision of an alternate power source for uninterrupted services;

B. designation of one or more facilities (each a "Disaster Recovery Site") or separate computer resources to which the Contractor shall move the affected portion of any Services upon the occurrence of a Force Majeure event requiring such a relocation (including a Force Majeure event at a Disaster Recovery Site), which Disaster Recovery Sites for this Agreement shall be N/A ;

C. equipment of each Disaster Recovery Site with data processing resources sufficient to provide all Services in reasonable compliance with the terms and conditions of the Contract, based on the circumstances of the Force Majeure event; and

D. specification of all procedures for the determination or declaration of a Force Majeure event, which determination or declaration may not be unreasonably withheld or delayed by either party. In the event of a Force Majeure event, the Contractor shall use commercially reasonable efforts to resume delivery of the services (including via electronic access) utilizing the Disaster Recovery Site in the timeframe provided in the Continuity Plan. To the extent one or more Force Majeure events materially and adversely affects or prevents performance of the Continuity Plan, the Contractor shall provide the Department with a plan to resume delivery of the Services no later than seven business days thereafter at all Service Locations other than those at which the Force Majeure event has rendered impractical the delivery of the Services at such Service Locations. The Department shall not unreasonably deny approval of the new plan.

10. Office Space; Computer Support. The County ☒ shall/ ☐ shall not provide the Contractor with office space or computer support in connection with the performance of this Contract. The County and Contractor shall be aware of and exclusively responsible for all legal implications of the County providing the Contractor with office space or computer support in connection with the performance of this Contract.

11. Continuity of System Operations. If for any reason the County changes the assessment or tax and billing software or any other part of the computer system at (i) the end of the Contract term, (ii) Contract termination, (iii) decertification, or (iv) failure of recertification, the Contractor shall in no way impede or delay the smooth, orderly, and timely transfer of the County's data from the current database to the new database.

12. Source Code Escrow. The Contractor agrees to maintain an Escrow Agreement for the Software source code and related documentation for the benefit of the County and the Department during the term of the Contract. The Contractor shall provide the Department and County with the name of the Escrow Agent and the terms of the Escrow Agreement within seven days of the Department's signing of this Contract. The Contractor further guarantees that it will produce a copy of a revised or additional software source code and documentation with the Escrow Agent promptly after the Contractor makes changes or additions to the Software and will notify the County and Department that it has done so. The Contractor shall include the Department as a third party beneficiary to the Escrow Agreement at no charge to the Department. The County and the Department shall be entitled to receive a copy of the software source code in the event that the Contractor has ceased all business activities for a period of ninety days or more and a third party has not

agreed to assume the responsibilities of this Contract. The County's or Department's use of the Contractor's source code shall be unlimited in the event of breach and the County and Department shall retain sole ownership of the source code.

13. Consideration. The County shall pay the Contractor a fee of $ 155,500 (licenses, installation, conversion and training) and $25,400 (annual support/maintenance).

select desired amount

in full payment for the complete performance of all duties, responsibilities, and activities set out in this Contract and on the Work Plan mutually agreed to under paragraph 7 of this Contract and attached as Exhibit A. The fee shall be paid in the manner set forth in paragraph 16 below. The parties to this Contract acknowledge that the Department has no duty, responsibility, or obligation under this Contract to pay the Contractor, any subcontractor of the Contractor, or the County. The parties further acknowledge that the work to be performed under this Contract is solely for the benefit of the County and that it is the County's sole obligation to pay the Consideration required under this Contract.

14. Guaranteed Most Favorable Terms. All of the prices, terms, warranties and benefits granted by the Contractor in this Contract are comparable to or better than the terms granted by the Contractor to any other similarly situated state and local government customer. If the Contractor, prior to the delivery of the software, announces a price reduction or makes generally available to other customers more favorable terms or conditions with respect to the software, such prices, terms, warranties, or conditions shall be made available to the County and the Department on the date the price reduction or change in terms and conditions became effective.

15. Condition of Payment. All services provided by the Contractor must be performed to the reasonable satisfaction of the County and the Department, as determined at their sole discretion and in reliance upon all applicable federal, state, local laws, ordinances, rules, and regulations. The County shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract, or performed in violation of federal, state or local statute, ordinance, rule, or regulation.

16. Time and Manner of Payment. The Contractor shall be paid as follows:

A. The Contractor shall submit a claim for payment for the first of two equal installments and support/maintenance upon completion of the work under the Contract and Exhibit A Work Plan. The second installment shall be invoiced 12 months subsequent to the first claim.

[specify timing of payment]. The amount of each yearly *[specify monthly, yearly, or lump sum]* payment is subject to the completion percentage requirements set forth in the Work Plan, subject to approval by the County, and is subject to full compliance with all other obligations under this Contract. Approval ☐ shall/ ☒

shall not be based on the N/A *[specify the time period when the reports must be submitted; for example, monthly, weekly, or biweekly]* progress reports submitted by the Contractor. Payment shall be made to the Contractor within 30 days after approval by the County.

B. If all work is not completed under this Contract by the completion date specified in paragraph 19 of this Contract or if all required data is not submitted to the Department in the appropriate format in a timely manner, then all further payments may be suspended until all work has been satisfactorily completed and approved by the County and as otherwise required under this Contract. Payments of the suspended amount will be made to the Contractor within 30 days after that approval by the County, subject to other terms of this Contract. The County is exclusively responsible for payment to the Contractor. The Contractor shall not submit any claim for payment to the Department nor make any claim for damages against the Department under the Contract. The Department has no financial or other obligations, including damages, to the Contractor and is a party to this Contract solely for the purpose of fulfilling the requirements of IC 6-1.1-4-17(a).

17. Penalties. Pursuant to IC 6-1.1-4-19.5(b)(2), payments due under this Contract shall be reduced by the amount of $ N/A per business day that any part of the performance by the Contractor remains incomplete after the due date specified in this Contract due to the fault of the Contractor.

18. Certification of Computer Software and Services.

A. A material inducement for entering into this Contract is that the Contractor's computer software and computer services have been certified under IC 6-1.1-31.5 and 50 IAC 26-18 in order to enter into this Contract. The Contractor represents and warrants that all required certifications are in effect at the time of entering into this Contract.

B. The Contractor will take all steps necessary to maintain such certification throughout the term of this Contract. The Contractor shall immediately notify the County and the Department in writing of any circumstance or occurrence jeopardizing certification status.

C. Pursuant to 50 IAC 26-19-2, this Contract is void and the Contractor may not receive additional funds if the Contractor's certification is denied, decertified, or revoked.

19. Term of Contract. This Contract commences on the date the Department signs and the Contractor shall commence work under this Contract within 30 days of the date of approval by the Department of the Contractor's engagement pursuant to this Contract. The Contractor shall complete all work to be performed under this Contract before October 1, 2014.

20. Contract Reports and Monitoring.

A. The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. The Contractor shall make such materials available at its office at all reasonable times during this Contract and for three years from the date of final payment under this Contract for inspection by the Department or its authorized designees. Copies shall be furnished at no cost to the Department if requested.

B. The Contractor shall, if so required by paragraph 16(A), provide written progress reports to the County in a form reasonably prescribed by the County and consistent with paragraph 16(A). The reports must include the status of the work being done. The County may require that additional information be included in the reports. The Contractor shall submit the reports to the County within three business days of receipt of a request.

C. The County may at all times inspect the records of the Contractor to verify the progress and evaluate the quality of work performed. The County may accompany the Contractor's personnel in their assigned duties to assure the Contractor's adherence with contractual specifications and approved procedures. The Contractor shall extend its full cooperation to the Contract Representative by providing access to all program-related records and by making personnel available upon request for the purpose of monitoring quality, performance, and progress.

D. As required by IC 6-1.1-4-19.5(b)(7), the Contractor shall give unrestricted access to his or her work product to the Department and to Legislative Services Agency.

21. Work Standards. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the County becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the County may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

22. Changes in Work. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the County. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented, or modified by a written document executed in the same manner as this Contract.

23. Authority to Bind Contractor. The signatory for the Contractor represents that he or she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his or her signature is affixed and accepted by the County and the Department.

24. Confidentiality of Information.

A. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the County and the Department.

B. The parties acknowledge that the services to be performed by the Contractor for the County under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the County or the State of Indiana in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the County agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the Contractor, the Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

C. If the County or the Department receives a public records request that relates to information or documents in the possession of the County or the Department related to the Contractor's intellectual property, trade secrets, or other proprietary rights, the County or the Department shall promptly forward such request to the Contractor for response. The Contractor shall designate in writing which of those documents, if any, it considers confidential information or information otherwise excepted from public disclosure requirements and state with specificity the factual or legal basis for objecting to the disclosure of such documents. The Contractor agrees and acknowledges that only information falling within a specific exemption permitted under IC 5-14-3-4 shall be designated as Confidential. The Contractor shall mark each page of a document considered to be confidential information as "Confidential" or a similar designation. The County or the Department shall promptly review the basis for the Contractor's claim of confidentiality and shall not disclose the documents subject to the Contractor's claim if the County or the Department concurs with such claim, provided that if the County or the Department determines that its obligation under public access law requires such disclosure, the County or the Department shall promptly notify the Contractor of such determination and will not make such disclosure if the Contractor obtains, prior to the expiration of the applicable timeframe for response to such request, either an opinion from the Indiana Public Access Counselor that such disclosure is not required or a protective order or other relief from any court of competent jurisdiction in the State of Indiana preventing such disclosure.

D. The Contractor acknowledges that the Department will not treat this Contract as containing confidential information, and will post this Contract on its website as required by Executive Order 05-07. Use by the public of the information contained in this Contract shall not be considered an act of the State.

25. Ownership of Documents and Materials. All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract, shall be considered "work for hire" and the Contractor transfers any ownership claim to the County and all such materials will be the property of the County. Use of these materials (other than as related to contract performance by the Contractor) without the prior written consent of the County is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the County or the Department and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the County and the Department full, immediate, and unrestricted access to the work product during the term of this Contract.

26. Information Technology Enterprise Architecture Requirements. If the Contractor provides any information technology related products or services to the County, the Contractor shall comply with all Indiana Office of Technology ("IOT") standards, policies, and guidelines, which are available online at http://iot.in.gov/architecture/. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the County shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The County or the Department may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

27. Delays.

A. Whenever the Contractor or the County has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, it shall, within 10 days, provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

B. In the event of a delay by the Department, legislative action, or court rulings, the County reserves the right to re-negotiate all terms of the Contract, including costs.

28. Disputes.

A. Should any disputes arise with respect to this Contract, the Contractor and the County agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its

responsibilities regarding all non-disputed work without delay, any additional costs incurred by the County or the Contractor as a result of such failure to proceed shall be borne by the Contractor.

C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon issuance of written notice, the parties have ten working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten working days, a dissatisfied party shall submit the dispute in writing according to the following procedure:

> The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Department. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the County within ten working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten working days after receipt of the Commissioner's decision, a written appeal. Within ten working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is requested within ten working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
>
> The County may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the County to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

29. Termination for Convenience by County. This Contract may be terminated, in whole or in part, by the County or the Department whenever, for any reason, the County or the Department determines that such termination is in its best interest. A decision by the County to terminate this Contract shall not be attributed to the Department. Similarly, a decision by the Department to terminate this Contract shall not be attributed to the County, nor shall such a decision by the Department give rise to a cause of action against the Department. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty days prior to the termination effective date specifying the extent to which performance of services under such termination becomes effective. In the Notice, the party or parties terminating this Contract must state which party or parties initiated the termination. The Contractor shall be compensated for services properly rendered prior to the effective date of termination, but under no circumstances will the Department be responsible for any payment, including damages, to the Contractor. The

County will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

30. Termination for Default by County. If the County, sixty days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

31. Audits. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, *et. seq.*, and audit guidelines specified by the State.

32. Compliance with Laws.

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the County and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is/are presently in arrears in payment of taxes, permit fees, or other statutory, regulatory, or judicially required payments to the State of Indiana or the County. The Contractor agrees that any payments currently due to the State of Indiana or the County may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State of Indiana.

C. The Contractor certifies, warrants, and represents that it has no current, pending, or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana or the County, and that neither it nor its principal(s) is/are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency, or political subdivision of the State of Indiana, or the County. The Contractor agrees that it will immediately notify the County and the Department of any such actions and during the term of such actions, the County or the Department may delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Contract.

D. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State of Indiana or its agencies or the County, the County may delay, withhold, or deny work to the Contractor.

E. The Contractor warrants that it shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the County. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the County.

F. The Contractor affirms that, if it is an entity described in IC 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

G. As required by IC 5-22-16.5, the Contractor certifies that the Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14 including termination of this Contract, denial of future state contracts, as well as an imposition of a civil penalty.

H. As required by IC 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that:

(1) The Contractor does not knowingly employ an unauthorized alien.

(2) The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

(3) The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

(4) The Contractor shall require his/her/its subcontractors who perform work under this Contract to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

(5) The Department may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty days after being notified by the Department.

33. Taxes. The County is exempt from most state and local taxes and many federal taxes. The County and the Department will not be responsible for any taxes levied on the Contractor as a result of this Contract.

34. Independent Contractor; Workers' Compensation Insurance. The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the Department with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

35. Contractor Assignment, Successors, and Subcontracting. The Contractor shall not assign or subcontract the whole or any part of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the Contract Representative, provided that the Contractor gives written notice (including evidence of such assignment) to the Contract Representative thirty days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

36. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

37. General Provisions.

A. Entire Agreement. This Contract sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understandings between the County and the Contractor. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement, or statement of intention not so set forth.

B. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the County's review, approval, acceptance of, or payment for the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the County and the Department in accordance with applicable law for all

damages to the County or the Department caused by the Contractor's negligent performance of any of the services furnished under this Contract.

C. Severability. In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity, or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.

D. Addenda. No addendum to this Contract will be binding unless in writing and executed by all of the parties that are signatories to the Contract.

38. Governing Law. This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

39. Notice to Parties. Whenever any notice, statement, or other communication, including changing contact information, is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the County shall be sent to:

Name: Donald Kuhn
Title: County Assessor
Organization: Adams County
Address: 313 W Jefferson

City/State/Zip: Decatur, IN 46733
Tel: (260) 724-5301
Fax: (260) 724-5302
Email: dkuhn@co.adams.in.us

B. Notices to the Contractor shall be sent to:

Name: Brian Bucher
Title: President
Organization: X-Soft, Inc.
Address: 21691 Anchor Bay Dr.

City/State/Zip: Noblesville, IN 46062
Tel: (317) 753-8716
Fax: (317) 606-8175
Email: brianb@xsoftin.com

C. Notices to the Department shall be sent to:

General Counsel
Department of Local Government Finance
Indiana Government Center North
100 North Senate Avenue, Rm. 1058B
Indianapolis, Indiana 46204
317-233-4361 voice
317-974-1629 fax

40. Drug-Free Workplace Certification. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the Department within ten days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three years.
In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of $25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

D. Notifying the Department in writing within ten days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking

appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

41. Indemnification. The Contractor agrees to indemnify, defend, and hold harmless the County and the Department, their agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor in the performance of this Contract. The County and the Department shall **not** provide such indemnification to the Contractor.

42. Insurance.

A. The Contractor must carry automobile, public liability, and worker's compensation insurance policies for the entire duration of time during which the Contractor is completing obligations under this Contract. The Contractor's public liability and worker's compensation insurance policies must each provide at least $1 million dollars in coverage. The Contractor must have automobile insurance that meets or exceeds the minimum amounts required by the State of Indiana for each vehicle it will use in the fulfillment of this Contract. A material inducement for entering into this Contract is that the Contractor will carry automobile, public liability, and worker's compensation insurance policies consistent with the requirements of this section. Failure to maintain insurance policies consistent with this section may be deemed a material breach of this Contract and grounds for immediate termination by the County or Department and denial of further work with the County. The Contractor must provide the County and Department with copies of its insurance certificates and endorsements in order for the Department to approve this Contract.

(*List any additional insurance policies or coverage amounts that the County requires the Contractor to carry beyond the policies or amounts listed above.*)

B. The Contractor's insurance coverage must meet the following additional requirements:

(1) The insurer must have a certificate of authority issued by the Indiana Department of Insurance.

(2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.

(3) The County and the Department will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the

Contractor in excess of the minimum requirements set forth above. The duty to indemnify the County and the Department under this Contract shall not be limited by the insurance required in this Contract.

(4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty days prior written notice to the County and the Department.

43. Identification. All personnel involved with performance of work for the Contractor ☐ are/ ☒ are not required to carry identification cards, which include a photograph of the individual and the Assessor's signature. All vehicles used by personnel ☐ are/ ☒ are not required to be marked appropriately and registered with the County Sheriff's office, with local police departments located within the County, and with the Assessor's office.

44. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, the Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

45. Travel. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions.

46. Copy of Contract. The County shall provide to the Department a copy of this Contract, including documentation of any performance bond, within seven days of its signing by the County and Contractor. The Contract does not take effect until it is signed by the Department.

47. Substantial Compliance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

48. Affirmation that Contract Language Has Not Been Altered. The parties affirm that they have not altered, modified, changed, or deleted the Department's Boilerplate contract clauses in any way, except where the contract explicitly permits the addition or modification of terms. Any alteration not explicitly permitted is void.

NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member, or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.

In Witness Whereof, the Contractor and the County have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Contractor:

By: _____
Printed Name: Brian Bucher
Title: President

Where applicable:

Attested By: _____

Date: _____

Assessor:

By: _____
Printed Name: Donald Kuhn
Title: Assessor
Date: 4-14-14

Adams **County Board of County Commissioners**

By: _____ Date: 4-14-2014
Commissioner

By: _____ Date: 4-14-2014
Commissioner

By: _____ Date: 4-14-2014
Commissioner

The Department of Local Government Finance, pursuant to IC 6-1.1-4-17(a), approves the employment of the Contractor:

By: _____
Printed Name: Micah G. Vincent
Title: Commissioner
Date: 4/21/14 (Effective Date)

Exhibit A-Timeline for Adams County

Transition to XSoft™

Adams County has selected **XSoft™** as the company to provide its Assessor's Office with CAMA software.

There several elements involved in a successful transition from one CAMA software to another. The process is similar but unique for each county going through this type of transition.

The various work that is required to take place includes the following:

- Conversion (system analysis, table/field mapping, conversion coding, initial conversion processing, testing, final conversion)
- Installation
- Training
- Successful Implementation

Conversion

Data conversion is a systematic process designed to move data that exists in the current database to the **INcama™** database. This process is by-far the most difficult and time consuming portion of the transition from one system to another. The key component to a successful conversion will be **XSoft's™** ability to understand the current systems structure. There are a number of elements that will come into play in terms of our ability to gain the type of knowledge we need to successfully convert.

- How similar is the current system to the INcama system
- How well does the current system match up to the States rules and laws regarding assessment of property
- How well documented is the current system
- How much assistance is the current vendor able/willing to provide
- How much assistance is the county able/willing to provide

These factors will play a crucial role in the success and timeliness of the data conversion process. Although **XSoft™** has a tremendous amount experience in data conversion projects, each system is different and provides for unique circumstances that can have

an impact on any timeline. In turn, of all of the items related to a successful transition from one system to another; data conversion is the one process that is the most difficult to accurately put on a timeline.

XSoft™ will develop and test conversion routines to convert your legacy data to the **INcama**™ database. This proposal only considers converting your most recent database (e.g., 2012), which in addition to the current land and improvement inventory, sketches, neighborhood information, and general parcel data, will also include historical ownership, transfer, valuation, image and sales data.

As you well know, conversion of this type of database is a very detailed and involved process that sometimes leads to a variety of errors and/or missing data. It is **XSoft's**™ intent and responsibility to provide the cleanest and most effective data conversion possible.

Some things to consider...

- Your legacy system may not store the required information to properly value all property within **XSoft**™.
- Your legacy system may use differing valuation methodologies than **XSoft**™.
- Your legacy system may include poor or insufficient data.
- Your legacy system may store data differently than **XSoft**™.
- 100% accuracy of data conversion should not be expected, however a very high % should be (likely to be somewhere in the 90% range).

As part of our effort to successfully convert your data, **XSoft**™ will perform a wide range of tests and processes to ensure the integrity of our data conversion. We will provide you with a set of reports that include the following;

- Items that can't be included in our database but we want to make you aware of.
- Items that you will have to manually assign or correct.
- Items that you should review.

The following conversion timeline is an estimate (based on our limited knowledge of the current system prior to having the opportunity to review the current database and documentation) that will need to be somewhat fluid. As we get into the details of the current database and the various conversion items many unknowns will become apparent which may or may not impact the timeline.

Estimated Conversion Timeline

Item	Details	Time	Comments
System Analysis	XSoft will review the current CAMA system in place, tables and fields included in the database and any documentation that is provided by the current vendor in an effort to gain knowledge about the current system that will be useful in the conversion process.	2 days	This process will begin once a signed contract is in place per the contract. The county should make contact with there current vendor to acquire any documentation that is available and provide to XSoft ASAP. Since Adams County is currently using a system that XSoft has successfully converted in the past there will be limited time required to fulfill this item. **Estimated start date May 12 / Est. finish date May 13**
Mapping of all Tables/Fields	Identify tables and fields Determine which tables and fields to be converted Identify system codes Mapping fields from legacy system to INcama	1 day	There will be a lot of back and forth between XSoft and the County/Current Vendor. This is the phase where we get into the nuts and bolts of the current system Since Adams County is currently using a system that XSoft has successfully converted in the past there will be limited time required to fulfill this item. **Estimated start date May 14 / Est. finish date May 14**
Writing Conversion Code	This will entail creation of the actual processes required to get data from legacy tables to INcama tables.	1 week	There will be additional interaction between our code writers and the county/current vendor—questions will arise as to how data is stored and how to interpret it. Since Adams County is currently using a system that XSoft has successfully converted in the past there will be limited time required to fulfill this item. **Estimated start date May 15 / Est. finish date May 23**
Testing	General Review Pricing comparisons Data inclusion/exclusion	1 Week	XSoft will conduct numerous tests on the converted database **Estimated start date May 26 / Est. finish date June 3**
Review with County	Based on results of tests XSoft will provide exception lists of data that: 1. could not be converted 2. converted with issues	1 day	Such data will have to be manually corrected by county once installed, up and running **Estimated start date June 4 / Est. finish date June 4**

Installation

Installation of the **XSoft™** product will be undertaken on site by a trained installer over the course of a single day. It is assumed that county I/T staff would be available to provide assistance where needed (e.g., access to server and client machines, access to the necessary passwords and user rights to perform installation of **INcama™**, etc.).

Installation will include loading the **INcama™** product on all server and client machines, as well as, both the converted and test databases, setting up any system codes that are county specific, working with county I/T to set up initial user names/passwords and ensuring that the product is working properly from each machine. Additionally, **XSoft™** will work together with county I/T to establish a database backup schedule and routines, and cover any administrative items that need to be addressed.

Estimated Installation Timeline

Installation	XSoft will install software, all necessary data set-ups, users etc. County will be responsible for getting SQL Server 2005 or newer installed (XSoft can participate in this if necessary)	1 day	Installation can occur well before the data is converted; with the converted data being installed upon completion **Estimated start date any time after the contract is signed / Estimated finish date June 9**

Training

XSoft™ proposes to provide training on-site, conducted by an experienced instructor using visual projection equipment, additionally, if the county has the facilities, in a computer lab. The county will be provided with an electronic version of a user manual and training guide, in addition to hard copies of training exercises. Training will consist of a detailed overview of the product and ample time will be spent on each of the core functions of the system. Students will have the opportunity to work specific scenarios, ask questions, and be provided with one on one, hands on guidance. The majority of time (95%) dedicated to training should be spent on assessors and staff who will be using the system, and minor time (5%) spent on those who may be involved in administering the system.

Considering the expected number of users in Adams County, we feel that 2 days of in-depth training, in addition to initial training will be required to prepare users for use of the system. We anticipate that users will require a month or two of hands on use before becoming completely comfortable with the product and during that time fully expect to provide more than usual support to accommodate the needs of the county.

Initial training will be conducted once installation has taken place to introduce the product to the users. This will likely be about a half day of time spent introducing the users to the product. We will provide exercises covering the main functions of the system so that the user can spend time getting familiar with the product and perform a cursory review of the test conversion data prior to the in-depth training.

In-depth training will be conducted once the users have had ample time (i.e., county discretion) to practice with the test conversion database. We would prefer to conduct this training as close to the go live date as possible so that users can "hit the ground running". As mentioned above, we anticipate 2 days for this training. It will be conducted onsite with use of county equipment, other than the visual projection equipment that we will provide. Users will be provided with training material consisting of an electronic version of the users manual and hard copies of training exercises. It would be ideal if the users had access to their workstations during training.

Estimated Training Timeline

Training	Users will be exposed to all of the functionality of the **INcama™** product and will have exercises to work with assistance from an experienced instructor. (typically we train users at their respective workstations)	2 days	Training will occur during the week of the "Go Live" date, but will be dependent on the County Assessor's schedule

Successful Implementation

The implementation of the entire transition process as described within this document will be complete once all phases are complete (conversion, installation, training); at such time this can be collectively thought of as the "Go Live" date. Once all phases are complete the county will be able to begin using the system with live data. Initially the county will spend time dealing with any data conversion issues that had previously been documented with exception reports and can then begin to conduct their normal business processes.

NOTE: Typically, the "Go Live" date would be 60 days from the execution of the contract, however, in the case of Adams County, we have allowed for a longer than normal time for "Go Live" because the county may want to wait to implement the new software until after they roll 2014 values to the County Auditor.

Estimated Successful Implementation Timeline

Go Live	Users can begin using the system with live data	N/A	No later than October 1, 2014 pursuant to the Prescribed Contract for Computer Software, Services, and Equipment