

WINNEBAGO COUNTY
PURCHASE OF SERVICES AGREEMENT

RE: Cost Allocation Plan

THIS AGREEMENT made and entered into this 16 day of **August, 2017**, by and between Winnebago County, hereinafter referred to as "COUNTY" (whether a department, board, or agency thereof), and Maximus Consulting Services Inc, hereinafter referred to as "PROVIDER."

WITNESSETH:

WHEREAS the COUNTY, whose address is 415 Jackson Street, Oshkosh, WI 54901, desires to purchase services from the PROVIDER for the purpose of **Cost Allocation Plan**; and

WHEREAS the PROVIDER whose address is One West Old State Capital Plaza, Suite 502, Springfield IL 62701, is able and willing to provide such services;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, the COUNTY and the PROVIDER do agree as follows:

1. **TERM:** The term of this Agreement be for the years ended December 31, 2017, 2018, 2019, 2020, and 2021, work to be performed during 2018, 2019, 2020, 2021, and 2022, and shall terminate as of the 31st day of August 2022, unless sooner agreed upon by the parties. In any event, the PROVIDER shall complete its obligations under this Agreement not later than the 31st day of August 2022, and upon its failure to do so, the COUNTY may invoke the penalties set forth in Schedule A. The COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement.

2. **SERVICE TO BE PROVIDED:** PROVIDER agrees to provide the following:

- services detailed in the bid specifications, if any;
- request for proposals (RFP) and the PROVIDER's response thereto, if any;
- X Schedule A, attached hereto, and incorporated herein by reference.

In the event of a conflict between or among any of the above-checked provisions, it is agreed that the terms of Schedule A, to the extent of any conflict, will be controlling.

3. **ASSIGNMENT**: PROVIDER shall not assign any interest or obligation in this Agreement and shall not transfer any interest or obligation in this Agreement, whether by assignment or novation, without the prior written consent of the COUNTY.
4. **TERMINATION**: If, through any cause, the PROVIDER shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the PROVIDER shall violate any of the covenants or stipulations of this Agreement, the COUNTY shall thereupon have the right to terminate this Agreement by giving a thirty (30) day written notice to the PROVIDER of such termination and specifying the effective date thereof. There shall be no other termination or cancelation of this Agreement during its term, without the prior written consent of both parties unless specifically permitted otherwise by Schedule A.
5. **UNFINISHED WORK**: In the event the COUNTY exercises its unilateral right to terminate this Agreement for cause in the manner provided for in Paragraph 4, above, all finished or unfinished documents, services, papers, data, products, or the like prepared, produced, or made by the PROVIDER under this Agreement shall, at the option of the COUNTY, become the property of the COUNTY, and the PROVIDER shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents, services, papers, data, products, or the like. Notwithstanding the above, the PROVIDER shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of this Agreement by the PROVIDER, and the COUNTY may withhold any payments to the PROVIDER for the purpose of set-off.
6. **FAILURE TO APPROPRIATE FUNDS**: The failure of the Winnebago County Board of Supervisors to appropriate sufficient funds in any year covered by this Agreement shall automatically terminate this Agreement.
7. **TERMS OF PAYMENT**: The COUNTY will pay the PROVIDER for all the aforementioned work the sum of **listed on Schedule "A"** upon satisfactory completion of the work and performance of this contract. All goods and services delivered prior to December 31st must be invoiced to COUNTY by January 31st of the subsequent year or the invoice will be subject to a 10% deduction for late billing.
8. **WISCONSIN LAW CONTROLLING**: It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling.

9. **ARBITRATION:**

- A. This Agreement shall be covered by the laws of the State of Wisconsin.
- B. Claims, disputes, and other matters in question between the parties to this Agreement arising out of, or relating to, this Agreement or the breach thereof shall be decided by arbitration in accordance with the Rules of the American Arbitration Association then pertaining, upon the express written consent of all parties of this Agreement. In the event the parties proceed to arbitration, the proceedings shall be governed by the following:
 - 1) The American Arbitration Association shall submit a panel of five (5) arbitrators to the parties. The parties shall alternate strikes until one arbitrator remains who shall arbitrate the dispute. The party initiating the first strike shall be determined by the winner of a coin flip.
 - 2) The costs of the arbitration proceeding (except for the filing fee, which shall be paid by the party initiating the proceeding) shall be borne equally by the parties. Each party shall pay his own legal fees and expenses incurred in connection with the proceeding.
 - 3) Any arbitration shall take place in the City of Oshkosh, Winnebago County, Wisconsin.
 - 4) Unless otherwise agreed upon by the parties, the arbitration hearing shall be limited to one day in length with the arbitrator providing each side equal time to present its case during that day.
 - 5) Any discovery proceeding shall be limited to the thirty (30) day period prior to the date of the arbitration hearing. The party requesting the discovery shall pay for all costs incurred by the opposite party, except for attorney's fees, relating to the discovery procedure including, but not limited to, witness, reporter's fees for depositions, photocopying fees, postage fees, and delivery fees.
 - 6) In issuing any ruling regarding any arbitration matter, the arbitrator shall issue a written decision which shall include written findings of fact and conclusions of law.
 - 7) The proceeding and arbitration shall be governed by the laws of the State of Wisconsin including, specifically, Chapter 788, Wis Stats.

10. **PROVIDER EFFICIENCY:** PROVIDER shall commence, carry on, and complete its obligations under this Agreement with all deliberate speed and in a sound, economical, and efficient manner, in accordance with this Agreement and all applicable laws. In

providing services under this Agreement, the PROVIDER agrees to cooperate with the various departments, agencies, employees, and officers of the COUNTY.

11. **INDEPENDENT CONTRACTOR STATUS:** The parties agree that the PROVIDER is an independent contractor and that the PROVIDER, its employees, and agents are not employees of COUNTY. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to have any direct contractual relationship with the COUNTY.

15. **DELIVERY BY MAIL:** Notices, bills, invoices, and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

16. **HOLD HARMLESS:** At all times during the term of this Agreement, PROVIDER agrees to indemnify, save harmless, and defend the COUNTY, its boards, commissions, agencies, officers, employees, and representatives against any and all liability, losses, damages, costs, or expenses, whether personal injury or property damage, that the COUNTY, its officers, employees, agencies, boards, commissions, and representatives may sustain, incur, or be required to pay by reason of the PROVIDER furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this section shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of the COUNTY, its agencies, boards, commissions, officers, employees, or representatives.

17. **INSURANCE:**
 - A. Prior to commencing work, PROVIDER shall, at its own cost and expense, furnish COUNTY with a Certificate of Insurance indicating proof of the following insurance from companies licensed in the State of Wisconsin:
 - 1) **Workers' Compensation:** (Statutory) In compliance with the Compensation Law of the State of Wisconsin and Employers' Liability Insurance with a limit not less than \$100,000 each accident.

- 2) **Comprehensive or Commercial General Liability Insurance** with a minimum limit of \$1,000,000 per occurrence/\$1,000,000 aggregate combined Single Limit for bodily injury and property damage. This insurance shall include, but not be limited to, the following coverages:
 - a) Premises—Operations
 - b) Products and Completed Operations
 - c) Broad Form Property Damage
 - d) Contractual
 - e) Personal Injury
- 3) **Professional Liability**: (If applicable) Insurance with a minimum limit of \$1,000,000 per occurrence/\$1,000,000 aggregate.
- 4) **Automobile Liability**: Insurance with a minimum limit of \$1,000,000 per occurrence/\$1,000,000 aggregate Combined Single Limit for bodily injury and property damage. This insurance shall include bodily injury and property damage coverage for all of the following:
 - a) Owned Automobiles
 - b) Hired Automobiles
 - c) Non-Owned Automobiles

B. The certificate shall list the **Certificate Holder and Address** as follows:

WINNEBAGO COUNTY
ATTENTION INSURANCE ADMINISTRATOR
PO BOX 2808
OSHKOSH WI 54903-2808

The Winnebago County Department(s) involved shall be listed under “**Description of Operations.**”

- C. Such insurance shall include, under the **General Liability and Automobile Liability Policies**, Winnebago County, its employees, elected officials, representatives, and members of its boards and/or commissions as “**Additional Insureds.**”
- D. Such Insurance Certificate shall include a thirty (30) day notice prior to cancelation or material policy change, which notice shall be given to:

WINNEBAGO COUNTY
ATTENTION INSURANCE ADMINISTRATOR
PO BOX 2808
OSHKOSH WI 54903-2808

All such notices shall name the contractor and identify the contract project. All of the above coverages, limits, and conditions are required unless waived in writing by the COUNTY’s Safety Insurance Coordinator.

E. The Winnebago County Insurance Coordinator must approve any exception to these requirements. Submit any requests in writing to:

WINNEBAGO COUNTY
ATTENTION INSURANCE ADMINISTRATOR
PO BOX 2808
OSHKOSH WI 54903-2808

or email to: dpetraszak@co.winnebago.wi.us.

18. **LIMITATION EFFECT ON PAYMENTS BY COUNTY**: In no event shall the making of any payment required by this Agreement constitute or be construed as a waiver by the COUNTY of any breach of the covenants of this Agreement or a waiver of any default of the PROVIDER, and the making of any such payment by the COUNTY while any such default or breach shall exist in no way shall impair or prejudice the right of the COUNTY with respect to recovery of damages or other remedies as a result of such breach or default.
19. **DISCRIMINATION**: During the term of this Agreement, the PROVIDER agrees not to discriminate against any person, whether a recipient of services (actual or potential), an employee, or an applicant for employment on the basis of race, religion, sex, handicap, national origin, age, cultural differences, sexual preference, marital status, or physical appearance. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, or any other form of compensation. The PROVIDER agrees to post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this Agreement as they relate to affirmative action and nondiscrimination.
20. **AFFIRMATIVE ACTION**: PROVIDER may be required to file an Affirmative Action Plan with the COUNTY if the PROVIDER receives \$10,000 in annual aggregate contracts or other such consideration of comparable worth, and PROVIDER has ten (10) or more employees. Such plan must be filed within fifteen (15) days of the effective date of this Agreement, and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by the COUNTY.

21. **EQUAL OPPORTUNITY EMPLOYER**: PROVIDER shall, in all solicitations for employment placed on PROVIDER's behalf, state that PROVIDER is an "Equal Opportunity Employer."
22. **COMPLIANCE INFORMATION**: PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine such compliance.
23. **PROVIDER'S LEGAL STATUS**: PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on the last page of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and the PROVIDER's legal status.
24. **ENTIRE AGREEMENT**: The entire Agreement of the parties is contained herein, and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the COUNTY and the PROVIDER have executed this Agreement and its Schedules as of the day and date first set forth above.

FOR THE PROVIDER:

FOR WINNEBAGO COUNTY:

Mark L Harris
Winnebago County Executive

Susan T Ertmer
Winnebago County Clerk

REGISTERED AGENT:

Name

Address

City/State/Zip

Drafted by:
John A Bodnar
Corporation Counsel for
Winnebago County

Its
Revised: 3/2012

Schedule A



August 8, 2017
via email: Dpetraszak@co.winnebago.wi.us

Mr. Douglas Petraszak, Assistant Finance Director
Winnebago County Finance Department
112 Otter Ave
PO Box 2808
Oshkosh, WI 54901

RE: Request for Quote on Cost Allocation Plan Services

Dear Mr. Petraszak:

MAXIMUS Consulting Services, Inc., a wholly-owned subsidiary of MAXIMUS, Inc., is pleased to respond to your request for a price quote to prepare an Indirect Cost Allocation Plan (CAP) for Winnebago County. MAXIMUS will provide advice and consultation on structuring the plan that will be in compliance with generally acceptable accounting practices and 2 CFR Part 200 (Formerly OMB A-87).

MAXIMUS understands the challenges facing local governments today. We have been providing cost allocation plan services 40 years and have assisted thousands of state and local governments and public entities with recovering millions of dollars. We would offer to extend a contract to you at \$5,500 annually for five years. Listed below is our not-to-exceed quote you requested for five years. This is a fixed price proposal inclusive of any travel expenses and time on the job. MAXIMUS submits this quote based on certain assumptions. That is, MAXIMUS assumes that the County will negotiate in good faith certain terms and conditions upon award of the contract. For your consideration, a sample contract of our requested terms and conditions is attached.

Year 1 Price - 2017 Actual Costs	\$5,500
Year 2 Price - 2018 Actual Costs	\$5,500
Year 3 Price - 2019 Actual Costs	\$5,500
Year 4 Price - 2020 Actual Costs	\$5,500
Year 5 Price - 2021 Actual Costs	\$5,500
5-Year not-to-exceed	\$27,500

Mr. Douglas Petraszak
August 8, 2017
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MAXIMUS completes more CAPs nationally than any other firm, resulting in multiple benefits to Winnebago County:

- Our national network of practitioners is constantly looking for new ways to generate greater recoveries for our clients and sharing strategies with each other to benefit our clients.
- Our internal review process constantly keeps us abreast of changing U.S. Department of Health and Human Services (DHHS) Division of Cost Allocation Services (CAS) rulings across the country better enabling us to help you achieve your objectives.
- Any one of our 40 financial services consultants could potentially assist on your project, giving us the ability to bring in subject matter expertise and additional resources, if and when needed.
- Our years of experience providing cost allocation services and human services program consulting to government agencies ensures that not only do we understand cost allocation methodologies, but we understand how these methods apply to the various federal and state programs. This results in enhanced cost recoveries and a thorough understanding of how costs are structured in the County.
- Our first-hand knowledge of strategies that have been approved or denied in other states will not waste the County's time pursuing strategies that we already know will not be acceptable to CAS.
- Our strong financial position affords us the viability required to ensure that the objectives of your project are not threatened by the economic risks that could befall less stable contractors who may depend on lines of equity or venture capital investments to keep their doors open.

Thank you for the opportunity to provide you with a price quote. If you have any questions, please contact me at michaelholmes@maximus.com or 217.416.0433. MAXIMUS looks forward to working with you on this very important assignment.

Sincerely,



Michael Holmes
Vice President
MAXIMUS Consulting Services, Inc.

Attachment