

**AGREEMENT #18062 FOR PROFESSIONAL SERVICES
For LAKE COUNTY**

This AGREEMENT is entered into by and between Lake County ("County") and Berry Dunn McNeil & Parker, LLC ("Consultant"), 100 Middle Street, Portland, ME 04101.

RECITALS

WHEREAS, Lake County is seeking a Consultant to provide services for System Programming and Computer Operations as noted in the Consultant's proposal dated January 3, 2019, ("Services"); and

WHEREAS, Consultant has the professional expertise and credentials to provide these Services and has agreed to assume responsibility for this Agreement.

NOW, THEREFORE, Lake County and Consultant agree as follows:

SECTION 1. AGREEMENT DOCUMENTS

The Agreement Documents that constitute the entire Agreement between Lake County and Consultant are in order of precedence:

- A. This Agreement and all exhibits thereto; and,
- A. Terms and Conditions identified in Request for Proposals # 18195 - Audit of Contract Deliverables for E-Filing Implementation as Exhibit A
- B. Contractor's RFP response to RFP 18195 proposal dated January 3, 2019 and all exhibits thereto identified within as Exhibit B.

SECTION 2. SCOPE OF WORK

Lake County is seeking the services of a consultant who is familiar with the implementation of court related software programs, e-filing, and electronic filing service providers to review the requirements and scope of work included in the two separate URL Agreements and validate their delivery and acceptance. The consultant should complete a thorough review of invoices and confirm receipt of deliverables as defined in the payment schedules for the respective contracts. In addition, the consultant should complete a thorough review of the revenue funds to determine compliance with all county, state, and federal laws relating to expenditure from those funds.

The successful consultant should provide their methodology on how they would gain familiarity of the proposed e-filing system and indicate how they would meet the expectations identified below. In addition, the proposal should set forth a work plan including an explanation of the forensic accounting methodology to be followed.

Responsibilities of the Consultant:

- Complete an analysis of all invoices associated with respective contracts and confirm receipt of deliverables as defined in the payment schedule.

- Meet with the various functional users/stakeholders to understand the functional requirements of the e-filing system.
- Meet with technical resources in the Department of Information Technology to become familiar with the technical architecture of the system.
- Provide a thorough review of the requirements provided in the Agreements and documentation on the status of receipt of each.
- Establish a testing procedure to validate the functionality of the requirements met.
- Review all invoices submitted and validate that deliverables were received prior to payment.
- Prepare a written report detailing the findings.

Responsibilities of the County:

- Provide third party access to the County’s network to evaluate the e-filing system.
- Provide access to the source code for the software
- Designate staff to train the Consultant’s on the functional use of the system.
- Designate staff to assist with understand the technical architecture of the system.
- Provide access to all documentation related to the project and funding sources.

DELIVERABLES

Final Reports

The Consultant shall develop and produce comprehensive final reports for Phase 1, Phase 2 and any subsequent phases contracted. The report shall contain the study’s methodology, findings, recommendations, key issues and assessments on technical and functional deliverables. A written executive summary shall be included to provide a high-level overview of the findings. Consultant shall provide an electronic version of the final report.

Consultant will be expected to deliver at the end of the engagement a formal presentation to Lake County Administration, Circuit Court Clerk, 19th Judicial Circuit Court, and Law and Judicial and Finance and Administrative Committees of the Lake County Board regarding the components contained in the final report. Consultant may also be expected to deliver interim presentations to key stakeholder groups when beneficial to the project.

SECTION 3. DURATION

This Agreement shall be effective as of the date Lake County gives Consultant notice to proceed for a period of four months, unless terminated pursuant to Section 15.

The work is complete upon a determination of completion by Lake County. A determination of completion shall not constitute a waiver of any rights or claims which Lake County may have or thereafter acquire with respect to any provision of this Agreement.

SECTION 4. AGREEMENT PRICE

The County will pay Consultant a fee of \$71,984.00 for deliverables identified in Section C of Consultant’s proposal dated January 3, 2019 and will bill the County not more than once per month based upon the actual expense reimbursement. The fees associated with each separate deliverable are identified in the following table.

Deliverable #	Deliverable Description	Approximate Timing	Cost
Phase 1: Project Initiation & Planning			
1	Project Work Plan and Schedule	Month 1	\$12,960.00
Phase 2: Fieldwork and Analysis			
2a & 2b	Preliminary Functional & Technical Review Findings Report Preliminary Financial Review Findings Report	Month 3	\$44,680.00
Phase 3: Report Development and Presentation			
3 & 4	Final Audit Findings Report Audit Report Presentation	Month 4	\$14,344.00
Total			\$71,984.00

SECTION 5. INVOICES & PAYMENT

- A. A purchase order will be issued for the work and Consultant shall submit invoice(s) detailing the products and services provided and identify the purchase order number on all invoices.
- B. Consultant shall maintain records showing actual time devoted and cost incurred. Consultant shall permit a representative from Lake County to inspect and audit all data and records of Consultant for work and/or services provided under this Agreement. Consultant shall make these records available at reasonable times during the Agreement period and for one year after the termination of this Agreement.
- C. All payments shall be made in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

SECTION 6. CHANGE ORDERS

In the event changes to the Scope of the project and/or additional work become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references this Agreement (a "Change Order"). The Change Order shall set forth in detail: (i) the Change requested, (ii) the reason for the proposed Change; (iii) the cost of the Change; and (iv) the impact of the Change on time for completion of the project.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Change Order. If the receiving party does not accept the Change Order in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Order. If the parties cannot reach agreement on a proposed Change, Contractor shall nevertheless continue to render performance under this Agreement in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the County may require execution by the County Purchasing Agent. Some increases may also require approval by the County Board. In those cases where the County Purchasing Agent's signature is required, or County Board approval is needed, the Change Order shall not be deemed rejected by County after ten (10) days provided the Project Manager has indicated in writing within the ten (10) day period of his intent to present the Change Order for appropriate signature or approval.

SECTION 7. INDEMNIFICATION

Consultant agrees to indemnify, save harmless, and defend Lake County, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses, and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by this Agreement caused directly by the negligence or willful or wanton conduct of Consultant. The foregoing indemnity shall apply except if such injury, death, or damage is caused directly by the gross negligence or willful or wanton conduct of Lake County, its agents, servants, or employees or any other person indemnified hereunder.

SECTION 8. INSURANCE

The Consultant must obtain, for the Contract term and any extension of it, insurance issued by a company or companies qualified to do business in the State of Illinois with an A.M. Best Rating of at least A-and provide the County with a Certificate of Insurance 15 days before the start of the project, and thereafter annually for contracts/projects that will last more than one year. Insurance in the following types and amounts is necessary and/or where applicable:

Workers Compensation (Coverage A) and Employers Liability (Coverage B)

Workers Compensation Insurance covering all liability of the Consultant arising under the Worker's Compensation Act and Worker's Occupational Disease Act at limits in accordance with the laws of the State of Illinois. Employers' Liability Insurance shall be maintained to respond to claims for damages because of bodily injury, occupational sickness, or disease or death of the Consultant's employees, with limits listed below:

Employers Liability

- a) Each Accident \$1,000,000
- b) Disease-Policy Limit \$1,000,000
- c) Disease-Each Employee \$1,000,000

Such Insurance shall contain a waiver of subrogation in favor of Lake County.

Commercial General Liability Insurance

In a broad form on an occurrence basis shall be maintained, to include, but not be limited to, coverage for property damage, bodily injury (including death), personal injury and advertising injury in the following coverage forms where exposure exists:

- Premises and Operations
- Independent Contractors
- Products/Completed Operations
- Liability assumed under an Insured Contract/ Contractual Liability
- Personal Injury and Advertising Injury

With limits of liability not less than:
\$ 1,000,000 Each Occurrence

\$ 1,000,000 Products-Completed Operations

\$ 1,000,000 Personal and Advertising injury limit

\$ 2,000,000 General aggregate; the CGL policy shall be endorsed to provide that the General Aggregate limit applies separately to each of the contractor's projects away from premises owned or rented to contractor.

Automobile Liability Insurance (if applicable)

Automobile liability insurance shall be maintained to respond to claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle. This policy shall be written to cover any auto whether owned, leased, hired, or borrowed. The Consultant's auto liability insurance, as required above, shall be written with limits of insurance not less than the following: \$ 1,000,000 Combined single Limit (Each Accident).

Professional Liability – Errors and Omissions (if applicable)

The Engineers/Architects/Consultants for the plans of the project shall be written with limits of insurance not less than the following: \$ 1,000,000 per claim per policy year.

Coverage shall be provided for up to three (3) years after project completion. Policy is to be on a primary basis if other professional liability is carried.

Professional Liability – Cyber Liability (if applicable)

Cyber Liability Insurance for property damage to electronic information and/or data; first and third-party risks associated with e-business, internet, etc., with limits of insurance not less than the following: \$ 1,000,000 per occurrence limit.

Technology Errors and Omissions (if applicable)

The Consultant's Software Developer and/or IT Consultant for the plans, including developing and implementing technology for Lake County, or of the project, shall be written with limits of insurance not less than the following: \$ 1,000,000 per occurrence limit.

Excess/ Umbrella Liability (if applicable)

The Contractor's Excess/ Umbrella liability insurance shall be written with the umbrella follow form and outline the underlying coverage, limits of insurance will be based on size of project: \$ 2,000,000 per occurrence limit (*minimum, and may be higher depending on the project*).

Liability Insurance Conditions

Contractor agrees that with respect to the above required insurance:

- a) The CGL policy shall be endorsed for the general aggregate to apply on a "per Project" basis;
- b) The Contractor's insurance shall be primary & non-contributory over Lake County's insurance in the event of a claim.
- c) Contractor agrees that with respect to the above required insurance, Lake County shall be named as additional insured, including its agents, officers, and employees and volunteers and be provided with thirty (30) days' notice, in writing by endorsement, of cancellation or material change;

- d) Lake County shall be provided with Certificates of Insurance and the appropriate corresponding ISO form endorsements evidencing the above required insurance, prior to commencement of this Contract and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least thirty (30) days prior to the expiration or cancellation of any such policies. Email Certificates of Insurance and Endorsements to the following email address: Purchasing@lakecountyil.gov.
- e) Any hard copies of said Notices and Certificates of Insurance ~~and Endorsements~~ shall be provided to:

**Lake County
Purchasing Division
18 N. County 9th Floor
Waukegan, Illinois 60085
Attn: RuthAnne Hall, Lake County Purchasing Agent**

Failure to Comply: In the event the Contractor fails to obtain or maintain any insurance coverage required under this agreement, Lake County may purchase such insurance coverage and charge the expense to the Consultant.

SECTION 9. INDEPENDENT CONTRACTOR

Consultant is defined and identified as an independent contractor, not an employee or agent of Lake County and the County has no right to control or direct Consultant's manner, detail, or means by which Consultant accomplishes tasks under this Agreement.

SECTION 10. DISPUTE RESOLUTION

All issues, claims, or disputes arising out of this Agreement shall be resolved in accordance with the Appeals and Remedies Provisions in Article 9 of the Lake County Purchasing Ordinance.

SECTION 11. NO IMPLIED WAIVERS

The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

SECTION 12. SEVERABILITY

If any part of this Agreement shall be held to be invalid for any reason, the remainder of this Agreement shall be valid to the fullest extent permitted by law.

SECTION 13. JURISDICTION, VENUE, CHOICE OF LAW AND PROFESSIONAL STANDARDS

This Agreement shall be governed by and construed according to the laws of the State of Illinois. Jurisdiction and venue shall be exclusively found in the 19th Judicial Circuit Court, State of Illinois.

SECTION 14. NOTICES AND COMMUNICATIONS

All notices and communications which may be given by Lake County to Consultant relative to this Agreement shall be addressed to the Consultant at the address shown herein below:

Bill Brown
Principal
Berry Dunn McNeil & Parker, LLC (dba BerryDunn)
100 Middle Street
Portland, ME 04101

Copies of any notices and communications which propose to alter, amend, terminate, interpret, or otherwise change this Agreement shall be provided to: Lake County Purchasing Division, 18 North County Street, Waukegan, Illinois 60085-4350; Attention: Purchasing Agent.

SECTION 15. ASSIGNMENT, ALTERATIONS AND MODIFICATIONS

Except as otherwise provided herein, this Agreement shall not be assigned, delegated, altered, or modified without the express written consent of both parties. This Agreement supersedes any and all other agreements, oral or written, between the parties hereto with respect to the subject matter hereof.

To the extent Lake County agrees to an assignment, delegation, or subcontract by Consultant, Consultant shall remain liable to Lake County with respect to each and every item, condition and other provision hereof to the same extent that Consultant would have been obligated if it had done the work itself and no assignment, delegation, or subcontract had been made.

SECTION 16. TERMINATION

Lake County reserves the right to terminate this Agreement, or any part of this Agreement, with or without cause, upon thirty (30) days written notice. In case of such termination, Consultant shall be entitled to receive payment from Lake County for work completed to date in accordance with the terms and conditions of this Agreement.

In the event that this Agreement is terminated due to Consultant's default, Lake County shall be entitled to purchase substitute items and/or services elsewhere and charge Consultant with any or all losses incurred, including attorney's fees and expenses.

SECTION 17. CONFIDENTIALITY

Both parties acknowledge that Consultant's documents and dealings related to this Agreement are subject to the Illinois Open Meetings Act (5 ILCS 120/1 et seq.) and the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

SECTION 18. WORK PRODUCT

All work product prepared by Consultant pursuant to this Agreement, including, but not limited to, policies, reports, analysis, plans, designs, calculations, work drawings, studies, photographs, models, and recommendations shall be the property of Lake County. Consultant shall deliver the work product to Lake County upon completion of Consultant's work, or termination of the Agreement, whichever comes first. Consultant may retain copies of such work product for its records; however, Consultant may not use, print, share, disseminate, or publish any work product related to this Agreement without the consent of Lake

County.

SECTION 19. NEWS RELEASES

Consultant may not issue any news releases regarding this Agreement without prior approval from Lake County.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Lake County:

Bill Brown

Purchasing Agent
Lake County

Principal
Berry Dunn McNeil & Parker, LLC (dba BerryDunn)

Date _____

Date _____

DRAFT