



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Award Contract Grant

Requested Board Meeting Date: 07/03/18

* = Mandatory, information must be provided

or Procurement Director Award

***Contractor/Vendor Name/Grantor (DBA):**

Spillman Technologies, Inc. (Headquarters: Salt Lake City, UT).

***Project Title/Description:**

Spillman Software, Professional Services, Maintenance & Support

***Purpose:**

Award: Master Agreement No. MA-PO-18-330. This Agreement is for an initial term of three (3) years and includes one (1) two-year renewal option and an initial award amount of \$2,200,000.00 (including sales tax). This Agreement is to provide ongoing development and expansion of the current Spillman database, continued software maintenance, and professional services to assist the Pima County Sheriff's Department staff with implementation projects. Administering Department: Sheriff's Department.

***Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.050, Sole Source Procurement, Award of Requisition No. 18-275 is recommended to Spillman Technologies, Inc., which has accepted the terms of the County's Sole Source Procurement Agreement.

PRCUID: 299397

Attachment: Sole Source Procurement Agreement.

***Program Goals/Predicted Outcomes:**

Maintain an up to date records management system and accompanying database with full functionality.

***Public Benefit:**

Continuing to maintain and upgrade Spillman will allow public safety personnel to perform job duties more efficiently.

***Metrics Available to Measure Performance:**

Pima County Sheriff's Department monitoring systems will provide adequate performance monitoring and allow public safety staff to be alerted if service, software or support issues arise.

***Retroactive:**

Yes, the current software maintenance contract expires on 6/30/18. Negotiation of this contract took longer than expected.

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*To: CoB- 6-21-18
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jgs SF (1)*

Contract / Award Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 18-330

Effective Date: 07/01/18 Termination Date: 06/30/21 Prior Contract Number (Synergen/CMS): _____

Expense Amount: \$* 2,200,000.00 Revenue Amount: \$ _____

*Funding Source(s) required: General Funds / Grant Funds

Funding from General Fund? Yes No If Yes \$ 2,200,000.00 % _____

Contract is fully or partially funded with Federal Funds? Yes No

*Is the Contract to a vendor or subrecipient? Vendor

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

Expense or Revenue Increase Decrease Amount This Amendment: \$ _____

Is there revenue included? Yes No If Yes \$ _____

*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

Match Amount: \$ _____ Revenue Amount: \$ _____

*All Funding Source(s) required:

*Match funding from General Fund? Yes No If Yes \$ _____ % _____

*Match funding from other sources? Yes No If Yes \$ _____ % _____

*Funding Source: _____

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Sal Servin, Procurement Officer

Department: Procurement Telephone: 520-724-9510

Department Director Signature/Date: [Signature] 6/19/18

Deputy County Administrator Signature/Date: [Signature] 6-20-18

County Administrator Signature/Date: [Signature] 6/20/18

(Required for Board Agenda/Addendum Items)

Pima County Procurement Department
Administering Department: Sheriff's Department

**Project: Spillman Software, Professional Services,
Maintenance & Support**

Contractor: Spillman Technologies, Inc.
Attn: Troy Archer
4625 Lake Park Blvd.
Salt Lake City, UT 84120
801.902.1200 (ph) or 801.902.1908 (ph)
tarcher@spillman.com

Amount: \$2,200,000.00

Funding: General Fund

Pima County Contract No.: MA-PO-18-330

CONTRACT

NO. MA-PO-18-330

AMENDMENT NO.

This number must appear on all
Invoices, correspondence and
documents pertaining to this
contract.

SOLE SOURCE PROCUREMENT AGREEMENT

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Spillman Technologies, Inc. ("Contractor").
- 1.2. Purpose. The Pima County Sheriff's Department (PCSD) needs to purchase modules as needed for the development and expansion of the current Spillman database, continue the software maintenance in order to receive support and patches, and purchase professional services from authorized Spillman business partners to assist PCSD staff with implementation projects.
- 1.3. Authority. County selected Contractor pursuant to Pima County Procurement Code 11.12.050 because there is documented justification that only one source exists for the required material or service, or that no reasonable alternative source exists.

2. Term.

- 2.1. Original Term. This Contract is effective for a three-year period commencing on 07/01/18 (the "Initial Term"). "Term," when used in this Contract, means the Initial Term plus any exercised Extension Options.
- 2.2. Extension Options. County and the Contractor may renew this Contract for up to one (1) additional period of 2 years (each an "Extension Option").

3. Scope of Services. Contractor will provide County with Spillman Software, Professional Services, Maintenance & Support, at the prices described in Attachment A (1 Page), under the terms and conditions set forth in the Spillman Technologies, Inc. Maintenance and

Support Agreement, attached as Exhibit A (14 Pages), the Spillman VxRail Infrastructure Managed Services Statement of Work, attached as Exhibit B (15 pages), and Spillman Software, attached as Exhibit C (20 Pages), as modified by this Sole Source Procurement Agreement. This Sole Source Procurement Agreement controls over any inconsistent term in Exhibits A, B, and C.

4. **Not-to-Exceed Amount.** Purchases under this Contract by the County may not exceed \$2,200,000.00 (the "NTE Amount").
5. **Insurance Requirements.** Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor's indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

5.1 Insurance Coverages and Limits:

- 5.1.1 **Commercial General Liability (CGL)** – Occurrence Form covering liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with minimum limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate.
- 5.1.2 **Business Automobile Liability** – Coverage for any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.
- 5.1.3 **Workers' Compensation (WC) and Employers' Liability** – Workers' Compensation with Employers Liability limits of \$1,000,000 each accident and \$1,000,000 each employee – disease. Workers' Compensation statutory coverage is compulsory for employers of one or more employees.
- 5.1.4 **Network Security (Cyber) Privacy Insurance** - Coverage shall have minimum limits not less than \$3,000,000 Each Claim with a \$6,000,000 Annual Aggregate. The insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), and network business interruption.

5.2 Additional Insurance Requirements:

- 5.2.1 **Claims Made Coverage** - If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

- 5.2.2 **Subrogation** - The General Liability, Business Automobile Liability and Workers' Compensation policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor
- 5.2.3 **Additional Insured** - The General Liability and Business Automobile Liability Policies shall include blanket Additional Insured endorsements for benefit of Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- 5.2.4 **Primary Insurance** - The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.
- 5.2.5 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract

5.3 Verification of Coverage:

- 5.3.1 Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.
- 5.3.2 All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 5.3.3 All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate.
- 5.3.4 Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements

5.4 Cancellation Notice:

Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except that 10-days prior notice is sufficient when the cancellation is for non-payment of a premium.

5.5 Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing

6. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
7. **Compliance with Laws.** Contractor will comply with all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that any subcontractors will be appropriately licensed. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.
8. **Non-Discrimination.** Contractor will comply with all applicable provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
9. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.
10. **Public Information.** Pursuant to A.R.S. § 39-121 et seq. all documents submitted to County by Contractor, including but not limited to pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors, subject to the following exception. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.
11. **Legal Arizona Workers Act Compliance.**
 - 11.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each Subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.
 - 11.2. Books & Records. County has the right at any time, upon reasonable prior notice and at a mutually agreeable time, to inspect the books and records of Contractor and any

Subcontractor that relate directly to the immigration status of their employees who are performing services hereunder for County, in order to verify such party's compliance with the State and Federal Immigration Laws.

11.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to suspension or termination of this Contract. If the breach is by a Subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement Subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

11.4. Subcontractors. Contractor will advise each Subcontractor of County's rights, and the subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form (the term Subcontractor as used throughout this Contract shall not include any cloud service provider contracted by the Contractor):

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract." CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR will further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

12. **Israel Boycott Certification.** Contractor hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Contractor may result in action by the County up to and including termination of this Contract.

13. **Written Orders.** County will order products or services under this Contract by issuing a Delivery Order (DO) document. Order documents will be furnished to Contractor via e-mail or telephone. If an order is given verbally, the County Department that issued the order will transmit a confirming order document to Contractor within five workdays of the date the verbal order is given. Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this Contract.

14. **Amendments.** Any modification, amendment or extension shall be made by a formal written amendment executed by the parties hereto.

15. **Invoice Submittal.** Invoices are to be sent to:

Pima County Finance & Risk Management- Accounts Payable
P.O. Box 791
Tucson AZ, 85701

16. Notices. Notices regarding this Agreement should be addressed to:

Sal Servin, Procurement Officer
Pima County Procurement
130 West Congress, 3rd Floor
Tucson, Arizona 85701
520-724-9510
Sal.servin@pima.gov

IN WITNESS WHEREOF, the parties have approved this Sole Source Procurement Agreement and agree to be bound by the terms and conditions of the Contract on the dates written below.

APPROVED:

Spillman Technologies, Inc.

Chairman, Board of Supervisors

Joseph L Lunt
Authorized Officer Signature

Date: _____

Joe Lunt MSSSI VP Sales & Marketing
Printed Name and Title

Date: June 18, 2018

APPROVED AS TO FORM:

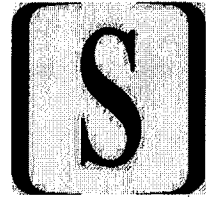


Chris Straub, Deputy County Attorney

6-12-2018
Date

ATTACHMENT A – FEE SUMMARY SHEET

Item No.	Spillman Software, Professional Services, Maintenance & Support	Qty	Unit of Measure (UOM)	Total
	SOFTWARE			
1	IBR – National Standard Mobile Arrest Form – Site License Mobile Field Report w/Field Interview – Site License Unix to Linux Server Migration	1	Lot	\$338,393
2	Data Replication	1	Lot	\$54,532
3	Learning Management System	1	Ea	\$32,641
4	Crime Monitor & Spillman Analytics	1	Lot	\$28,861
	PROFESSIONAL SERVICES			
5	Spillman VxRail Infrastructure Managed Services	1	Lot	\$82,500
	MAINTENANCE & SUPPORT			
6	Three Year Prepaid Maintenance & Support - July 2018 – June 2021	1	Lot	\$1,381,578
	TOTAL:			\$1,918,505



Pima County Sheriff's Department



Maintenance and Support Agreement

This Maintenance and Support Agreement (the "Support Agreement"), dated effective as of the date this Support Agreement is signed by both parties below, is by and between Spillman Technologies, Inc., a wholly owned subsidiary of Motorola Solutions, Inc. ("Spillman") and Pima County, a body politic and corporate of the State of Arizona ("Customer"), on behalf of the Pima County Sheriff's Department. In connection with the Computer Software End User License Agreement between the parties (the "License Agreement"), Customer desires to purchase from Spillman certain maintenance and support Services for the Software. All capitalized terms used and not otherwise defined herein shall have the meanings set forth in the License Agreement. This Support Agreement supersedes and replaces all prior support and maintenance agreements between the parties for support of the Spillman software licensed to Customer (the "Software" or "Licensed Program").

In consideration of the mutual agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1: Definitions

- 1.1 "**Coverage Hours**" 24 hour coverage, seven days a week, including holidays.
- 1.2 "**Enhancement**" means any modification or addition that, when made or added to the Software, changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Spillman may designate Enhancements as minor or major, depending on Spillman's assessment of their value and of the function added to the preexisting Software.

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

- 1.3 **"Error"** means any failure of the Software to conform in all material respects to its functional specifications as published from time to time by Spillman, subject to the exceptions set forth in Section 4.
- 1.4 **"Error Correction"** means either a software fix, modification or addition that, when made or added to the Software, establishes material conformity of the Software to the functional specifications, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect on Customer of such nonconformity. Error Correction Services are subject to the exceptions set forth in Section 4.
- 1.5 **"Releases"** means new and updated versions of the Software containing Error Corrections and Enhancements, where there is a change in the version number either to the left or immediately to the right of the decimal. Spillman's current numbering system is to designate Release versions by the year to the left of the decimal, and by the Release number in that year to the right of the decimal (e.g., 2018.1, 2018.2, and 2018.3). For reference, the two Releases of the Software prior to version 2017.1 are versions 6.1 and 6.2.
- 1.6 **"Response Time"** means six (6) or less Coverage Hours, from the time Customer first notifies Spillman of an Error.
- 1.7 **"Spillman Application Administrator" or "SAA"** means an agent of Customer who has been certified on the Software by Spillman pursuant to the procedures set forth in Section 6, and is able to communicate effectively with Spillman support personnel in the description and resolution of problems associated with the Software.
- 1.8 **"Support Fees"** means Spillman's annual fees for support and maintenance Services provided under this Support Agreement.
- 1.9 **"Support Term"** means the entire period during which Customer is receiving support and maintenance Services for the Software under the terms of this Support Agreement, beginning on the installation date of the Software. The July 2018 – June 2021 Support Term shall begin upon July 1, 2018 and continue for a period of thirty-six (36) months, with an optional twenty-four (24) month prepaid extension.. Thereafter, the Support Term shall automatically renew for successive periods of one year each (each a "Renewal Term"), unless and until terminated pursuant to Section 8 below.

Section 2: Eligibility for Support

- 2.1 **Support Termination.** Spillman's obligation to provide the support and maintenance Services described in this Support Agreement may be terminated pursuant to Section 8.2.2 or suspended, at Spillman's discretion, if at any time during the term of this Support Agreement any of the following requirements are not met:
 - 2.1.1 The License Agreement must remain valid and in effect at all times;
 - 2.1.2 The Software must be operated on a hardware platform, operating system and version approved by Spillman; and

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

2.1.3 Customer must be current on payment of Support Fees.

- 2.2 **SAA Replacement.** Spillman may require Customer to appoint a new SAA in order to continue receiving support and maintenance Services or may increase Customer's Support Fees, if Spillman reasonably determines that the acting SAA does not have the training or experience necessary to communicate effectively with Spillman support personnel.

Section 3: Scope of Services

During the Support Term, Spillman shall render the following Services in support of the Software, during Coverage Hours:

- 3.1 **Support Center.** Spillman will maintain a Support Services Control Center capable of receiving from Customer's authorized support contacts, by telephone or online through Spillman's authorized customer support portal, reports of any Software irregularities and requests for assistance in use of the Software.
- 3.2 **Services Staff.** Spillman shall maintain a trained staff capable of rendering support and maintenance Services set forth in this Support Agreement.
- 3.3 **Error Correction.** If Customer's authorized support contacts Spillman's support services department by telephone regarding any Error or material problem with the use of the Software, a Spillman representative will either answer such call or, if the caller leaves a message, will contact Customer in response to such message within the Response Time. Spillman shall use all reasonable diligence in correcting verifiable and reproducible Errors when reported to Spillman in accordance with Spillman's standard reporting procedures. Spillman shall, after verifying that the reported Error is present, promptly initiate work toward development of an Error Correction or otherwise resolving the problem. Following completion of an Error Correction, Spillman shall provide the Error Correction through a "temporary fix" consisting of sufficient programming and operating instructions to implement the Error Correction, and Spillman shall include the Error Correction in subsequent Releases of the Software as appropriate. Spillman supports two (2) versions back from the most recent release version. However, Spillman is not obligated to provide Error Corrections for any version of the Software other than the most recent Release, although Spillman may do so in its discretion.
- 3.4 **Software Maintenance Services; New Releases.** Spillman may, from time to time, issue new Releases of the Software to its Customers generally. During the term of this Support Agreement, Spillman shall provide Customer with one copy of each new Release, without additional charge, except that Spillman reserves the right to charge a separate license fee for a new Release that includes major Enhancements, or to cover the cost of any pass-through fees from third parties attributable to Third Party Software or services. Spillman may also charge license fees for optional Software modules and features that Spillman makes available to customers for separate purchase. Spillman shall provide reasonable assistance to help Customer install and operate each new Release, provided that any onsite services are subject to the supplemental charges at Spillman's then-current rates.
- 3.5 **Enhancements.** Spillman shall consider and evaluate the development of Enhancements for the specific use of Customer and shall respond to Customer's requests for additional Services pertaining to the Software (including, without limitation, data conversion and report-formatting assistance),

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

provided that such assistance, if agreed to be provided, shall be subject to supplemental charges mutually agreed to in writing by Spillman and Customer.

Section 4: Services Not Covered by this Support Agreement

The services identified in this section are NOT covered by this Support Agreement. Spillman strongly recommends that Customer secure a separate support and maintenance agreement with third party vendors for all non-Spillman products. Spillman may, in its discretion, provide such services to Customer upon request, for an additional fee as the parties may agree in writing.

- 4.1 **Third Party Products.** Spillman does not provide support for any third party products, including Third Party Software or hardware, or support for hardware failure due to the use of any third party products. Spillman may in its discretion provide first-line support and maintenance for Third Party Software distributed by Spillman; if not, Spillman will refer Customer to the vendor of such software for resolution of support issues.
- 4.2 **Customized Interfaces and Software.** Spillman's annual Support Fees for any custom interfaces or other customized Software developed by Spillman or any third party for Customer are set forth in the applicable exhibit for such interface or customized Software, and are also included as part of the overall annual Support Fee set forth in Exhibit B. Spillman's support and maintenance Services include bug fixes and minor modifications to the custom interface or software. They do NOT include major revisions or rewrites, such as those required to make a custom interface work with a new or upgraded version of the applicable Third Party Software. Custom interfaces and support therefore are specific to the designated version of the applicable Third Party Software or system. Any major changes to such Third Party Software or system will require a new custom quote for Spillman to modify the custom interface to work with the new version of the third party software or system. Spillman's Support Fees may also differ for the new version of the custom interface.
- 4.3 **Network Failures.** Spillman will not provide support for any network failures or problems including, but not limited to, cabling, communication lines, routers, connectors, and network software.
- 4.4 **Data Recovery.** Spillman's standard support does not include restoration and/or recovery of data files and/or the operating system. Spillman will, upon request of Customer and subject to its then-current fees for such services, use reasonable efforts to assist Customer in recovering lost data.
- 4.5 **Unauthorized Use.** Spillman is not obligated to provide support where the problem arises out of any breach by Customer, data corruption, or support issues, security issues, or performance issues arising out of Customer's or a third party's use of the Utilities or any software not specifically licensed by Spillman to Customer for use in connection with the Software. Any assistance provided by Spillman in resolving such problems shall be charged to Customer on a time and materials basis. Additionally, any unauthorized use of other software in connection with the Software by Customer (or by a third party with Customer's knowledge) may result, at Spillman's sole option, in voidance of warranties, an increase in the annual Support Fees, and/or loss of rights to upgrades under this Support Agreement.
- 4.6 **Database Modifications.** Spillman is not obligated to provide support for any damages to or problems with the Software or its database, data corruption, support issues, security issues, or

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

performance issues arising from Customer's utilization of the "write" feature of any Utility (e.g., the ODBC interface) to write to or modify the database in any way.

- 4.7 **Misuse or Damage.** Spillman is not obligated to provide support for Software problems caused by Customer misuse, alteration or damage to the Software or its database, Customer's combining or merging the Software with any hardware or software not supplied by or identified as compatible by Spillman, customizing of programs, accident, neglect, power surge or failure, lightning, operating environment not in conformance with the manufacturer's specifications (for electric power, air quality, humidity or temperature), or Third Party Software or hardware malfunction.
- 4.8 **Operating System.** Spillman is not responsible for supporting, configuring, maintaining, or upgrading the operating system, including, but not limited to, backups, restores, fixes, and patches, or for providing assistance with problems caused by operating system installation, configuration, errors, maintenance or repair, or using incorrect versions of the operating system.
- 4.9 **Onsite Visits.** Onsite service visits to Customer's facility by Spillman are subject to additional charges, as set forth in Section 7.5.
- 4.10 **Printers.** Spillman is not responsible for supporting printers connected to the back of terminals/personal computers (commonly called pass-through printing) or network printers are not supported by Spillman.

Section 5: Obligations of Customer

- 5.1 **Software Connectivity.** Customer must maintain and provide, at no cost to Spillman, a CJIS-approved broadband internet connection to the server used with the Software, 24 hours per day, 7 days per week, to facilitate remote support utilities enabling Spillman support personnel to connect to and provide assistance with the server used with the Software. Third party connectivity tools, such as client VPN software, which must be installed on Spillman equipment, cannot be required by Customer.
- 5.2 **Customer Representative During Onsite Visits.** A representative of Customer's IT department must be present when any onsite support is provided. If such representative is not present when a Spillman representative arrives onsite for a previously scheduled visit, the Spillman representative shall notify an appropriate representative of Customer, if feasible, that there is no Customer IT representative present. If Customer's IT representative does not arrive within a reasonable time, no work will be performed and Customer will be charged for Spillman's expenses relating to the visit. If Spillman's onsite support person determines that changes to Customer's system (hardware or software) are required or advisable, it will inform Customer's IT representative. If such representative is not authorized to make or approve changes to Customer's system, as applicable, Customer will promptly make available such a person.
- 5.3 **English Language.** All communications between Customer and Spillman must be in the English language.
- 5.4 **SAA Assignment.** Customer is responsible for providing one or more qualified Spillman Application Administrators as described in Section 6 of this Support Agreement. At least one

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

authorized SAA or support contact must be available at all times; however, after-hours availability is required only when and if Customer is requesting after-hours support from Spillman.

- 5.5 **Security.** Customer is responsible for providing all network and server security.
- 5.6 **Error Information.** Customer must provide Spillman with information sufficient for Spillman to duplicate the circumstances under which an Error in the Software became apparent.
- 5.7 **CJIS Compliance.** Customer is responsible for its own adherence to the FBI Criminal Justice Information Services (CJIS) Security Policy, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (to the extent applicable) and any other applicable security and privacy laws and regulations. Spillman will reasonably cooperate with Customer in connection therewith.

Section 6: SAA and Support Contact Requirements

- 6.1 **Certification.** If a new SAA is appointed by Customer, such SAA must be certified by Spillman within one year of the appointment. Each designated SAA must meet the following requirements in order to certify at the basic level:
- 6.1.1 Attend and participate in, and successfully pass the final written and practical examinations from the following courses within one hundred twenty (120) days of installation of the Software:
 - i. System Introduction – Inquiry,
 - ii. System Introduction – Data Entry & Modification,
 - iii. Basic System Administration, and
 - iv. General training applicable to the Software used by Customer.
 - 6.1.2 Pass the Basic SAA exam within one year after the agency's Go-live date.
- 6.2 **SAA Training Costs.** Customer will be responsible for training course fees as set forth in Exhibit B (Purchased Products and Services), as well as for any related travel and lodging expenses for its personnel.
- 6.3 **SAA and Support Contact Information.** Contact information for Customer's SAA(s) and other authorized support contacts must be provided by Customer to Spillman's Technical Services department. Any changes to Customer's SAA and support contacts names and contact information must be promptly provided to Spillman's support department.
- 6.4 **Qualifications.** Each designated SAA and Customer support contact must be qualified to address, or have other support resources to address, without the aid of Spillman, all problems relating to hardware, software, or operating system not directly associated with the Software.

Section 7: Fees and Charges

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

- 7.1 **Support Fees.** Customer shall pay Spillman the support fee identified in the Spillman quote QUO-13338-PQBOSJ8C7 for the July 2018 – June 2021 Support Term, and any other charges or fees described herein. Spillman reserves the right to change its support fee for future Support Terms, effective upon no less than 90 days written notice to Customer prior to the end of the current annual period.
- 7.2 **Support Fee Invoices.** Spillman shall invoice Customer for annual Support Fees at the beginning of each contract year. In the event that additional billable work is performed, all billable charges and expenses will be invoiced to Customer at the beginning of the month following the month in which those charges and expenses accrued or were incurred. Customer shall pay the invoiced amounts immediately upon receipt of such invoices. Any amount not paid within thirty (30) days after the invoice date shall bear interest at the rate of eighteen (18) percent per year or the highest rate allowed by applicable law, whichever is less.
- 7.3 **Equipment Fees.** Customer shall be responsible for and agrees to pay the fees and charges incurred for procuring, installing, and maintaining all equipment, telephone lines, modems, communications interfaces, networks, and other products necessary to operate the Software.
- 7.4 **After-Hours Charges.** Customer agrees to pay additional charges at Spillman's then-current rates for all support or other Services requested by Customer to be performed outside of Coverage Hours. These charges are applicable for any work performed outside of the Coverage Hours, regardless of the cause, even if the requested work was reported and/or initiated during normal Coverage Hours, subject to Customer's approval of such work being performed outside of Coverage Hours.
- 7.5 **Onsite Support** If Customer requests onsite support Services, Customer shall reimburse Spillman for all labor, travel, and related expenses incurred by Spillman in providing such Services.
- 7.6 **Additional Fees.** Spillman may increase Support Fees if there is a significant (i.e., twenty percent or larger) increase in the size of Customer's agency that is licensed to use the Software, based upon the number of full-time employees. Payment of such additional Support Fees is due within thirty (30) days of the date of the invoice for such fees. Such fees will be prorated, based upon the date during the contract year the increase in Customer's size occurred. Additionally, Spillman may adjust Support Fees based on (1) additional licenses or modules purchased by Customer, (2) changes to Customer's hardware, (3) a change in the Coverage Hours selected by Customer, or (4) Customer's violation of the restrictions set forth in Section 4.5 of this Support Agreement.

Section 8: Termination

- 8.1 **Automatic Termination.** This Support Agreement shall automatically terminate immediately upon termination of the License Agreement for any reason.
- 8.2 **Termination by a Party.** Either party may terminate this Support Agreement as follows:
- 8.2.1 If either Spillman or Customer provides a written notice to the other party, at least ninety (90) days prior to the end of the Initial Support Term or the then-current Renewal Term, of its intent to terminate this Support Agreement at the end of such term; or

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

- 8.2.2 For a material breach of this Support Agreement, subject to thirty (30) days prior written notice and opportunity to cure such breach within the 30-day notice period.
- 8.3 **Final Invoicing upon Termination.** Following termination of this Support Agreement, Spillman shall immediately invoice Customer for all accrued Support Fees, charges, and reimbursable expenses; and Customer shall pay the invoiced amount immediately upon receipt of such invoice.

Section 9: Confidential Information

- 9.1 **Confidentiality Terms.** Each party shall keep confidential all Confidential Information provided to it by the other party, and shall not use such Confidential Information for any purpose other than the proper purposes contemplated by this Support Agreement. A party may disclose Confidential Information only to its employees (including, but not limited to, employees of any affiliate company) and contractors who need to know such information, and who are also bound to keep such information confidential. A party may also disclose Confidential Information to the extent required by the open records act or other freedom of information laws or regulations, provided that it gives the other party reasonable prior notice of such disclosure and, if feasible, the opportunity to object to or seek to limit such disclosure. Each party shall give the other party's Confidential Information at least the same level of protection as it gives its own confidential information of similar nature, but not less than a reasonable level of protection. The receiving party shall promptly notify the disclosing party upon discovery of any unauthorized use or disclosure of Confidential Information by or through the receiving party or its personnel and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Support Agreement.
- 9.2 **Restrictions on Disclosure.** Without limiting the foregoing, Customer acknowledges that it is not permitted to disclose the Software or its Documentation (i) to any competitor of Spillman, or (ii) to any other third party unless it has a need to know such information for the proper purposes of this Support Agreement.
- 9.3 **Voluntary Disclosure.** Except as required to fulfill its obligations under this Support Agreement, Spillman will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Spillman be required to provide any data related to cost and pricing.

Section 10: Limitation of Liability; Indemnification

- 10.1 **Limitation of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THE LICENSE AGREEMENT, SPILLMAN AND ITS LICENSORS DISCLAIM ANY AND ALL PROMISES, REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO ITS SERVICES AND THE SOFTWARE, INCLUDING CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, TITLE, NON-INFRINGEMENT, AND ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE (whether or not Spillman knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Spillman disclaims any warranty to any person other than Customer with respect to its

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

services or the Software or Documentation. Customer agrees that Spillman is not responsible, and Spillman disclaims all liability, for any claims or damages arising out of or related to any unauthorized persons hacking into or accessing Customer's database or the Software.

- 10.2 **Limitation of Liability.** Except for personal injury or death claims subject to indemnification under Section 10.4, Spillman's and its affiliates', agents' and licensors' total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the Support Fees paid by Customer during the twelve (12) month period preceding the incident giving rise to the claim. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SPILLMAN, ITS AFFILIATES, AGENTS AND LICENSORS WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, OR LOST TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS SUPPORT AGREEMENT, THE LICENSE OR USE OF THE SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SPILLMAN PURSUANT TO THIS SUPPORT AGREEMENT.** This limitation of liability provision survives the expiration or termination of this Support Agreement, applies to all related service agreements and other contracts between the parties related to the transactions set forth in this Support Agreement, and applies notwithstanding any contrary provision. This limitation of liability is intended to apply without regard to whether other provisions of this Support Agreement have been breached or have proven ineffective. Spillman shall have no liability for the loss of data or documentation, it being understood that Customer is responsible for reasonable backup precautions. No action for contract breach or otherwise relating to the transactions contemplated by this Support Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

10.3 **Patent and Copyright Infringement.**

10.3.1 Spillman will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Software directly infringes a United States patent or copyright ("Infringement Claim"). Spillman's duties to defend and indemnify are conditioned upon: Customer promptly notifying Spillman in writing of the Infringement Claim; Spillman having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Spillman cooperation and, if requested by Spillman, reasonable assistance in the defense of the Infringement Claim. In addition to Spillman's obligation to defend, and subject to the same conditions, Spillman will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Spillman in settlement of an Infringement Claim.

10.3.2 If an Infringement Claim occurs, or in Spillman's opinion is likely to occur, Spillman may at its option and expense: (a) procure for Customer the right to continue using the Spillman Product; (b) replace or modify the Software so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Software and grant Customer a credit for the Software less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

10.3.3 Spillman will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Software with any software, apparatus or device not furnished by Spillman; (b) the use of ancillary equipment or software that is attached to or used in connection with the Software; (c) Software designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Software by a party other than Spillman; (e) use of the Software in a manner for which the Software was not designed or that is inconsistent with the terms of this Support Agreement; or (f) the failure by Customer to install an enhancement release to the Software that is intended to correct the claimed infringement. In no event will Spillman's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Spillman from Customer from sales or license of the infringing Software.

10.3.4. This Section 10.3 provides Customer's sole and exclusive remedies and Spillman's entire liability in the event of an Infringement Claim. Customer has no right to recover and Spillman has no obligation to provide any other or further remedies, whether under another provision of this Support Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 10.3 are subject to and limited by the restrictions set forth in Section 10.2.

10.4 **General Indemnity.** Spillman will defend Customer against any and all third party claims or lawsuits arising from any personal injuries, death, or direct damage to tangible property to the extent caused by the negligence or willful misconduct of Spillman, its subcontractors, or their agents or employees, while performing their duties under this Support Agreement, and Spillman will pay any final judgment or amounts agreed in settlement by Spillman of such claims or suits. The foregoing excludes any claims or suits arising out of or related to the functionality or use of, or bugs or errors in, the software provided by Spillman. Customer shall give Spillman prompt, written notice of any such claim or suit, grant Spillman full and complete authority and control over the defense of the claim or suit, and cooperate with Spillman in its defense or settlement of the claim or suit. Spillman will pay all costs and attorney's fees incurred in connection with the claim. Customer may, at its option and expense, participate in the defense of the claim with separate legal counsel. Spillman is not obligated to indemnify Customer to the extent any liability or damages arises out of the negligence or intentional misconduct of Customer, its employees or agents. In the case of shared fault, Spillman will be responsible for and indemnify Customer for Spillman's proportionate fault. This Section 10.4 sets forth the full extent of Spillman's general indemnification of Customer from liabilities that are in any way related to Spillman's performance under this Support Agreement. Notwithstanding, this obligation does not apply if Spillman is entitled to immunity under the NG911 Act of 2012.

Section 11: Disputes

The parties will use the following procedure to address any dispute arising under this Support Agreement (a "Dispute"):

11.1 **Negotiation.** Either party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The parties will attempt to resolve the Dispute promptly through

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the parties will proceed to mediation.

- 11.2 **Arbitration.** The parties to this Support Agreement agree to resolve all Disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41). In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.
- 11.3 **Confidentiality.** All communications pursuant to Sections 11.1 and 11.2 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either party.

Section 12: Miscellaneous

- 12.1 **Entire Agreement; Counterparts; Signature; Amendment.** This Support Agreement, including all Exhibits and any other documents executed by both parties in connection with this Support Agreement, which are incorporated herein by reference, constitutes the entire agreement of the parties regarding the subject matter of this Support Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Support Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the parties had executed it as a single document. The parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Support Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Support Agreement may be amended or modified only by a written instrument signed by authorized representatives of both parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Support Agreement, even if a representative of each party signs that document, and are of no force or effect.
- 12.2 **Assignment.** Customer may not assign or transfer this Support Agreement or any of its rights or duties hereunder, or transfer the Software or Documentation, to any third party without Spillman's prior written consent. Spillman's consent may be withheld at its discretion and may be conditioned upon the transferee paying all applicable license fees and agreeing to be bound by this Support Agreement. Spillman shall not assign in whole its rights or delegate in whole its duties under this Support Agreement without Customer's prior written consent, which consent shall not unreasonably withhold. Notwithstanding the foregoing, Spillman may, upon written notice to Customer, assign this Support Agreement to an affiliate, or to a third party in connection with a merger with the assigning party or acquisition of all or substantially all of Spillman's assets or business to which this Support Agreement relates. Spillman also shall not assign any right nor

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

delegate any duty under this Support Agreement without the prior written approval of Customer, which approval shall not be unreasonably withheld.

- 12.3 **Governing Law.** This Support Agreement will be governed by the laws of the State of Arizona. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Support Agreement, UCITA does not govern any aspect of this Support Agreement or any license granted under this Support Agreement, or any of the parties' rights or obligations under this Support Agreement. The governing law will be that in effect prior to the applicability of UCITA.
- 12.4 **No Waiver.** Failure or delay by either party to exercise a right or power under this Support Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.
- 12.5 **Injunctive Relief.** Customer acknowledges that Spillman has made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Customer's breach of any of the confidentiality terms or scope of use restrictions in this Support Agreement will result in irreparable harm to Spillman for which monetary damages would be inadequate. Spillman shall therefore be entitled to obtain an injunction against such breach from any court of competent jurisdiction immediately upon request, without the necessity of posting bond, in addition to any other remedies that may be available at law or in equity, including termination of this Support Agreement and repossession of all Software and associated Documentation (unless Customer is a Federal agency of the United States Government).
- 12.6 **Independent Contractors.** Each party will perform its duties under this Support Agreement as an independent contractor. The parties and their personnel will not be considered to be employees or agents of the other party. Nothing in this Support Agreement will be interpreted as granting either party the right or authority to make commitments of any kind for the other. This Support Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.
- 12.7 **Notices.** Notices required under this Support Agreement to be given by one party to the other must be in writing and either personally delivered or sent to the address provided by the other party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.
- 12.8 **Severability.** If any term of this Support Agreement is held to be invalid or void by any court or authority of competent jurisdiction, it shall be modified by such court or authority to the minimum extent necessary to make it valid and enforceable. If it cannot be so modified, it shall be severed from this Support Agreement and all the remaining terms of this Support Agreement shall remain in full force and effect.
- 12.9 **Force Majeure.** Neither party will be liable for its delays or failure to perform its duties, other than payment obligations, to the extent such delays or failures result from a Force Majeure. The parties will promptly inform and consult with each other as to any Force Majeure that in their

EXHIBIT A - MAINTENANCE & SUPPORT AGREEMENT

judgment may or could be the cause of a substantial delay in the performance of this Support Agreement. If a Force Majeure occurs, the parties will negotiate reasonably and in good faith to execute a change order to extend the applicable performance schedule for a time period that is reasonable under the circumstances.

- 12.10 **Compliance with Export and Other Laws.** Customer acknowledges that the Software is subject to the laws and regulations of the United States and Customer will comply with all applicable laws and regulations, including export laws and regulations of the United States. Customer will not, without the prior authorization of Spillman and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Support Agreement.
- 12.11 **Section Headings; Interpretation.** The section headings in this Support Agreement are inserted only for convenience and are not to be construed as part of this Support Agreement or as a limitation of the scope of the particular section to which the heading refers. This Support Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either party.
- 12.12 **Compliance with Applicable Laws.** Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Support Agreement or use of the Software.
- 12.13 **Authority to Execute Agreement.** Each party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Support Agreement and to perform its duties under this Support Agreement; the person executing this Support Agreement on its behalf has the authority to do so; upon execution and delivery of this Support Agreement by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Support Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the party.
- 12.14 **Copyright Notices.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.
- 12.15 **Third Party Beneficiaries.** This Support Agreement is entered into solely for the benefit of Spillman and Customer. No third party has the right to make any claim or assert any right under this Support Agreement, and no third party is deemed a beneficiary of this Support Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Support Agreement.



Quote and Purchase Addendum

Quoted Date: May 30, 2018 Quote Number: QUO-13338-PQBOSJ8C7
 Quote Expiration Date: June 30, 2018 Prepared By: Troy Archer

Included in Quote

- Three Years Prepaid Maintenance for Pima County Sheriff's Office
 July 2018- June 2021
- Option to extend prepaid 2021-2023 maintenance at 2% increase
 schedule July of 2021

Package Quote

\$1,381,578

Current Maintenance Schedule W/O New Modules
 Spillman Analytics (Prorated Second Year)
 Data Replication (5 Years Maintenance Included)
 IBR (2nd and 3rd Year Included because of prepaid maintenance)
 Law Form (2nd and 3rd Year Included because of prepaid maintenance)
 Arrest Form (2nd and 3rd Year Included because of prepaid maintenance)

Learning Management System (Prorated 2nd Year)
 Totals

July 2018 - June 2021 Prepaid Total (Without Tax)

420,872	429,153	449,625
Included	18,953	28,998
Included	Included	Included
Included	Testing	Included
Included	Testing	Included
Included	Testing	Included
Included	16,655	33,977
420,872	448,106	512,601
		1,381,578



Pima County AZ

Managed Services Statement of Work



Master Services Agreement Numbers: SPLM11.24.10

SOW Identifier: Pima-20180425-02-V1.1

SOW Title: Spillman VxRail Infrastructure Managed Services

Managed Services Statement of Work

Executive Summary

This Statement of Work ("SOW") is agreed by and between Spillman Technologies INC ("Client") on behalf of their client Pima County AZ ("End-user") and Solutions-II, Inc. ("Solutions II"), and in accordance with the Master Services Agreement ("MSA").

The purpose of this engagement is to provide a full Managed Service of the End-user's Spillman infrastructure to ensure the Spillman system is fully monitored, updated and managed according to industry best practices.

At a high level, Solutions II will monitor, manage and update the Spillman environment including servers, storage and virtual machine OS's.

Spillman is contracting with Solutions II to provide this service so the agency can concentrate on the day to day administration of the Spillman software. This service will allow the agency to realize the full benefit of the Spillman software by ensuring the underlying infrastructure is always running and up to date with the latest security patches.

The following Schedules are incorporated into and made part of this Statement of Work:

Schedule 1: Managed Services Description

Schedule 2: Scheduled Tasks

Schedule 3: Reporting

Schedule 4: Project Change Control

Schedule 5: Service Level Objectives

This SOW is subject to the Agreement Terms set forth in the MSA. Any obligations by any party defined within this SOW are limited to this SOW and any subsequent Project Change Requests which further define this SOW.

Unless executed, this SOW expires June 30th 2018.

Definitions

Any capitalized terms shall have the meanings ascribed to them in the MSA, this SOW and the Schedules hereto.

For purposes of this SOW the following definitions shall apply:

1. "SOW Effective Date" means the date this SOW is fully executed by the Parties
2. "Onboarding" means activities conducted to enable the Service Provider to manage the environment daily and to deliver ongoing Managed Services as set forth in this SOW.
3. "Launch Date" means the date the Service Provider has completed the Onboarding process and is then responsible for the ongoing management of the environment. Launch Date will be determined during Onboarding.
4. "Managed Services" means the daily operations activities conducted by the Service Provider.

EXHIBIT B - SPILLMAN VXRAIL INFRASTRUCTURE MANAGED SERVICES

5. "Authorized Contact" is Client's representative with the authority to approve key business and/or technical decisions on behalf of the Client.
6. "Service Level Objective" or "SLO" means the informal agreement between the Service Provider and Client outlining specific performance metrics that will be tracked and measured. These metrics and/or objectives do not include any penalties.

Scope of Work

Scope of Work

Solutions II will perform the following, at the times specified, during the term of the Agreement. The project duration will begin upon execution of this contract, or at such later time as the parties agree to herein. Due to the nature of the project being conducted by Solutions II, any delay in the completion of the project not directly under the control of Solutions II (i.e. not caused by the negligence of Solutions II) will not be held to be the responsibility of Solutions II.

Solutions II staff will provide a managed service on the infrastructure components listed below as detailed in the Managed Services section of this Statement of Work.

1. Six (6) VxRail-500 servers
2. VSphere 6 software
3. EMC Recover Point for VM
4. Redhat Enterprise Linux
5. Windows Server OS
6. Veeam Backup software

Out of Scope

The following are not included in the scope of this SOW:

1. Remediation of the Client's environment needed to meet the minimum requirements to support the Managed Services in scope.
2. Application level administration of the Spillman software.

Service Provider Responsibilities

Client Environment Readiness Assessment

Managed Services begins with an assessment of the environment the Spillman infrastructure will reside as well as the Spillman infrastructure itself. While care has been taken during the Managed Services presales process to determine the readiness of the Client's environment for the Service Provider Managed Services, the Service Provider assessment may reveal changes needed to the environment or the supporting infrastructure to fully support the Service Provider Managed Services. Implicit to this SOW is that the Client environment is in readiness for the installation of the monitoring services.

If the assessment reveals remediation is needed to the environment or the supporting infrastructure associated with the Managed Services, the Service Provider will communicate its findings with Client at the time of the discovery and validation, and document the same in writing. No steps will be taken until Client agrees, and the changes to scope documented via a Project Change Request. The Service Provider will work closely with Client to mitigate the impact any changes may have on the Onboarding Schedule. If a change does impact the schedule, the Service Provider will provide Client with options and work towards a mutually agreeable resolution.

Once environment readiness for Managed Services is established, the team will proceed with the physical and logical setup of the environment to perform the necessary monitoring and other support activities associated with managing the environment day-to-day.

Onboarding

The Managed Services implementation process begins with the **Onboarding** of the Client's environment. **Launch** occurs when Onboarding is complete and Managed Services begins.

The steps below outline the Service Provider's typical process to ensure a successful onboarding process:

- The Service Provider will work closely with Client to review their business objectives and expectations to clearly define success.
- The team will review the Support Escalation Matrix and methods for initiation incident notifications. the Service Provider will provide the Support Escalation Matrix to Client during Onboarding activities.
- Service Level Objectives (SLOs) will be reviewed.
- The Service Provider will collaborate with the Client to establish appropriate monitoring standards for the environment.

Client Account Management

The Service Provider will supply account leadership to guide implementation/steady state of Managed Services. This usually includes the following:

1. Develop a Managed Services implementation plan in conjunction with the Client Project Manager.
2. Working with Client Project Manager, create a schedule of communications for implementation progress and any constraints or escalations.
3. Identify and create shared support procedures (e.g. Problem & Incident Management, Change Management, Contact List, etc.)

EXHIBIT B - SPILLMAN VXRAIL INFRASTRUCTURE MANAGED SERVICES

4. Implement all changes consistent with executed PCRs.
5. Address the resolution of Project/contract issues.
6. Ensure that contractual and compliance standards are met.
7. Performs Client Business reviews with Account Team.
8. Single point of contact for Client throughout the contract.

Support Ticketing System

The Service Provider maintains a ticketing system for the convenience of our clients. Client will be provided with a portal to the Service Provider ticketing system to open, view, or update tickets pertaining to the managed environment. Additionally, tickets may be opened via email or phone.

Client Responsibilities

Client has the following responsibilities:

1. Client will provide the network infrastructure and access required for the Service Provider to deliver the Managed Services in scope.
2. The Client agrees to establish a persistent VPN connection with the Service Provider's corporate headquarters for securely accessing, administering and monitoring the Client's environment. Any expenses associated with creating or maintaining the VPN connection are the responsibility of Client. As a backup, a secondary access method will be provided, such as individual VPN credentials.
3. All Client systems to be managed by the Service Provider are operational and stable prior to Launch.
4. All Client systems to be managed by the Service Provider are covered by a valid support contract with the appropriate vendor, and such coverage will be maintained throughout the term of this SOW with the Service Provider.
5. The Client is responsible for obtaining and maintaining the necessary licensing for the environment.
6. All Client systems to be managed by the Service Provider are sized properly to support the Managed Services solution
7. Tasks will be performed through a combination of onsite presence, coordination via telephone, email, or other remote means as appropriate and as mutually agreed.
8. Client will provide technical and management resources to participate in the implementation and ongoing support, including an Authorized Contact who will be responsible for approving business or technical changes (for example, approving access or maintenance activities).
9. Client will work with the Service Provider to provide maintenance windows as needed.
10. Client will notify the Service Provider when conducting work that may have an impact on the managed environment.
11. Client will perform environment remediation as recommended by the Service Provider.
12. If the Service Provider is on the Client site, Client will provide the Service Provider resources with the equipment, workspace and physical facilities (i.e. data center) as required.

EXHIBIT B - SPILLMAN VXRAIL INFRASTRUCTURE MANAGED SERVICES

13. Client is responsible for maintaining any infrastructure outside of the environment which affects the delivery of Managed Services.
14. Infrastructure components (hardware and software) must meet the vendor's minimum requirements for any upgrade or patch to be installed. If the vendor's minimum requirements are not met, the Service Provider and the Client may mutually agree to move forward with the change, based on additional information available at the time.

SOW Term and Extension

1. Term
The term of this SOW for Managed Services is 36 months from SOW effective date.
2. SOW Extension
Ninety (90) days before the end of the Term date, the Service Provider will provide a renewal notice. This may include any changes to this initial SOW, including any executed PCRs up to that date, changes to contract scope or pricing.

At the end of the initial Term, the SOW automatically converts to a month-to-month contract at the Monthly Recurring Fees in the renewal notice for up to six (6) months, at which time the Service Provider and Client will mutually agree on any further renewals, extensions and associated pricing changes.

Pricing & Payment

Fees for Managed Services rendered pursuant to this SOW shall be paid by the Client as follows:

1. A total fee of \$253,870 will be paid by the Client for the Managed Service over the 36-month contract period.
 - a. \$6,370 will be invoiced upon SOW execution for Onboarding
 - b. \$82,500 will be invoiced yearly for 3 years, starting from SOW Effective Date

Additional items may be added to this SOW per pricing below and will be billed monthly and managed coterminous with the original SOW Term. The Client will need to notify the Service Provider of the additions beyond the Scope baseline set forth in this SOW. The Service Provider will document the changes via a PCR.

Travel: While travel is not anticipated to be necessary for this engagement, should travel become necessary and by agreement, travel expenses will be billed to Client at the Service Provider's actual cost.

All fees and costs incurred under the terms of this SOW shall be due 30 days after a statement has been received by Client from the Service Provider. Any undisputed late payment is subject to an interest charge of 1.5% per month (18% per annum) plus all costs of collection including attorney fees and costs.

Client is responsible to pay all applicable state and local sales and use taxes related to Managed Services and travel expenses.

Schedule 1: Services Description

Onboarding

- Configure performance and capacity monitoring for in scope systems
- Setup alerts for common issues and remote management of in scope systems
- Setup service desk ticketing system
- Review service level agreements, escalation and change management process
- Review managed service support team and tasks
- Gain agreement on escalation and change management process

Infrastructure Administration and Management

- Daily Monitoring of systems health and availability
- Address tickets opened by the client team as needed
- Diagnosis and remediate issues as needed for all in scope systems
 - Hardware failures
 - Alerts or Errors
 - Performance problems
 - Connection issues
 - Open and work tickets with manufacturer support as needed
- Hardware firmware updates
 - Upgrades and patches based on how often the vendor releases updates and applicability of the updates to the environment, with the assumption the client's environment can support the released code
 - Priority given to address critical security vulnerabilities or bugs
- Storage administration
 - Regular reviews of monitoring metrics and alerts
 - Reallocation and changes to storage configuration as needed
- VMware administration
 - ESXi host settings
 - Virtual machine configuration changes
 - vSwitch reconfiguration to support external changes
 - Virtual machine relocations in the cluster
 - vCenter configuration
 - License management
 - Remediation of issues
 - Open and work tickets with VMware support as needed
 - Scheduled software upgrades and updates

EXHIBIT B - SPILLMAN VXRAIL INFRASTRUCTURE MANAGED SERVICES

Infrastructure Administration and Management (cont.)

- Scheduled upgrades and patches to all in scope systems of licensed and installed VMware software, with the assumption the client's environment can support the released software.
- As needed critical security vulnerability patching
- Operating System administration
 - Configure or reconfigure devices for environment changes and performance as needed
 - Manage file system permissions
 - File system expansion
 - Regular reviews of monitoring metrics and alerts
 - Scheduled operating system updates
 - Scheduled patches to all operating systems running on in scope systems, with the assumption the client's environment can support the released software.
 - Operating system upgrades as needed to support the primary application
 - As needed critical security vulnerability patching of the operating system

Backup Administration

- Ensure backups complete successfully
- Perform scheduled data recovery tests
- Remediate issues with backup failures
 - Open and work tickets with backup software vendor as needed
- Adjust schedules and backup sets as needed
- Monitor backup size and free space on backup target
- Perform up to 5 restores per month
- Scheduled updates of the backup software
 - Scheduled upgrades and patches to the backup application, with the assumption the client's environment can support the released software.
- As needed critical security vulnerability patching of the backup software

Failover Testing

- Scheduled Failover test using in-scope DR orchestration software
- Failover status report

Any out of scope or additional work associated with the customers environment will be charged at an hourly rate of \$200.

This managed service pertains to the Spillman infrastructure associated with running their software. If you would like to include managed services for the rest of your IT infrastructure please let us know and we will provide a quote.

Schedule 2: Scheduled Tasks

This schedule sets forth the type and frequency of scheduled tasks. The Service Provider shall be responsible for performing all steps necessary to deliver the scheduled tasks. The approximate dates of scheduled tasks will be finalized during Onboarding. As needed tasks are performed when required to patch security vulnerabilities or to upgrade the environment for better support or needed features.

Table 1: Scheduled Tasks

Scheduled Tasks		
Category	Task	Frequency
Infrastructure	Server Firmware Update	As needed
	Storage Firmware Update	Annually
VMware	ESXi Update	As needed
	vCenter Update	As needed
	Site Recovery Manager Update	As needed
Operating Systems	Redhat Linux Upgrade	As needed
	Redhat Linux Patch	Semi-Annually
	Windows Upgrade	As needed
	Windows Patch	Semi-Annually
Backup and DR	Data Recovery Test	Semi-Annually
	Backup Application Update	As needed
	Disaster Recovery Test	Annually

Schedule 3: Reporting

This Schedule sets forth the Reports in which the Service Provider shall provide to Client.

The Service Provider shall be responsible for performing all tasks necessary to create and deliver the Reports. The lists and frequency of reports will be finalized during Onboarding. This list is for example purposes only.

Table 2: Reports and Frequency

Reports		
Report Name	Description	Frequency
Infrastructure Health and Availability Report	<ul style="list-style-type: none"> • Resource utilization • System availability • File system free capacity • Backup success/failure 	As Required
Client Business Review	<ul style="list-style-type: none"> • Analysis of trends within the environment (Growth, Capacity) • Ticket Information • Recommendations 	Annually
Failover Report	<ul style="list-style-type: none"> • Current replication schedules • Current replication time • Size of data set being replicated • Recommended changes to replication schedule • Failover Test results <ul style="list-style-type: none"> ▪ OS functionality <ul style="list-style-type: none"> ✓ Network ✓ Users ✓ Groups ✓ Disks ▪ Application Functionality <ul style="list-style-type: none"> ✓ Data Integrity of the database ✓ Application Startup 	Annually

Root Cause Analysis Reports: RCA's (Root Cause Analysis) will be created for all Severity 1 Events. RCA's will be completed within 5 business days of the event. It should be noted that if the root cause is not determined within 5 days, the report will cover the status of the investigation and next steps. The Service Provider will provide periodic updates (via email, phone, or ticketing system) until the Event is resolved and root caused is determined (or if applicable, both parties agree reporting on the event is no longer necessary). Depending on the Severity of the event, hourly calls may be set up, or even a continuous conference bridge for instant updates. For all other events, the Service Provider will provide status via email and/or ticketing system. (See "Severity Level Table" for more information on definition of Severity Levels.)

Schedule 4: Project Change Control

The objectives of the change control process are as follows:

- Ensure that changes to the project have been acknowledged and justified appropriately.
- Monitor and control the cost and other impacts of approved changes.
- Obtain the appropriate level of approval for changes.
- Ensure that project changes are understood and are approved.
- Maintain a clear and accurate record of changes made over the life of the project.

In the event it is necessary to change this SOW, the following procedure will be used:

- A Project Change Request document ("PCR") will be executed by the parties describing the nature of the change, the reason for the change, and the effect the change will have on the scope of work, which may include changes to the work product. Parties will determine the additional/subtraction charges, if any, and they will be detailed in the PCR.
- Either party may initiate a PCR. The requesting party will review the proposed change with the other party, and the appropriate authorized representatives of the parties will sign the PCR, indicating the acceptance of the changes by the parties.
- Upon execution of the PCR, the PCR will be incorporated into and made a part of the applicable scope of work and shall be subject to this SOW.