



Board of County Commissioners

Health/Human Services/Education Committee

RESOLUTION AUTHORIZING A RENEWED MAINTENANCE SERVICE AGREEMENT BETWEEN COUNTY BUSINESS SYSTEMS, INC., AND THE SALEM COUNTY SURROGATE

WHEREAS, the Resolution 2015 -22 authorized a maintenance agreement for proprietary computer hardware/software for the Salem County Surrogate's Office; and

WHEREAS, the Salem County Surrogate's Office has a need for continued maintenance and support of the unique Bluestone Probate System; and

WHEREAS, County Business Systems has provided the necessary maintenance and support for the Bluestone Probate System.

NOW THEREFORE, BE IT RESOLVED, by the Salem County Board of County Commissioners that the County Commissioner Director is authorized to sign a renewal contract with County Business Systems, Inc.

Gordon J. Ostrum, Jr. signature
GORDON J. OSTRUM, JR., County Commissioner
Chair, Health/Human Services/Education Committee

I hereby certify the foregoing to be a true resolution adopted by the Salem County Board of County Commissioners on March 31, 2021.

Stacy L. Pennington signature
STACY L. PENNINGTON
Clerk of the Board

RECORD OF VOTE

Table with 7 columns: COMMISSIONER, RESOLUTION MOVED, RESOLUTION SECOND, AYE, NAY, ABSTAIN, ABSENT. Rows for G. Ostrum, Jr., E. Ramsay, L. Ware, R.S. Griscom, B. Laury.

I, Kelly A. Hannigan, Treasurer of the County of Salem, hereby certify in accordance with Section 5:34-5 of the Local Public Contracts Guidelines and Local Public Contracts Regulations that adequate funds for the contract listed below are available and are contained in the OFFICIAL BUDGET of the County of Salem.

Kelly A. Hannigan signature
Kelly A. Hannigan, Treasurer

Table with 2 columns: AMOUNT, DATE, ACCOUNT # and NAME, FOR, VENDOR.



COUNTY BUSINESS SYSTEMS MAINTENANCE SERVICE AGREEMENT

Customer Number: SC09

Contract Number: CBS28066-13

THIS AGREEMENT is made as of **February 23, 2021**, by and between County Business Systems, having its principal place of business at 1574 Reed Road, Pennington, NJ 08534 ("CBS"), and **Salem County Surrogate**, a _____ State (check one) _____ corporation _____ partnership _____ sole proprietorship _____ government entity, having its principal place of business at **94 Market Street, Salem, NJ 08079** ("Customer").

1. SERVICE

CBS agrees to provide maintenance and repair services for the hardware equipment ("Equipment") and associated software ("Software") listed in the **Schedule of Maintenance Coverage ("Schedule A")** collectively, such Equipment and Software is referred to as the "System", installed at **94 Market St., Salem, NJ 08079** (the "Premises"), as set forth below.

- a) **Hardware Maintenance Services:** CBS shall, during the contracted period, furnish all parts and service necessary to maintain the System in good working order, or provide such other maintenance coverage specified in Schedule A. CBS shall dispatch service personnel to the Premises to perform necessary repairs, unless CBS is able to perform the repairs from a remote location. Any replacement parts may be either new or refurbished but equivalent to new in operation. Parts will be furnished on an exchange basis, and any parts removed shall become the property of CBS.
- b) **Software Maintenance & Support Services:** CBS shall, during the contracted period, furnish all service necessary to maintain the Software in good working order, or provide such other maintenance coverage specified in Schedule A. CBS will provide software support via remote access as part of this agreement. Customer agrees to provide internet and remote access to the System at its expense. If Customer elects not to make remote access available, labor (including travel) for on-site software support service calls will be chargeable to Customer in accordance with CBS's local prevailing hourly labor rates as described in Schedule B.
- c) **Training:** User training does not constitute maintenance service, and is not covered by this agreement. User training is provided at time of system installation as called for by the terms of the purchase agreement. Additional training may subsequently be purchased at rates negotiated by parties to this agreement, but this agreement will not be construed to include training.
- d) **Remote Maintenance:** CBS will provide software support via remote access for maintenance service agreement Customers at no charge. If Customer elects not to make remote access available, labor (including travel) for on-site software support service calls will be chargeable to Customer in accordance with CBS's local prevailing hourly labor rates with a two-hour minimum. Local prevailing hourly labor rates as described in Schedule B.
- e) **Response Time:** When hardware on-site repairs are necessary, CBS shall respond during CBS service hours within 8 hours of CBS's receipt of Customer's service request. For Software repair/support, CBS will respond during CBS service hours within 2 hours of CBS's receipt of Customer's service request. Unless otherwise defined in Schedule A, the service hours for CBS to provide routine maintenance and/or repair service for the System will be between the hours of 8:30 AM and 5 PM prevailing local time, Monday through Friday, excluding days observed by CBS as holidays.
- f) **Non-Covered Service:** CBS will attempt to respond to all requests for service. If service is provided outside CBS's routine service hours weekdays from 8:30 AM to 5:00 PM (excluding Sundays and Holidays), labor for such non-covered service calls will be chargeable to Customer in accordance with CBS's local prevailing hourly labor rates plus 50%. If service is provided on Sundays or Holidays, labor for such non-covered service calls will be chargeable to the Customer in accordance with CBS's local prevailing hourly labor rates plus 100%. However, parts and other material costs will be covered even for after-hours service under this Agreement, unless excluded under Section 5 hereof, "Exclusions."

2. TERM

The term of this Agreement shall be one (1) year, commencing on **February 23, 2021**. Unless one party notifies the other of its intent to terminate this Agreement at least thirty (30) days prior to the expiration of the term (or at the end of any one-year extension of the term, which may occur as provided below), the term shall be automatically extended for an additional one (1) year period(s) ("extensions"), upon the same terms and conditions contained herein, except that CBS may adjust its service rates to conform to CBS's prevailing local service rates for the next extension. CBS shall furnish Customer with a written notice of any proposed increase in CBS's service rates for the next extension at least thirty (30) days prior to the anniversary date of the original agreement. Unless Customer exercises its right to terminate as set forth above, the Customer shall be deemed to have agreed to the adjusted service rates for the next extension.

3. SERVICE FEE

- (a) Customer agrees to pay a service fee of **\$20,944.00** in advance for the term of this Agreement. CBS reserves the right to adjust the yearly fee for extensions of this Agreement, as set forth in Section 2 hereof.
- (b) If new or additional equipment is added to the System subsequent to the date of the initial installation of the System, a new service fee will be calculated, to reflect the increased scope of service and maintenance.
- (c) The service fee does not include federal, state, or local taxes which may be applicable, such taxes will be additional billable items, which Customer agrees to pay unless Customer provides CBS with appropriate tax exemption documentation.
- (d) If Customer does not make timely payment to CBS of any amount payable under this Agreement, then in addition to the remedies available to CBS at law or equity or under other provisions of this Agreement, CBS may collect interest on the sum then owing at the rate of 1.5% per month from the due date until payment by Customer, provided, however, that in no event shall the aggregate interest charges exceed the maximum rate of interest which could be charged under applicable law.

4. LIABILITIES

- (a) CBS EXTENDS NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO CUSTOMER FOR THE SERVICES PROVIDED BY THIS AGREEMENT.
- (b) CBS WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR FOR LOSS, DAMAGE, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM CUSTOMER'S USE OF (OR INABILITY TO USE) OR A THIRD PARTY'S UNAUTHORIZED USE OF THE SYSTEM OR ITS COMPONENTS, EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT, OR FOR COMMERCIAL LOSS OF ANY KIND, REGARDLESS OF WHETHER CBS OR ITS SUBCONTRACTORS HAD BEEN ADVISED OF SUCH POSSIBILITY.
- (c) IN ALL SITUATIONS INVOLVING PERFORMANCE OR NONPERFORMANCE BY CBS UNDER THIS AGREEMENT, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IS (1) TO TERMINATE THIS AGREEMENT BY WRITTEN NOTICE TO CBS, AND (2) TO RECEIVE A PRO RATA REFUND OF ANY PRE-PAID MAINTENANCE SERVICE CHARGES, LESS ANY SUMS DUE AND OWING CBS.

5. EXCLUSIONS

- (a) This Agreement will not cover repair work in replacement of expendable items such as glass, toner, toner cartridges, lamps, photo conductor drums, imaging units, or other items identified by the manufacturer as "consumables". This Agreement also will not cover service required when due to: (i) Customer's unauthorized maintenance or repair of the Equipment, (ii) Customer's unauthorized addition, movement, or changes to the Equipment, (iii) negligence, (iv) abuse, (v) connection to inappropriate power supplies, (vi) fire, flood, wind, lightning, or other similar acts of God, (vii) failure of Customer to maintain proper environmental conditions for the System (as stated in (b) below), (viii) improper wiring, installation, repair, or alteration of the Equipment by anyone other than CBS or its agents, (ix) software changes or attempted software changes in the System by persons not authorized by CBS, or (x) data base reprogramming required because of Customer error of any kind. If requested by Customer, repairs necessitated by any of the above excluded causes shall be performed by CBS at CBS's prevailing local rates for such services and/or materials.
- (b) The Customer is responsible for maintaining suitable environmental conditions for the System. Suitable conditions shall include, but not limited to, the provision of proper electrical power, air conditioning, and humidity control, or any and other environmental requirements described herein. The presence of asbestos, other hazardous materials or unsafe

conditions ("Hazards") on the Premises shall be deemed an unsuitable environment for the System and CBS shall be entitled to cease performance under this Agreement until such Hazards have been cured to CBS's satisfaction.

Furthermore, Customer will indemnify and hold harmless CBS or its subcontractors or agents for harm caused by, or measures taken to deal with, such Hazards.

- (c) The Customer is solely responsible for maintaining backup copies of programs, images, data and database files. Under no circumstances will CBS be liable for any loss of programs, images, data or database files or for the recovery of same.

6. FORCE MAJEURE

If CBS's performance is prevented, delayed, or otherwise made impractical by reason of any flood, riot, fire, strike, explosion, war, governmental action, or regulation, or any other similar cause beyond the reasonable control of CBS, CBS shall be excused from such performance until the abatement of such causes(s).

7. ACCESS

Customer agrees to provide full accessibility to the Premises for CBS's employees to perform services and will make available to CBS a reasonable amount of secure space for storage by CBS of such repair or maintenance parts as CBS deems necessary. For software support, Customer agrees to allow for secure, remote access to the System via internet-based tools such as WebEx or PCAnywhere.

8. COVENANT NOT-TO-HIRE

Customer agrees not to hire or attempt to hire employees of CBS during the term and for a period of one (1) year after the term (including any renewal term) of this Agreement, without the express written consent of CBS. In the event of a breach of this covenant, the aggrieved party (CBS) shall be entitled to recover as liquidated damages and not as a penalty an amount equal to the employee's last year's salary.

9. TERMINATION

- (a) If either party is in default of its obligations under this Agreement and such default continues for thirty (30) days after written notice is given by the party not in default, such non-defaulting party may (in addition to all other rights and remedies provided in the Agreement or by law) terminate this Agreement.
- (b) Notwithstanding (a) above, if either party becomes insolvent, enters voluntary or involuntary bankruptcy, or takes any measures generally designed for the relief of debtors, then the other party may (in addition to all other rights and remedies provided in the Agreement or by law) terminate this Agreement immediately without notice.
- (c) Cancellation - either party may with or without cause cancel this Agreement with 30 days written notice to the other.
- (d) Upon termination, cancellation, or expiration of this Agreement, each party shall promptly return to the other party all papers, materials, and properties of the other held by such party.

10. ASSIGNMENT

Customer may not transfer or assign this Agreement to any third party without the express prior written consent of CBS. CBS may assign this contract to any parent company, subsidiary, or affiliate of CBS, or in connection with the sale of substantially all of the assets of CBS, without Customer's consent.

11. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Jersey.

12. NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and sent to each party at the address indicated below by certified U.S. mail or other delivery service providing the sender a signature upon receipt. Such notice shall be effective upon receipt.

Customer: Salem County Surrogate

Address: 94 Market Street

Salem, NJ 08079

Facsimile: (856) 339-9359

Telephone: (856) 935-7510 x8323

Attention: Ms. Nicki Burke

Vendor: County Business Systems

Address: 1574 Reed Road

Pennington, NJ 08534

Facsimile: (609) 935-0177

Telephone: (609) 935-0180

Attention: William M. Lennon

13. NON-WAIVER

The waiver by either party of any default or any obligation will not operate as a waiver of any subsequent default or excuse any future obligation.

14. COSTS

Non-prevailing party will pay all of prevailing party's costs and expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement should collections or litigation prove necessary.

15. ENTIRE AGREEMENT

This Agreement, when executed by CBS and Customer, and approved by CBS, constitutes the entire agreement between CBS and Customer with regard to Customer's service and maintenance by CBS. Any alterations or modifications to this Agreement must be in writing, and must be executed by both an officer of CBS and the Customer. ANY ALTERATIONS OR MODIFICATIONS TO THIS AGREEMENT, UNLESS MADE IN ACCORDANCE WITH THE ABOVE, SHALL BE VOID AND OF NO EFFECT.

IN WITNESS WHEREOF, Customer and CBS have entered into this Agreement, as indicated by the signatures of their authorized representatives below.

Customer: County of Salem
By: Benjamin H. Laurry
Print Name: BH Laurry
*Title: Commissioner Director
Date: 3/31/21

County Business Systems
By: William M. Lennon
Print Name: William M. Lennon
Title: President
Date: 1/28/21

*If Customer is a corporation, indicate the position or office held by the person signing this Agreement on the title line. If Customer is a partnership, the Agreement must be signed by all partners (or at least a "managing partner") with the word "partnership" on the title line. If the Customer is an individual, insert the phrase "sole proprietor" on the title line.

SCHEDULE OF MAINTENANCE COVERAGE

Schedule A ("System")

Bluestone Probate System	=	\$9,438.00
Adoptions Module	=	\$ 943.00
Cashiering/Receipts	=	\$7,745.00
Minor Accounts Module	=	\$2,818.00

Schedule B

Prevailing hourly labor rates are \$195.00

Please note: PC Hardware (e.g. workstations, servers, monitors, SCSI and other interface cards) provided as part of an Imaging System Solution are not maintained by County Business Systems but must be supported by the Original Equipment Manufacturer (OEM). Customer is urged to properly register PC workstations and servers and to keep the OEM Warranty and Support information available.

