

**AMENDED 7-19-2010 9:45 AM**

**AGENDA**

**REGULAR PIQUA CITY COMMISSION MEETING**

**TUESDAY, JULY 20, 2010**

**7:30 P.M.**

**201 WEST WATER STREET**

**PIQUA, OHIO 45356**

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**PROCLAMATION: Council on Rural Services  
Accepting: Ms. Shirley Hathaway**

**A. CONSENT AGENDA**

a. APPROVAL OF MINUTES

Approval of the minutes from the July 1, 2010 Piqua City Commission Work Session and the July 6, 2010 Regular City Commission Meeting

**B. OLD BUSINESS**

a. ORD. NO. 22-10 (3<sup>rd</sup> Reading)

An Ordinance to change the street name of portions of Bridge Street and Statler Road

**C. NEW BUSINESS**

a. ORD. NO. 23-10 (1<sup>st</sup> Reading)

An Ordinance to vacate a portion of public right of way known as River Street

b. RES. NO. R-87-10

A Resolution authorizing a purchase order to Francis Office Supply Inc. for various Office products

c. RES. NO. R-88-10

A Resolution awarding a contract to Springbrook Software, Inc. in an amount not to exceed \$920,000 for a new integrated Municipal Information Software System including data conversion, training, implementation and annual maintenance fees

d. RES. NO. R-89-10

A Resolution accepting the resignation of Debra Osborne as a member of the Community Diversity Committee

**D. OTHER**

**E. ADJOURNMENT TO EXECUTIVE SESSION**

- a. To prepare for and review negotiations on compensation or other terms and conditions of employment for City personnel.
- b. To consider pending or imminent litigation.
- c. To consider the purchase or sale of property for public purposes.

**F. ADJOURNMENT**

**A. CONSENT AGENDA ITEMS**  
**JULY 20, 2010**

- **Minutes – Approval of the minutes from the July 1, 2010 Piqua City Commission Work Session and the July 6, 2010 Regular City Commission Meeting**

**MINUTES**  
**PIQUA CITY COMMISSION WORK SESSION**  
**July 1, 2010**  
**7: 00 P.M.**  
**201 WEST WATER STREET**  
**PIQUA, OHIO 45356**

Piqua City Commission met in a Special Work Session in the Commission Chambers in the Municipal Government Complex, 201 W. Water Street Mayor Fess called the meeting to order at 7:00 P.M. Also present were Commissioners Wilson, Martin, and Terry. Absent: Vogt. Also in attendance: City Manager Fred Enderle, Police Chief Bruce Jamison, City Law Director Stacy Wall, Bob Bloom, Jim Cruse and Will Sanders.

Moved by Commissioner Terry, seconded by Commissioner Martin, to excuse Commissioner Vogt from the July 1, 2010 Piqua City Commission Work Session. Voice vote, Aye: Martin, Terry, Wilson, and Fess. Nay: None. Motion carried unanimously.

Purpose of the Special Meeting is to discuss Automated Traffic Enforcement.

Police Chief Bruce Jamison gave a brief overview of the Automated Traffic Enforcement program, stating he would like to get a consensus from the Commission if they are on board with the program by the end of the meeting.

Chief Jamieson stated we have fewer officers on the streets now to issue citations, and the City of Piqua has to share the revenue received with Miami County on citations issued. This would be a revenue enhancement for the City, but that is not the primary focus for the program. The main reason is public safety. Cameras have been proven useful in several other surrounding communities, utilizing them in various ways, said Chief Jamieson.

Locations for the cameras was discussed with Chief Jamison stating he feels the locations should not be set by an Ordinance, but by the City Manager designating the location with the recommendation of a committee or the Commission. Law Director Wall explained if done by an ordinance it could be defined to give the City Manager the authorization to set the location. Commissioner Martin stated he read that red light cameras cause more accidents. Chief Jamison stated he would be interested in reading the information Commissioner Martin spoke about.

There was discussion on the use of the Speed Trailer, Phantom Police Car # 39, and the hand held Radar Gun, and how effective they have been in the past. The use of signs notifying motorist they were entering a Speed Zone, and the various locations the cameras could be mounted was explained.

Chief Jamison stated the Police Department issued 1,666 traffic violations in 2009, and estimated if the cameras are installed the number would raise to 2,500 to 3,500 annually, with a projected revenue of around \$150,000 to \$320,000 possible.

Chief Jamieson explained how the citations would be issued and who would receive them. The owner of the vehicle would be issued the civil citation, not the driver of the vehicle at the time of the violation. There is no way to distinguish who is driving the vehicle, said Chief Jamieson. Commissioner Wilson asked if it could be proven he was not the driver at the time of the citation would he still receive it. Chief Jamieson stated yes. The citation is issued to the registered owner of the vehicle, regardless who was driving it at the time of the violation.

Law Director Stacy Wall stated the citations issued through the camera system would be civil not criminal, and explained the difference between a civil and a criminal citation. Ms Wall further stated with the civil citation the owner would not receive points on their license, and their insurance companies would not be notified. It was stated it is the registered owners responsibility to pay the citation. Chief Jamison stated other surrounding counties also cite the registered owner.

Chief Jamison explained how the automated traffic enforcement would be set up, and what the benefits would be to the City of Piqua if they decide to pursue the use of the cameras. The vendor would supply the cameras at no cost to the City and would receive a set portion of the fees collected. There was discussion on nonpayment of the fees and how it would be handled. Chief Jamison stated the camera footage would

be reviewed either by the vendor, or by a Police Officer in the Police Department, Chief Jamison explained the difference and the benefits of having a local officer reviewing the footage.

Chief Jamison cited several trouble locations that would benefit from the use of the cameras, such as Looney Road and Ash Street, Covington Avenue and Sunset Drive. It was stated with the use of the cameras in these high traffic areas officers would not have to be sitting and could be assigned to other areas.

Commissioner Wilson voiced his concern over the use of the cameras stating he feels it could become a big issue with citizens and the image of the city. Mayor Fess stated we need to help the Police Department do more with less, and would like to put the information out to the community first. Commissioner Wilson stated he would like to get the reaction of the community first and get more information before making any decision. Commissioner Wilson asked if either Troy or Sidney have looked into this type of enforcement? City Manager Enderle stated no, not that he was aware of, but they have more Police Officers on the streets.

City Manager Enderle stated he would schedule another Study Session to review the Automated Traffic Enforcement System in a few weeks after receiving feedback from the community.

Mayor Fess stated community safety is the first priority. It was the consensus of the Commissioners present to seek public feedback and to receive more information before making any commitments at this time.

Moved by Commissioner Martin, seconded by Commissioner Wilson, to adjourn from the Piqua City Commission Work Session at 8:50 P.M. Voice vote, Aye: Wilson, Martin, Hudson and Terry. Nay: None. Motion carried unanimously.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

**MINUTES  
PIQUA CITY COMMISSION  
Tuesday July 6, 2010  
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Martin, Vogt, Terry, and Wilson. Absent: None.

**REGULAR CITY COMMISSION MEETING**

**Consent Agenda**

**Approval of Minutes**

Approval of the minutes from the June 15, 2010 Regular City Commission Meeting.

Moved by Commissioner Terry, seconded by Commissioner Martin, that the minutes of the Regular City Commission Meeting of June 15, 2010 be approved. Voice vote, Aye: Wilson, Fess, Terry, Martin, and Vogt. Nay: None. Motion carried unanimously.

**Old Business**

**ORD. 15-10 (3rd Reading)**

An Ordinance amending Chapter 55 of the Piqua Municipal Code Stormwater Management

City Manager Enderle stated this is the third reading of the Ordinance, and briefly stated this clarifies the billing. Single family properties shall be billed on a per unit basis at one (1) ERU per month and duplexes, will be billed on a per unit basis of one-half (1/2) an ERU per month.

**Public Comment**

Al Grau, Greene Street, came forward and voiced his opinion and concerns with the Stormwater Management and the maintenance that would be required in order to sustain the Stormwater system. It needs to go back to the way it was, said Mr. Grau.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Ordinance No. 15-10 be adopted. Roll call, Aye: Vogt, Martin, Terry, Fess and Wilson. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 15-10 adopted.

**ORD. NO. 17-10 (3rd Reading)**

An Ordinance authorizing the submission of a proposed amendment to Piqua Charter Sections 66 and 68 Police and Fire Services

City Manager Enderle stated this is the third reading of Ordinance 17-30 and is the result of the Charter Review Committee's recommendations.

Section 66: Police Force. Shall Charter 66 be amended to eliminate the mayor's responsibility in an emergency with regards to the command of the Police Department.

Section 68: Fire Force. Shall Charter Section 68 be amended to eliminate the mayor's responsibility in an emergency with regards to the command of the Fire Department.

City Manager Enderle gave a brief summary of the ordinance and stated Ordinance No. 17-10 and the next two Ordinances 18-10 and 19-10 are the recommended changes made by the Charter Review Committee. These changes include:

Section 5: President of Commission, Mayor  
Section 6: Salary of Commission Members and Mayor  
Section 8: Rules of Commission

Section 32: Removal of Officers and Employees  
Section 41: Qualifications and Duties of Law Director

Section 66: Police Force  
Section 68: Fire Force

### **Public Comment**

No one came forward to speak for or against Ordinance No.17-10.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Ordinance No. 17-10 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 17-10 adopted.

### **ORD. NO. 18-10 (3rd Reading)**

An Ordinance authorizing the submission of a proposed amendment to Piqua Charter Sections, 5,6 and 8 The Commission

City Manager Enderle stated this is the third reading of Ordinance No. 18-10, and is also a result of the Charter Review Committee recommendations.

Section 5 President of Commission, Mayor: Shall Charter Section 5 be amended to eliminate the authority of the mayor to take command of the police department in time of emergency.

Section 6 Salary of Commission Members and Mayor: Shall Charter Section 6 be amended to eliminate the vice mayor being paid the mayor's salary during absences of the mayor.

Section 8 Rules of Commission: Shall Charter Section 8 be amended to specify reason when a commission member may be expelled from City Commission.

### **Public Comment**

No one came forward to speak for or against Ordinance No.18-10.

Moved by Commissioner Terry, seconded by Commissioner Martin, that Ordinance No. 18-10 be adopted. Roll call, Aye: Fess, Wilson, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 18-10 adopted.

### **ORD. NO. 19-10 (3rd Reading)**

An Ordinance authorizing the submission of a proposed amendment to Piqua Charter Sections 32 and 41 Administrative Service

City Manager Enderle stated this is the third reading of Ordinance No. 19-10, and is also a result of the Charter Review Committee recommendations.

Section 32 Removal of Officers and Employees: Shall Charter Section 32 be amended to require that any employee who is to be laid off, suspended or removed receive written notice.

Section 41 Qualifications and Duties of Director of Law: Shall Charter Section 41 be amended to require the director of law to have five years of experience as a practicing attorney rather than two years.

The proposed changes are in the interest of the City in defining how an employee is to be notified of a layoff, suspension or removal and increasing the qualifications of the law director.

**Public Comment**

No one came forward to speak for or against Ordinance No 19-10.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Ordinance No. 19-10 be adopted. Roll call, Aye: Terry, Fess, Wilson, Vogt, and Martin. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 19-10 adopted.

**ORD. No. 22-10 (2<sup>nd</sup> Reading)**

An Ordinance to change the street name of portions of Bridge Street and Statler Road

City Manager Enderle gave a brief explanation on the reason for the requested changes, and stated the Planning Commission unanimously recommended this change.

**Public Comment**

No one came forward to speak for or against Ordinance No. 22-10.

After a brief discussion Ordinance No. 22-10 was given a second reading.

**NEW BUSINESS**

**RES. NO. R-79-10**

A Resolution rescinding Resolution No. R-78-10.

City Manager Enderle stated this is a resolution rescinding Resolution No. R-78 that was changed from an Ordinance to a Resolution at the June 15, 2010 Piqua City Commission Meeting.

**Public Comment**

No one came forward to speak for or against Resolution No. R-79-10.

Moved by Commissioner Terry, seconded by Commissioner Vogt, that Resolution No. R-79-10 be adopted. Voice vote, Aye: Martin, Fess, Wilson, Terry, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-79-10 adopted.

**RES. NO. R-80-10**

A Resolution awarding a contract to Cargill, Inc. for the purchase of road salt for the Street Department

City Manager Enderle stated this resolution awards a contract to Cargill, Inc. for the purchase of road salt for the Street Department for the 2010-2011 winter season. This will allow the City to purchase road salt at a very competitive rate, by participating in the joint bid through the SWOP4G.

**Public Comment**

No one came forward to speak for or against Resolution No. R-80-10.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-80-10 be adopted. Voice vote, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-80-10 adopted.

**RES. NO. R-81-10**

A Resolution endorsing the multi-county Advantage Sharing Program proposal

Economic Development Director Bill Murphy gave a brief explanation on how the Advantage Sharing Program works, and the benefits the City of Piqua would receive from belonging to the program.

The Advantage Sharing Program provides grant funding available for participating jurisdictions in order to help promote economic and workforce development activities in the communities in the region. The grant funding must go to any project that helps create or retain jobs in the region and stipulates that 25% of the funding must be paid back to the Advantage Sharing Program.

**Public Comment**

No one came forward to speak for or against Resolution No. R-81-10

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-81-10 be adopted. Voice vote, Aye: Vogt, Martin, Terry, Fess, and Wilson. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-81-10 adopted.

**RES. NO. R-82-10 (Public Hearing)**

A Resolution accepting for statutory purposes a budget for the calendar year 2011

City Manager Enderle gave a brief overview of the revenues and expenditures.

**Public Comment**

No one came forward to speak for or against Resolution No. R-82-10.

Moved by Commissioner Vogt, seconded by Commissioner Martin, that Resolution No. R-82-10 be adopted. Roll call, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-82-10 adopted.

**RES. NO. R-83-10**

A Resolution establishing "Trick or Treat/Beggars' Night" in the City of Piqua

City Manager Enderle stated this establishes "Trick or Treat/Beggar's Night" in the City of Piqua, and this would be observed all over Miami County the same evening.

**Public Comment**

No one came forward to speak for or against Resolution No. R-83-10.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-83-10 be adopted. Voice vote, Aye: Wilson, Terry, Martin, Fess, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-83-10 adopted.

**RES. NO. R-84-10**

A Resolution appointing members to the Stormwater Utility Board

City Manager Enderle stated this appoints five members to the Stormwater Utility Board for various terms.

There was a brief discussion of the appointees and if any of the Commissioners would set on this board. City Manager Enderle stated the Stormwater Utility Board will act like the Planning Commission, Board of Zoning Appeals to set policy changes and rate increases.

**Public Comment**

No one came forward to speak for or against Resolution No. R-84-10.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-84-10 be adopted. Voice vote, Aye: Wilson, Terry, Fess, and Vogt. Nay: Martin. Motion carried on a 4-1 vote. Mayor Fess then declared Resolution No. R-84-10 adopted on a 4-1 vote.

**RES. No. R-85-10**

A Resolution for the sale of Parcel No. N-44-250379

City Manager Enderle explained the reason for the sale of the property, stating it is not a suitable building lot.

**Public Comment**

No one came forward to speak for or against Resolution No. R-85-10.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Resolution No. R-85-10 be adopted. Voice vote, Aye: Fess, Vogt, Terry, Wilson, and Martin. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-85-10 adopted.

**RES. NO. R-86-10**

A Resolution approving the Transportation Review Advisory Council applications to the Ohio Department of Transportation for calendar year 2010

City Manager Enderle stated this resolution authorizes the filing of the City of Piqua's Transportation Review Advisory Council application with the Ohio Department of Transportation. The application requests funding to add an additional lane of travel on Interstate 75 from State Route 41 in Troy to the County Road 25-A (Exit 83) interchange located in Piqua. City Manager Enderle stated this is also supported by Troy and Miami County. The City of Piqua is willing to commit \$15.58 million (which is 20% of the total project cost) for the multi-year project that should start no earlier than January 2014. The total project cost has been estimated to be \$77.94 million.

City Engineer Amy Havenar explained the difference between the Tier I and Tier II phase.

**Public Comment**

No one came forward to speak for or against Resolution No. R-86-10.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Resolution No. R-86-10 be adopted. Voice vote, Aye: Martin, Terry, Vogt, Fess, and Wilson. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-86-10 adopted.

**OTHER**

Monthly Reports – May 2010

Monthly Reports for May 2010 were accepted.

## **Economic Development Update**

Presented by – Mr. Bill Murphy, Assistant City Manager/Director of Economic Development

Mr. Murphy gave a brief power point presentation on several new developments that have occurred recently.

## **Public Comment**

Bill Hogston, Greene Street, President of the Piqua Firefighter's Local 252 came forward and voiced his concern and opinion on the recent announcement of the possible layoff of two firefighters in September 2010. Mr. Hogston read a prepared statement with his concerns. Mr. Hogston stated, "he was forced to come here tonight to take a stand because I have a moral objection and grave concerns about your treatment of the Piqua Fire Department and your plans to cut public safety in our city." Mr. Hogston further stated " we have come to realize that the City government and this commission in particular cannot be trusted to honor their word or to honor a binding agreement that they affixed their signatures to." Mr. Hogston stated it was his understanding that in exchange for the firefighters agreeing to forgo raises during 2009 and 2010, that funds for the departments wages and benefits would be budgeted until the end of the year, meaning the end of 2010. Mr. Hogston commented on the editorial written by City Manager Enderle that appeared in the Piqua Daily Call on Monday, July 5, 2010 regarding the impact of the budget cuts in the Fire Department citing the NFPA standards.

Mayor Fess stated both the Police and Fire Officers and Departments in Piqua are among the best in the region, and are highly trained and dedicated. Mayor Fess further stated she is not at all happy about the fact there may be layoffs, but Safety Services are 74% of the General Fund Budget. Resolution No. 83-09 signed by the Commission and the Firefighters, in Section 1 the Memorandum of Understanding was to be in effect through 8-31-09.

Law Director Wall stated there would not be a legal debate over the interruption of the Resolution and Memorandum of Understanding at his time. Ms. Wall stated she has advised the city that it means contract year and the resolution clearly states that it is tied with the contract through August 31, 2010. The Memorandum of Understanding also indicates in Section 2, Other, that the parties agree that all the remaining articles terms and conditions go through the August 31, 2010. The Memorandum of Understanding would not exist without the contract; they go hand in hand, said Ms. Wall.

Mayor Fess stated she does not feel the Commission let the Firefighters down, they were told if they would come up with a certain dollar amount in cuts there would be no layoffs. Mr. Hogston stated that it is his understanding that that was what was negotiated on last September. This is not a good time, whether you are a citizen, or are on the Fire or Police Department when 76% of the General Fund is dedicated to the Police & Fire, said Mayor Fess. City Administrators and Department Heads have not had a raise in three years, they have forgone those raises in order to help with the city budget.

City Manager Enderle stated both the Police and Firefighters and Officers agreed to one year back, while others agreed to three years, while everyone else has taken a hit on insurance and other benefits that the firefighters and officers have not agreed to take. We cannot sustain the cost of personal at this given pace, there has to be cutbacks. If benefits and salary cuts are not being taken the only alternative is a reduction in personal, said City Manager Enderle. The Fire Department needed to make \$41,000 in sustainable cuts out of the Fire Department budget in 2010, and they did not make them. Recently Assistant Chief Rick Maggert was able to come up with the \$41,000 cuts, and asked City Manager Enderle if by coming up with the required amount of cuts as asked, would it mean no layoffs in 2010? City Manager Enderle stated he told Assistant Chief Maggert, yes, and Assistant Chief Maggert asked if he could tell the officers that. City Manager Enderle stated yes, but that 2011 is another story and that goes for every employee in the City of Piqua. It is going to take the City of Piqua at least five years at best to get back to the 2008 revenues.

Mayor Fess asked if all of the firefighters responded when called in for the fire on June 26, 2010. Mr. Hogston stated he could not answer that. Mayor Fess stated she understood some firefighters work second jobs, and that they do not respond when called in. Mr. Hogston stated he did not know what the case was, but some of the firefighters come in and some don't. Mayor Fess further stated the City has to pay the State 19% of the firefighters wages into their pension, no other employee has that amount paid for them, and now the State is asking the City to raise the amount to 24%. We need to keep the safety services strong, and we do appreciate the firefighters taking the wage freeze along with the Administrators and Department Heads. We all need to work together to make this happen.

City Manager Enderle stated we are ok for the moment, but if revenues continue to dip he cannot guarantee that they will not be looking for more cuts elsewhere. We have a two million dollar deficit now, and need to make sense of what we have.

Commissioner Vogt asked if the citizens of Piqua would support a ¼% income tax for the safety services? Mr. Hogston stated no, he did not believe the citizens would support a ¼% income tax at this time. Mr. Hogston further stated the firefighters made an agreement with the City Manager and the City Commission and there is obviously a dispute over what the agreement is.

Commissioner Vogt stated Assistant Chief Maggert came up with the \$41, 000 cuts necessary to keep the Fire Department going until the first of the year.

Mayor Fess stated she is sorry that the firefighters feel the City let them down, but according to the Law Director the City did not leave them down, that this is a difference of opinion and we have to agree to disagree. Mayor Fess further stated from her standpoint she would do everything she can to make sure the fire department stays strong. When the budget is done this year, I will do everything we can to be sure both Police and Fire get all that can be provided for them. We can't say that is all you are going to want, and we may not get all you want, said Mayor Fess.

Mr. Hogston inquired as to the comment on keeping the fire department strong and to protect public safety, does it mean having fulltime professional firefighters or looking at alternatives? We have discussed volunteers but that is something we do not want to go to. It is still on the table, and something we have to look at, said Mayor Fess. Mayor Fess further stated the Commission has not talked seriously about using volunteer fireman. Commissioner Vogt stated he has been on the City Commission for seven years and has never heard anything about using volunteers.

Mayor Fess stated the other employees have given up their right to cash in sick leave, and other things to meet their budget targets, and asked that the firefighters work with the city to. Mr. Hogston stated just to clarify this, those employees did not give up these things, they really do not have a choice, these are non-represented employees. Mayor Fess stated they did have a choice to make a commitment to find the dollars to meet the target they were given. If we can't meet your demands you can always find another fire department, and we don't want you to do that, we want all of the firefighters, but we just don't have any alternatives to offer at this time, stated Mayor Fess

Brad Boehringer, Mound Street, came forward to voice his opinion on the use of the Automated Traffic system in the City of Piqua.

Mr. Boehringer also voiced his opinion on the City Administration not taking cuts.

Tom Caserta, W. High Street, came forward to voice his opinion on the Fire Fighters and Police Department. Mr. Caserta stated that when you start messing with the troops you are messing with the morale. Mayor Fess stated she supports the firefighters and the police department one hundred percent, and will do everything she can to make sure they stay strong and are compensated, as they should be. However, it comes down to the fact there is just so much money in the coffers, and we have to do what we have to do, said Mayor Fess.

**City Commission Comments**

Commissioner Wilson stated he is concerned about the way the city is being portrayed in the newspaper on going back on their word or that the City and the Commissioners are against public safety. Every Commissioner wants public safety and wants a strong Police and Fire Department.

Commissioner Vogt stated he likes the new look of the Hance Pavilion, citing it was a joint effort to getting the work done. Commissioner Vogt thanked the Parks Department and the city employees for doing such a good job. Commissioner Vogt voiced concern over a letter in the Piqua Daily Call in regards to the Piqua Firefighters and how the Commission was treating them. Commissioner Vogt also voiced concern over the number of homes with high grass and trash, stating this all reflects a bad image on the City of Piqua. Commissioner Vogt stated maybe the Commission should consider a ¼% tax levy for Public Safety.

Mayor Fess thanked the 4<sup>th</sup> of July Committee for putting on another wonderful event in Fountain Park and for the outstanding fireworks display.

Mayor Fess thanked the Firefighters stating the Police and Fire have a direct impact on the City. Mayor Fess stated she appreciates both the Police and Fire Departments, and feels the Commission did not let the firefighters down, stating these are tough times.

Mayor Fess thanked all the Firefighters present at the meeting for attending.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Piqua City Commission Meeting at 9:05 P.M. Voice vote, Aye: Martin, Terry, Fess, Vogt, and Wilson. Nay: None. Motion carried unanimously.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION

**B. OLD BUSINESS**  
**JULY 20, 2010**

➤ **Ord. No. 22-10 (3<sup>rd</sup> Reading)**

**ORDINANCE NO. 22-10**

**AN ORDINANCE TO CHANGE THE STREET NAME OF PORTIONS OF BRIDGE STREET AND STATLER ROAD**

WHEREAS, the Planning Commission has met to study a request to change the street name of portions of Bridge Street and Statler Road; and

WHEREAS, the Planning Commission met in open sessions and took public comment regarding the recommended changes; and

WHEREAS, the Planning Commission after hearing the request and considering the public comments and information provided, recommended that the street name of the subject public right of way improvements be recognized as Garnsey Street; and

WHEREAS, pursuant to Piqua Charter Section 98, street name changes must be adopted by Ordinance by this Commission.

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby takes the action necessary to change the street name of portions of Bridge Street and Statler Road public right of way improvements to Garnsey Street; said name change affecting only those portions of public right of way improvements located within the city of Piqua Corporation Limits, and said portions of public right of way improvements being a continuous through street beginning at the intersection of Main Street and Garnsey Street and ending at the intersection of Staunton Street and Statler Road, as being as further described on the attached exhibit.

SEC. 2: The City Manager shall cause notice of the street name change to be served to all property owners contiguous to the affected portions of street and road right of way.

SEC. 3: This Ordinance shall take precedent over all prior Ordinances or Resolutions pertaining to the street name of the affected portions of public right of way improvements.

SEC. 4: This Ordinance shall take effect and be in force from  
and after the earliest period allowed by law

**Renamed at 6/15/2010 Regular City Commission Meeting as:**

**Resolution No. R-78-10**

**2<sup>nd</sup> Reading 7-6-2010**

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL

CLERK OF COMMISSION



**CITY COMMISSION MEETING REPORT**

*For the Regular Meeting of June 15, 2010*

TO: Fred Enderle, City Manager

FROM: Chris Schmiesing, City Planner

SUBJECT: Recommended Renaming of Portions of Bridge Street and Statler Road

**PURPOSE:**

Act on Planning Commission recommendation to rename a portion of Bridge Street and Statler Road right of way within the City of Piqua corporation limits to correct a street name/address assignment discrepancy.

**RECOMMENDATION:**

Approve the Ordinance to change the name of a portion of Bridge Street and Statler Road to Garnsey Street.

**BACKGROUND:**

Currently the referenced portions of Statler Road and Bridge Street are posted as Garnsey Street and the parcels adjacent to this segment of roadway located inside the City limits use Garnsey Street and Bridge Street address assignments. While the subject roadway segment is one continuous through street, official plat and construction right of way records reflect the roadway as being two separate roadway segments with two separate names, neither of which reflect the street name posted. Because of this discrepancy problems arise when the occupants of the properties located on this stretch of roadway request a response from safety service agencies, utility companies, and others, or simply try to have a pizza delivered to their residence.

**ALTERNATIVES:**

- 1) Approve Ordinance and accept Planning Commission recommendation to rename the subject portions of right of way.
- 2) Defeat the Ordinance and leave the street name discrepancy unresolved.

**DISCUSSION:**

The proposed street name change originated with a request by the residents along this segment of roadway that the street name be studied. After examining the available records and collecting the pertinent information, it became quite evident that discrepancies existed with regards to the applicable street name for this corridor. The proposed street name was presented to the Planning Commission in an open session and public comment was invited. All three of the property owners of the single family dwelling units located along this roadway segment attended the meeting and spoke in favor of the proposed street name change. The only other affected property is occupied by a commercial structure that is currently vacant.

The Piqua Materials business located on the south side of the roadway is outside of the city limits and is not affected by the proposed change. Nonetheless, the Business Manager for the Piqua Materials facilities was contacted by phone by city staff and informed of the street name change being discussed. The Piqua Material representative we spoke with was supportive of the planned street name change and registered no objections.

The proposed street name change, if approved, will reflect the street name already used by the general public to refer to this stretch of roadway and will modify the necessary documents to make official the street name currently in use. This action will remedy a condition that, at the very least, is an inconvenience to the affected property owners, and at its worst may result in dire consequences. The Piqua Materials property located across the roadway is located outside of the city limits and the address assignment for this business will not be affected by the proposed change. Changing the street name will result in a change to the street name currently being used as the mailing address at 3 of the 4 affected properties.

**FINANCIAL IMPACT:**

The proposed street name change will have no fiscal impact on the City.

**COMMUNITY IMPACT:**

The proposed street name change will improve public health and safety and will have a positive effect on the surrounding property owners or the interest of the general public.

**CONFORMITY TO CITY PLANS & POLICIES:**

The proposed street name change is consistent and compatible with all adopted City plans and policies, including the Goal, Principles, and Objectives and Strategies outlined in the Land Use and Transportation chapters of the Plan It Piqua Comprehensive Plan document.



**C. NEW BUSINESS**  
**JULY 20, 2010**

- **Ord.No. 23-10 (1<sup>st</sup> Reading)**
- **Res. No. R-87-10**
- **Res. No. R-88-10**
- **Res. No. R-89-10**

**ORDINANCE NO. 23-10**

**AN ORDINANCE TO VACATE A PORTION OF PUBLIC RIGHT OF WAY KNOWN AS RIVER STREET**

WHEREAS, pursuant to Piqua Charter Section 98, the City Commission adopted Resolution No. 72-10 declaring its intent to vacate a portion of public right of way known as River Street; and

WHEREAS, a notice of the declaration of intent to vacate the subject right of way was served to the abutting property owners and published in the local newspaper; and

WHEREAS, the notice of the declaration of intent stated the time and place at which objections could be presented before the Planning Commission; and

WHEREAS, the Planning Commission met at in open sessions and took public comment regarding the proposed public right of way vacation; and

WHEREAS, the Planning Commission after hearing the item and considering the public comments and information provided, recommended approving the vacation of a portion public right of way known as River Street, as shown on the exhibit and the vacation plat drawing attached hereto; and

WHEREAS, pursuant to Piqua Charter Section 98, vacation of public right of way must be adopted by Ordinance by this Commission.

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby takes the action necessary to authorize and approve the vacation of a portion public right of way known as River Street, as shown on the exhibit and the vacation plat drawing attached hereto.

SEC. 2: The City Manager shall cause the affected portion of right of way to be vacated and all appropriate and necessary legal instruments supporting such action to be properly recorded.

SEC. 3: This Ordinance shall take precedent over all prior Ordinances or Resolutions pertaining to the affected portion of the subject public right of way.

SEC. 4: This Ordinance shall take effect and be in force from and after the earliest period allowed by law

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

REBECCA J. COOL  
CLERK OF COMMISSION



**CITY COMMISSION MEETING REPORT**

*For the Regular Meeting of July 20, 2010*

TO: Fred Enderle, City Manager

FROM: Chris Schmiesing, City Planner

SUBJECT: Recommended Vacation of a Portion of River Street Public Right of Way

**PURPOSE:**

Act on Planning Commission recommendation provided in response to City Commission declaration of intent to vacate a portion of River Street right of way.

**RECOMMENDATION:**

The Planning Commission has recommended approval of an Ordinance to vacate the subject portion of River Street right of way.

**BACKGROUND:**

Unity National Bank owns a parcel known as 218 – 218 ½ E. North Street and desires to sell the parcel. The parcel is occupied by a two family dwelling unit principal structure and a private garage accessory structure. The accessory structure encroaches into platted public right of way located at the rear of the property. The platted right of way width is approximately 40 feet and is identified as River Street. The improvements to this right of way are more typical of what one would commonly refer to as an alley, not a street. The alley improvements favor the northern half of the right of way width and the accessory structure encroachment is situated on the southern half of the right of width and does not interfere with the alley improvements.

**ALTERNATIVES:**

- 1) Approve Ordinance to vacate the subject portion of River Street.
- 2) Defeat the Ordinance and refuse to vacate the subject portion of right of way.

**DISCUSSION:**

The proposed vacation will result in vacating of the southern half of the subject right of way adjacent to the rear of 218-218 ½ E. North Street. This will allow for the vacated right of way being joined with the subject parcel, which will eliminate the encroachment condition that currently exists. This in turn will provide the property owner with a “clean title” and ease the process of selling the parcel and transferring title to the land.

In accordance with section 98 of the City Charter, the Planning Commission has conducted a public hearing to consider any objections to this request and study its merits. At the public hearing there were no objections presented and the Planning Commission determined the

subject portion of right of way is not essential to the public infrastructure systems maintained in this area.

**FINANCIAL IMPACT:**

Approving this request will have no fiscal impact on the City.

**COMMUNITY IMPACT:**

The proposed vacation would have an adverse affect on the surrounding property owners or the interest of the general public.

**CONFORMITY TO CITY PLANS & POLICIES:**

The proposed vacation is consistent and compatible with all adopted City plans and policies, including the Goal, Principles, and Objectives and Strategies outlined in the Land Use and Utilities chapters of the Plan It Piqua Comprehensive Plan document.

**RESOLUTION NO. R-87-10**

**A RESOLUTION AUTHORIZING A PURCHASE  
ORDER TO FRANCIS OFFICE SUPPLY INC. FOR  
VARIOUS OFFICE PRODUCTS**

WHEREAS, Section 34.19 of the Piqua Code permits the purchase of supplies for City departments without advertising when, in the judgment of the City Purchasing Analyst, advertising would not be of any material economic benefit; and

WHEREAS, the operation of Piqua City Government necessitates the purchase of various office supplies; and

WHEREAS, Francis Office Supply Inc. has been determined to be the best vendor for this purpose; and

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A purchase order is hereby authorized in the amount of \$50,000 to Francis Office Supply Inc. for the purchase of various office products;

SEC. 2: The Finance Director is authorized to draw her warrant on the appropriate account of the city treasury in payment for said services rendered not to exceed \$50,000;

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



**CITY COMMISSION MEETING REPORT**

*For the Regular Meeting of July 20, 2010*

TO: Frederick E. Enderle, City Manager

FROM: Beverly M. Yount, Purchasing Analyst

SUBJECT: Francis Office Supply (FOS) Annual Purchase Order Adjustment Request

**PURPOSE:**

Approve the Resolution No. R-87-10 approving the Annual Purchase Order with Francis Office Supply to be increased from \$24,000.00 to \$50,000.00 for the 2010 budget year.

**RECOMMENDATION:**

I am requesting approval of Resolution No. R-87-10 approving the Annual Purchase Order with Francis Office Supply to be increased from \$24,000.00 to \$50,000.00 for the 2010 budget year.

**BACKGROUND:**

We have used Francis Office Supply for general office supplies for many years and have always been pleased with their pricing and customer service. We currently use an annual purchase order with them for anything a department purchases for less than \$500.00. Each department places their own orders and is responsible for spending within their allowed budgets. In past years we have done a Resolution to allow us to spend over the \$25,000 limit with them. Last year, for example, we spent \$53,723.24 with Francis Office Supply.

**ALTERNATIVES:**

- 1) Approve Resolution No. R-87-10 approving the Annual Purchase Order with Francis Office Supply to be increased from \$24,000.00 to \$50,000.00 for the 2010 budget year.
- 2) Do not approve the Resolution and require us to use Staples or Office Depot for all of our office supply needs.

**DISCUSSION:**

- 1) This alternative will allow for us to remain in compliance with our purchasing policy.
- 2) This alternative would force us to find another possible supplier which we would need to satisfy our three quote requirement. This additional supplier may or may not be any cheaper than FOS, but there are no other alternatives within the City limits that I am aware of.

**FINANCIAL IMPACT:**

- 1) The City will be spending money on office supplies that are needed throughout the rest of the year. This allows us to get the best prices for these items and support a local business.
- 2) The City could possibly spend more money if we choose to go with this alternative since FOS would not be an alternative even though their prices may be cheaper.

**COMMUNITY IMPACT:**

We also have annual purchase orders set up with Staples and Office Depot. This still allows each department to get three quotes on all purchases to ensure that we are getting the best prices on what we are ordering. Our local preference policy encourages us to use businesses within the City whenever they are within 5% of the next closest price. We try to order from FOS as much as we can since it is a local business.

**CONFORMITY TO CITY PLANS & POLICIES:**

Passage of this Resolution will allow us to continue operating with our purchasing policy guidelines.

**RESOLUTION NO. R-88-10**

**A RESOLUTION AWARDING A CONTRACT TO SPRINGBROOK SOFTWARE, INC. IN AN AMOUNT NOT TO EXCEED \$920,000 FOR A NEW INTEGRATED MUNICIPAL INFORMATION SOFTWARE SYSTEM INCLUDING DATA CONVERSION, TRAINING, IMPLEMENTATION AND ANNUAL MAINTENANCE FEES.**

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The Commission hereby deems it necessary to replace the municipal information system.

SEC. 2: A contract for said computer software is hereby awarded to Springbrook Software, Inc. as the best, responsible proposer and the City Manager is hereby authorized to execute a contract with said proposer pursuant to contract specifications.

SEC. 3: The Finance Director is hereby authorized to draw her warrants from time to time on the appropriate account of the City treasury in payment according to contract terms, not exceeding a total of \$920,000.

SEC. 4: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



## *CITY COMMISSION MEETING REPORT*

*For the Regular Meeting of July 20, 2010*

TO: Fred Enderle, City Manager

FROM: Cynthia A. Holtzapple, Assistant City Manager & Finance Director  
Dean Burch, Information Technology Director

SUBJECT: New Integrated Municipal Information Software System Including Data Conversion, Training, Implementation and Annual Maintenance Fees

### **PURPOSE:**

Approve the Resolution No. R-88-10 allowing the City Manager to enter into a contract with Springbrook Software, Inc. for the purchase of a new integrated municipal information software system including data conversion, training, implementation and annual maintenance fees. The request for authorization includes approximately 15% contingency for items of work which may be required which are not included in the original plans and specifications.

### **RECOMMENDATION:**

We are requesting approval of Resolution No. R-88-10 allowing the City Manager to enter into a contract with Springbrook Software, Inc. for the purchase of a new integrated municipal information software system including data conversion, training, implementation and annual maintenance fees. Springbrook has developed their software exclusively for the public sector. It is robust, user-friendly, task oriented and gives the user control to design their own workflows, processes and reports. Citizens will be able to make payments and view or request information online. Department processes will be streamlined and the system will provide useful information. Springbrook currently serves over 400 communities nationwide. The privately owned company has been in business for 25 years. They believe in a partnership philosophy allowing the communities they serve to weigh in on future product development and enhancements.

### **BACKGROUND:**

Our current AS400/System 36 was purchased in 1995, the technology and the operating system are approximately 30 years old and has gone beyond its life cycle. Since that time, very few dollars have been spent on the system. Our system lacks current technological enhancements and efficiencies. Initially the AS400 was designed more for manufacturing, medical, and distribution fields. While it is a processing workhorse, it is not user friendly nor able to readily provide useful and needed information. Based on the increased processing demand of the City in recent years, it has reached its maximum capacity. While the support for this system ended years ago, the IT Dept. has been able to make fixes to get us by. Now the time has come for us to purchase a replacement system which would be shared, integrated and user-friendly.

Our goals for the new computer system include to streamline our operations by increasing the productivity of existing personnel and to provide policy makers with essential management information. We will also enhance our services by providing employees with effective tools to successfully deliver the services of government to citizens and other departments. We will contain and/or reduce our costs by increasing our efficiencies. It will also provide clear cost and service justifications for services provided to citizens. The Springbrook software will allow processes to be done within departments at their own pace and schedule, they will no longer be dependent on IT. We will have online retrieval and document attachment options. The system will be able to provide reports that are useful and real-time. If we would ever have a need for disaster recovery, the Springbrook server will remotely set up City operations within 48 hours. These are just a few of the highlights of the new system that will be shared by all City Departments.

Approximately two years ago, we formed an internal computer committee to lead the search for a new municipal information software system. Most every aspect of our city government will be improved including Utilities Billing, Purchasing, Payroll, Human Resources, Finance, Fixed Assets, Inventory, Work Orders, Code Enforcement, Building Permits, Grant Accounting, etc. These are areas used significantly by most City departments.

Barry Strock and Associates was hired to help guide us through this process. We received full system proposals from the following companies: Springbrook Software, Inc., Tyler Technologies, Inc.-Munis, Tyler Technologies, Inc.-Incode Solution, Cogsdale Company, Inc. and partial system proposals from CRW Systems, Inc., Business Automation Services Inc., and Creative Microsystems, Inc. All of these vendors provided a live product demonstration for our computer committee and other end users. Based on staff and committee feedback to the demonstrations, Munis and Springbrook were evaluated to be the two top picks. These two companies provided us another more advanced demonstration, after which we went on two site visits to other communities using these software packages. After these visits, we determined Springbrook was the best fit for us and so in May 2010, Cindy Holtzapple, Lisa Cavender and Robin Hungerford visited Springbrook's headquarters for their annual users conference and independent meetings. They were able to meet and speak with first hand users of the system. This experience helped to solidify our choice of Springbrook as the right company for us. Mr. Strock also accompanied us for the individual company meetings and negotiations.

### **ALTERNATIVES:**

- 1) Approve Resolution No. R-88-10 allowing the City Manager to enter into a contract with Springbrook Software, Inc. for the purchase of a new integrated municipal information software system including data conversion, training, implementation and annual maintenance fees.
- 2) Do not approve the Resolution and accept the risk that our computer system will eventually not be able to accommodate our every day work needs such as Utility revenue billing and collection, general accounting, paying vendors and payroll for employees.

### **DISCUSSION:**

- 1) We plan to move forward quickly. The business plan study phase would begin almost immediately with Finance to be the first department to make the switch over. We plan to run

a parallel system during each module implementation to ensure that everything is working as it should.

2) This alternative will hamper the ability of our City employees to be productive and efficient and eventually the AS400/System 36 will no longer be able to support our operations. Some examples of this are the Utility Business Office operations lacking the ability to expand to add the Storm Water Utility to the citizen's utility bill. We had to take off information just to get it to fit on the current monthly billing statement. They also need more information options to store data on the large power customers. Document archival will allow them to keep signatures, id pictures, etc. with the account information rather than in a drawer in the basement. Human Resources currently is a very manual process. They keep all paper records for worker's compensation, pension, etc. Retaining paper requires significant storage space for all departments. The Springbrook software would guarantee compliance with all local, state and federal regulations. Our Finance Dept. currently takes our AS400 reports and puts the information into self made Excel programs to generate monthly financial reports and the comprehensive annual financial report (CAFR). These processes literally take hours upon hours of staff time to generate. The new computer software, once set up, will generate these types of departmental reports on command with little input or adjustments required by our employees.

#### **FINANCIAL IMPACT:**

1) There is \$1,000,000 budgeted for this purpose in the 2010 budget. While some of this money is set aside for computer hardware, we are only requesting funds for the software portion and annual maintenance fees at this time. The expense is estimated to be funded 65% from Enterprise Funds, 31% from General Funds and 4% from the Street Fund. We are not going to the open market to borrow. We are planning to borrow internally from non-operating funds to pay for this purchase over a ten year period. The borrowing is from funds not available for yearly general operating expenses. The advantage is these funds are currently earning low interest rates and we will pay ourselves a higher market rate keeping the dollars within the City rather than paying an outside financial institution the interest.

2) The City would not be able to put a price tag on the money lost through time and inefficiencies. Our revenue stream would be completely cut-off if the Utility Billing and General Government systems went down. These are both run entirely on the AS400 system currently.

#### **COMMUNITY IMPACT:**

Once we are converted over to our new software system, our processes will be more streamline and efficient. We would be able to provide better customer service in terms of speed, accuracy and knowledge. At their convenience, citizens will be able to view or make a payment on their utility account online. Our processes will involve less paper copies and be mostly electronic which is excellent for the environment and saves us money in copy, paper and postage costs.

#### **CONFORMITY TO CITY PLANS & POLICIES:**

The new integrated Municipal Information Software System supporting all Utility, Enterprise and General Accounting functions has been included in the City's budget for the last two years which reaffirms that City Management and the Commissioners understand the need for this replacement of our computer software.

**AGREEMENT  
BETWEEN  
THE CITY OF PIQUA, OHIO  
and  
SPRINGBROOK SOFTWARE, INC.**

This Agreement (the "Master Agreement") is made as of \_\_\_\_\_, 2010 between the CITY of Piqua, Ohio, a municipal corporation duly organized under the laws of the State of Ohio, having its offices at 201 W. Water Street, Piqua, Ohio 45356 (hereinafter referred to as "CITY") and Springbrook Software, Inc., a corporation duly organized under the Laws of the State of Oregon and authorized to do business in the State of Ohio. Springbrook Software has its principal offices at 111 SW Fifth Avenue, Suite 2900, Portland, Oregon 97204 (hereinafter referred to as "VENDOR").

**WITNESSETH:**

**WHEREAS**, CITY has established the need for a computer system which includes the operating systems software, application software, products and services consistent with and in compliance with a certain Request for Proposal released April 10, 2009 (the "RFP") ; and

**WHEREAS**, in response to said RFP, VENDOR submitted a proposal dated June 24, 2009, which incorporates the RFP; and

**WHEREAS**, CITY is desirous of entering into a contract with VENDOR to provide the aforesaid products and services described in VENDOR's Proposal; and

**WHEREAS**, VENDOR stands ready, willing and able to provide said products and services as stipulated in VENDOR's Proposal, and in accordance with the terms, conditions and provisions of the Contract.

**NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**Article I.****SCOPE AND TERM OF AGREEMENT****Section 1.01 SCOPE OF AGREEMENT.**

CITY hereby retains VENDOR to furnish to CITY the products, services and materials consistent with and in compliance with CITY's Acceptance (as herein defined) described in the VENDOR's Proposal, as are set forth more particularly in the following Exhibits which are attached hereto and made a part hereof, all of which products, services and materials as finally agreed upon are collectively referred to as the "Project":

- **EXHIBIT A: Price List and Application Products List**
- **EXHIBIT B: Annual Maintenance Costs**
- **EXHIBIT C: Timetable - to be completed by mutual agreement of the parties within thirty (30) days after signing the Business Process Study (BPS)**
- **EXHIBIT D: Preliminary Statement of Work**
- **EXHIBIT E: Form of Change Order (as example only)**
- **EXHIBIT F: VENDOR's Software License Agreement**
- **EXHIBIT G: Source Code Escrow Agreement example**
- **EXHIBIT H: VENDOR's Software Support and Maintenance Agreement.**
- **EXHIBIT I: Payment Schedule**
- **EXHIBIT J: City of Piqua Request for Proposal**
- **EXHIBIT K: Springbrook Software response to City of Piqua's Request for Proposal**

This Master Agreement, including Exhibits A through I attached and incorporated herein, including any modifications issued hereafter, constitute the entire contract document between the CITY and VENDOR (the "Contract").

**Section 1.02 CONTRACT**

- (a) The Contract covers the procurement, licensing, implementation, and maintenance understandings between the parties.
- (b) VENDOR has agreed to furnish to CITY the Application/Products (the "Application/Products") described on the Price List and Application Products List attached hereto as Exhibit A. The Application/Products will have the features and functional specifications as described in and governed by the Preliminary Statement of Work attached as Exhibit E.
- (c) VENDOR will complete a Business Process Study or BPS after contract signing. Payment for the BPS shall be made in accordance with Section 4.01 hereof

- (d) The items described in the Exhibits to this Contract set forth the final scope of work, pricing, timetables, deliverables and functions specifications, Named Individuals, and including such other amendments to the exhibits hereto and to this Master Agreement as may be mutually agreed by the parties.
- (e) VENDOR agrees to complete the Project in accordance with the Contract, including the Exhibits, and to provide maintenance for the Project for the pricing set forth in Exhibit B and in accordance with VENDOR's Software Support and Maintenance Agreement attached as Exhibit L.
- (f) The license granted under the Contract shall be in perpetuity, the maintenance provided under the Software Support and Maintenance Agreement shall be for a minimum of five (5) years as specified herein.
- (g) VENDOR and CITY agree that CITY will be a member of VENDOR's Client Advisory Committee pursuant to the addendum attached hereto as Exhibit N.
- (h) Amendments or addenda to the Contract may be executed in writing and signed by duly authorized representatives of both parties to change or modify the Contract.

## Article II.

### GENERAL PROVISIONS

#### Section 2.01 NONDISCLOSURE

VENDOR recognizes that all computer program code, data or other information in the possession of the CITY, including the Software, could be subject to disclosure pursuant to Ohio "Open Records Law". The CITY agrees to use all reasonable efforts to protect the confidentiality of all Confidential Information and not to publish or disclose such information to any third party without the written permission of VENDOR, which permission shall not be unreasonably withheld. "Confidential Information" means the Software and related materials, including Enhancements, which VENDOR specifically designates as proprietary and confidential trade secrets of VENDOR. If any party makes a request pursuant to Ohio "Open Records Law" for public disclosure of VENDOR's Confidential Information being transferred to the CITY hereunder, the CITY shall advise VENDOR of such request promptly and it shall be VENDOR's sole burden and responsibility, at VENDOR's sole cost and expense, to obtain such injunction or other relief from the Courts and to serve notice of same upon CITY to protect VENDOR's claimed exemption under such law. If, upon VENDOR's request, the CITY shall refuse public request for access to Confidential Information, VENDOR's agrees it will defend, indemnify and save harmless the CITY and its officials and employees against any loss, claim, liability or expense arising out of or in any way connected with any claim of violation of Ohio "Open Records Law" involving the Software, including statutory damages and attorneys' fees.

#### Section 2.02 INDEMNITIES

To the fullest extent permitted by law, VENDOR agrees to and shall indemnify, defend and hold harmless CITY, its elected officials, officers and employees from and against any and all claims, losses, damages, causes of action, suits, liens and liability of every kind, (including all expenses of litigation, expert witness fees, court costs and attorney's fees) by or to any person or entity arising out of, caused by, or resulting from the acts or omissions of VENDOR, subcontractors, their respective agents or anyone directly or indirectly employed by any of them in performing work under the Contract. Such obligation shall not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

### Section 2.03 INSURANCE

- (a) VENDOR shall secure and maintain throughout the duration of the Contract insurance of such types and in such amounts as may be necessary to protect itself and the interests of the CITY against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be acceptable to the CITY; but regardless of any CITY review, it shall be the responsibility of VENDOR to maintain adequate insurance coverage at all times. Failure of VENDOR to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation. Insurance companies providing the required insurance policies must be Ohio admitted carriers, have a policyholder's rating of "A" or better, and a Financial Rating of at least "10" or better according to the current Best Insurance Rating Guide. VENDOR shall also provide CITY prior to the commencement of any work satisfactory evidence of Workers Compensation Insurance, including Employers Liability and Disability Insurance meeting at least the minimum Ohio statutory requirements. Satisfactory certificates of insurance shall be filed with the CITY prior to starting any work on the Contract. Certificates shall state that sixty (60) days written notice will be given to the CITY before any policy covered thereby is changed or canceled.

- (i) **Worker's Compensation and Employer's Liability:** This insurance shall protect VENDOR against all claims under applicable state worker's compensation laws. VENDOR shall also be protected against claims for injury, disease, or death of employees, which for any reason may not fall within the provisions of a worker's compensation law. The liability limits shall not be less than the following:

Worker's compensation-----	Statutory Employer's liability
by accident	each accident \$100,000
by disease	each employee \$100,000
by disease	policy limit \$500,000

- (ii) **Comprehensive Automobile Liability:** This insurance shall be written in comprehensive form and shall protect VENDOR and the CITY against all claims for injuries to members of the public and damage to property of others

arising from VENDOR's use of motor vehicles and shall cover operation on or off the site of all motor vehicles licensed for highway use whether they are owned, non-owned, or hired. The liability limits shall not be less than:

Bodily injury/Property damage per occurrence-\$1,000,000

- (iii) **General Liability:** This insurance shall be written on a commercial general liability form which shall protect VENDOR and the CITY for those sums VENDOR or the CITY, its officers and employee as additional insured or VENDOR and the CITY become legally obligated to pay as damages because of bodily injury, death, personal injury or property damage. The limits applicable to the commercial general liability policy shall not be less than the following:

Bodily Injury/Property	\$1,000,000
Damage Each Occurrence	
Aggregate	\$2,000,000

- (iv) **Umbrella:** This insurance shall be written to protect VENDOR and the CITY against all claims in excess of the underlying general liability, automobile and workers' compensation coverage. The umbrella limits shall not be less than the following:

Limit of Liability	Aggregate	\$2,000,000
--------------------	-----------	-------------

- (b) VENDOR and all subcontractors shall furnish the CITY, prior to any award of an agreement, certificates of insurance evidencing the required coverage. Separate insurance certificates need not be furnished if VENDOR and all subcontractors have previously filed with the CITY certificates that are currently in effect. VENDOR or its subcontractors shall perform no work under the Contract after expiration or cancellation of their insurance.
- (c) Throughout the term of the Agreement, VENDOR shall provide the CITY with certificates of insurance evidencing the above stated coverages. The general liability and umbrella insurances must be issued on an occurrence basis and must name the CITY, its officers and employees as additional insureds on a primary basis.

## Section 2.04 COPYRIGHT

VENDOR agrees it will defend at its own expense, any action brought against the CITY to the extent that it is based on a claim that the software supplied by VENDOR infringes a United States patent or copyright and VENDOR will pay any costs which are attributable to any such claims, indemnify and save harmless the CITY and its officials and employees against any loss, claim, liability or expense arising out of or in any way connected with any claim of patent, copyright, or proprietary infringement involving the Software, including consequential damages and attorneys' fees, but only if VENDOR is promptly notified of any such suit or claim and the CITY cooperates in defending or settling the claim or suit. Such defense and payment are conditioned upon the following:

- (a) VENDOR shall be notified promptly in writing by the CITY of any notice of such claim; and
- (b) VENDOR shall have sole control of the defense of any action on such claim and in all negotiation for its settlement or compromise; and
- (c) Should any software sold hereunder become or in VENDOR's opinion be likely to become the subject of a claim of infringement of a United States patent, that the CITY shall permit VENDOR, at its option and expense, either to procure for the CITY the right to continue using such software, to replace or modify the same so that such software becomes non-infringing, or to discontinue using the software and accept their return. If the software is purchased, VENDOR shall grant the CITY a cash refund for such software as depreciated. The depreciation shall be an equal amount per year over a five-year life. VENDOR shall have no liability to the CITY under any provision of this clause with respect to any claim of patent infringement that is based upon the combination of the hardware furnished hereunder with software or devices not provided by VENDOR. This indemnification shall survive the expiration and termination of this contract.

## Section 2.05 TERMINATION

The Contract may be terminated by the CITY upon ten (10) days written notice if VENDOR has materially failed to comply with any of the terms of the Contract. In the event that the Contract is terminated prior to the completion of the Project outlined herein, the CITY shall pay VENDOR to the extent of work performed to the date of written notice of termination, upon receipt and approval of an invoice for payment, together with a statement itemizing actual hours to the tenth of an hour and supporting records of expenses; provided however, under no circumstances shall the CITY be liable to VENDOR to pay for work performed by VENDOR to correct errors made by VENDOR. The CITY reserves the right unilaterally to terminate the Contract without any further liability to VENDOR, if for any reason including if funds are not available and not appropriated for services, supplies or software, upon prior written notice, by regular or certified mail, return receipt requested, to VENDOR. All products and services that have been delivered or provided to the CITY by VENDOR prior to the effective date of said

notice shall be paid for by CITY. The CITY agrees to compensate VENDOR to the extent of work performed to the date of written notice of termination together with a statement as specified above. Notwithstanding any other provisions of the Contract, the CITY shall have the absolute right to terminate this contract without cause and for any reason upon giving twenty (20) days written notice to VENDOR in which event any fees payable to VENDOR by the CITY shall be paid only to the date of termination. VENDOR shall not be entitled to any anticipatory profits in the event of termination by CITY pursuant to this section.

#### Section 2.06 NON-DISCRIMINATION LAWS

VENDOR further agrees that VENDOR shall abide by the Ohio Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to the Project and furnish any certification required by any federal, state or local governmental agency in connection therewith.

- (a) In all solicitations or advertisements for employees, VENDOR shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Ohio Human Rights Commission (Commission);
- (b) If VENDOR fails to comply with the manner in which VENDOR reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, VENDOR shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the CITY;
- (c) VENDOR is found guilty of a violation of the Ohio Act Against Discrimination under a decision or order of the Commission which has become final, VENDOR shall be deemed to have breached the Contract and it may be cancelled, terminated or suspended, in whole or in part, by the CITY; and
- (d) VENDOR shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or VENDOR.

#### Section 2.07 WORK PRODUCT; OWNERSHIP OF DATA

All documents and other work product prepared by VENDOR under the Contract shall be the property of the CITY with the exception of VENDOR's proprietary materials. VENDOR shall be authorized to use all reports, data, or other material prepared by it for the CITY under the Contract, but shall not disclose, nor permit disclosure of, any information designated by the CITY as confidential, except to its employees and other consultants who need such information in order to properly provide the services under the Contract. VENDOR shall not sell or barter or otherwise give or distribute any documents or work product under the Contract without the expressed written consent of the CITY. Data collected on tape or hard copy form supplied by the CITY to be utilized by VENDOR in the computer system data base contemplated herein will remain the property of the CITY, and no use will be made thereof beyond that listed in the Agreement without written permission of the CITY.

## Section 2.08 INDEPENDENT CONTRACTOR/VENDOR

The relationship of VENDOR to the CITY shall be that of an independent contractor, and no principal/agent or employer/employee relationship will be created by the Contract. VENDOR is an independent contractor and shall have no authority, express or implied, to act for or bind the CITY by virtue of anything contained in this contract. Nothing contained within the Contract shall be deemed or construed by the CITY or VENDOR or by any third party to create the relationship of a partnership or a joint venture. VENDOR agrees that it, its agents, servants, employees and subcontractors, are and at all times shall be deemed to be independent contractors, and shall not, in any manner whatsoever, by their actions or deeds commit CITY to any obligation irrespective of the nature thereof, and shall not at any time or for any purpose be deemed employees of CITY.

## Section 2.09 GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Ohio. At the CITY's sole and exclusive option, any dispute arising between the parties may be submitted to arbitration. All disputes arising between the parties resulting in the filing of litigation shall be brought only in the Court of Miami County, Ohio or the Federal District Court of Ohio in Dayton, Ohio.

## Section 2.10 SEVERABILITY

In the event that any term or clause of the Contract is held to be invalid as contravening any law or governmental regulation, then such term or clause shall remain in effect only to the extent permitted by such law or regulation, but the remaining provisions of the Agreement shall continue in full force and effect.

## Section 2.11 AVAILABILITY OF FUNDS

This Agreement is executory only to the extent CITY funds are approved and appropriated. This Agreement shall be subject annually to the availability and appropriation of funds. If the CITY should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the computer system procured pursuant to the Project, or any portion of the Project during its implementation, the CITY may unilaterally terminate any and all contractual or other obligations without any further liability or penalty upon thirty (30) day's notice to VENDOR. Any obligation for payment under the Agreement shall be made solely from appropriated funds. The CITY shall have no legal or equitable obligation to approve any funds in the future and in the event of the CITY's decision not to approve and appropriate any additional funds the CITY shall have no further liability to VENDOR. VENDOR recognizes that the Agreement is approved by the current Governing Body, and not the obligation of any other CITY official, employee, or any other political subdivision or entity.

### Section 2.12 LIFE CYCLE PROTECTION

Vendor will provide Life Cycle Protection (LCP) for Major Functionality for Clients with a current, paid maintenance agreement. Notwithstanding any other agreement between Client and Vendor, the following represents the Terms and Conditions of LCP. All other items not included in this section are not included in LCP.

- Vendor will ensure that major functionality is preserved between major releases. Vendor retains the right to make enhancements, revisions and changes to Major Functionality to meet the needs of entire user base.
- Vendor reserves the right to move Major Functionality from one product to another. In the event the client is not licensed for the product that Major Functionality is to, vendor will provide a license at no cost to the Client for new product.
- Vendor reserves the right to retire certain Major Functionality; Vendor will give Client two year notice of its intent to retire a product.
- In the event that Vendor and Client agree that Major functionality was not included in a new release that was in a previous release, Vendor will incorporate that Major Functionality within 18 Months. At Client's option, Client may stay on their current release until such Functionality is available.

Vendor reserves the right to charge Client for required re-writes of any Custom as part of a New Product Release. Any Custom feature, function, interface, or report, may not be provided as part of the routine maintenance. Springbrook reserves the right to address the availability of such a feature and the possible cost of maintenance agreements.

### Section 2.13 ASSIGNMENT; DELEGATION OF DUTIES; SUCCESSORS

Neither party shall delegate or assign its duties under the Contract without the written consent of the other party, and each party hereby binds itself to the successors and assigns of the other party in respect of all covenants of the Contract. This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.

### Section 2.14 EXTENT OF AGREEMENT

..... Where any conflict arises between the Master Agreement and the Exhibits, the following order of precedence concerning functional details of performance shall be with the last created and agreed upon document: (1) final statement of work signed by both parties; (2) pre-statement of work signed by both parties; (3) the Springbrook proposal that amends the RFP with Springbok's responses; and (4) the initial RFP document issued by the City\:

Where any conflict arises between the Master Agreement and the Exhibits, the following order of precedence concerning legal or pricing considerations, the following order of precedence shall be: (1) Master Agreement, (2) Software License Agreement, (3) Software Maintenance Agreement. \ The Contract may only be amended by written instrument signed by both parties.

Client and Vendor understand that due to the summary nature of Client questions and brief nature of Vendor Responses in an RFP Response, future miss-understandings may arise (Issue). Client and Vendor agree to work together in good faith to find a mutually agreeable solution. Under no circumstances will an Issue be considered breach of contract.

#### Section 2.15 SUBMISSION OF INVOICES

All payments made pursuant to the Contract shall be on the basis of duly verified invoices properly documented and submitted by VENDOR to CITY in the form agreed to by CITY and VENDOR, payable on an arrears basis by CITY within thirty (30) days of their receipt in completed form to CITY by VENDOR. This provision shall not apply to invoices for annual maintenance under the Software Support and Maintenance Agreement, which shall be paid in advance.

#### Section 2.16 BOOKS AND RECORDS

VENDOR shall maintain full and complete books and records of its accounts for CITY in accordance with generally accepted accounting practices and such other records as may be reasonably prescribed, in writing, by the CITY Administrator of CITY. Such books and records shall be retained for a period of five (5) years, and shall at all reasonable times be available for audit and inspection during normal business hours by the CITY or designated representative.

#### Section 2.17 NEWS RELEASES

VENDOR and CITY may issue news releases pertaining to the Project, but only if approved by the CITY and VENDOR. CITY may withhold such approval in its sole and absolute discretion.

#### Section 2.18 TESTIMONIALS; ON-SITE VISITS

CITY is under no obligation to furnish testimonials to VENDOR for reuse and dissemination by VENDOR to third parties in the promotion of sales of its products and services; and VENDOR shall not attribute any statement or communication made by CITY as a testimonial without the prior written consent of the CITY Administrator of CITY. VENDOR shall not arrange or conduct any on-site visits to CITY by prospective clients, employees or agents without the prior consent of CITY. The CITY's CITY Administrator or his designee (CITY Project Manager) shall be the exclusive contact person for all visits and communications (email or telephone).

#### Section 2.19 STEERING COMMITTEE MEETINGS

VENDOR will meet with the CITY representatives at mutually agreed dates and times, in person or via conference call, to conduct steering committee meeting. At each meeting, VENDOR will prepare a report of all activities that have taken place during the past period and project all

activities planned for the successive period. At the end of each meeting, VENDOR will prepare minutes that will include:

- names of attendees
- items covered under old business
- items covered under new business
- updated project timeline to include, as revised, start, end, milestone dates
- list of required commitments by VENDOR
- list of required commitments by the CITY

## Section 2.20 DEFAULT BY VENDOR

(a) Any one of the following events shall constitute an event of Default:

- (i) The abandonment of the Contract or any portion thereof;
- (ii) The abandonment by VENDOR of its management and on-going maintenance as defined herein of the Project in accordance with this Contract for any period of time;
- (iii) The failure of VENDOR to keep, observe or perform any of the other covenants or agreements herein required to be kept, observed or performed by VENDOR, and continued failure to observe or perform any such covenant or agreement after a period of thirty (30) days after receipt by VENDOR of the CITY's written demand; provided, however, that if due to the nature of the default, the same cannot be remedied within said ten-day period, then the CITY shall have the right to terminate this Contract if VENDOR shall have failed to commence the remedying of the same within the said ten-day period or, having so commenced, shall fail thereafter to continue with diligence the remedying thereof;
- (iv) The repeated failure (defined for this purpose at least three (3) such failures within any consecutive twelve-month period) to keep, observe or perform any of the other covenants or agreements herein contained to be kept, observed or performed by VENDOR (provided that notice of such failure shall have been given to VENDOR, regardless whether VENDOR shall have remedied any such failure within the time provided for in such notice);
- (v) The discovery by the CITY that any material statement of fact furnished to the CITY by VENDOR in connection with its proposal for the privilege awarded hereunder is false or materially misleading;
- (vi) Commencement of any insolvency or bankruptcy proceeding (including, without limitation, a proceeding for liquidation, reorganization or adjustment of indebtedness) against VENDOR or any guarantor or surety of this Contract, if an order for relief is entered against such party and the same is not stayed or vacated within thirty (30) days after entry thereof, or if such party fails to secure

a discharge of the proceedings within sixty (60) days after the filing thereof, and City reasonably determines that as a result of such event VENDOR is unable to provide the level of support for the Project committed by VENDOR hereunder;

- (vii) The making by VENDOR or by any guarantor or surety of this Contract of an assignment for the benefit of its creditors or the filing of a petition for or the entering into of an arrangement with its creditors;
  - (viii) The appointment or sufferance of a receiver, trustee or custodian to take possession of all or substantially all of the property of VENDOR or of any guarantor or surety of this Contract, whether or not judicial proceedings are instituted in connection with such appointment or sufferance;
  - (ix) The placement of any lien or levy upon property used by VENDOR in its operations of the Project which is not discharged of record within sixty (60) days, or any levy under any such lien.
- (b) Remedies Upon VENDOR's Default: Upon the occurrence of any Event of Default, as defined above, the CITY, besides any other rights or remedies it may have, shall have the right to terminate this Contract forthwith, and recover immediately from VENDOR all damages proximately caused by VENDOR's default, including without limitation court costs, reasonable expert's fees and reasonable attorneys' fees. No action by the CITY pursuant to this Section, however, shall be deemed to terminate this Contract unless the CITY gives written notice of termination to VENDOR. Regardless of whether the CITY has elected to exercise its rights to terminate this Contract, if any Event of Default shall occur, VENDOR shall pay upon demand all of the CITY's costs, charges and expenses, including fees of counsel, agents and other retained by the CITY incurred in connection with the recovery of sums due under this Contract, or because of the breach of any covenant or agreement of CITY contained in this Contract or for any other relief against VENDOR.
- (c) Other Provisions Regarding Default: The CITY's failure to require compliance with any term or provision of this Contract shall not constitute a waiver of the CITY's rights to require such compliance. No waiver or failure to enforce any covenant or condition or of the breach of any covenant or condition of this Contract shall be taken to constitute a waiver of any subsequent breach of such covenant or condition or to justify or authorize the nonobservance on any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance by CITY of any sums from VENDOR at any time when VENDOR is in default under any covenant or condition hereof, be construed as a waiver of such default or of CITY's rights to terminate this Contract on account of such default, nor shall any waiver or indulgence granted by CITY to VENDOR be taken as an estoppel against CITY, it being expressly understood that CITY may at any time thereafter, if such default continues, terminate this Contract on account of such default in the manner herein before provided.

- (d) All remedies provided in this contract shall be deemed cumulative and additional, and not in lieu of or exclusive of each other or of any other remedy available at law or in equity arising hereunder.

#### Section 2.21 TAX EXEMPT STATUS

The CITY qualifies as a political subdivision of a State of the United States for purposes of Section 103 (a) of the Internal Revenue Code of 1986, and is exempt from state and local income taxation, from federal excise taxes, and from Ohio sales tax. As a municipality, CITY is exempt from the payment of sales tax pursuant to the laws of the State of Ohio. VENDOR shall take all necessary steps authorized by law to eliminate the payment of any and all taxes that may otherwise be due and payable to the State of Ohio in connection with the Contract, and the products and services to be furnished thereunder.

#### Section 2.22 PAYMENT OF TAXES

VENDOR shall pay any taxes assessed arising out of its operation hereunder; provided, however, that VENDOR shall not be deemed to be in default of its obligations under this contract for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute a default.

### Section 2.23 NOTIFICATIONS

Any notices given under the provisions of this Contract shall be in writing and shall be hand-delivered or sent by Registered or Certified Mail, Return Receipt Requested by one party to the other at their respective addresses given below:

**CITY:**

CITY of Piqua, OH  
Attn: CITY Manager,  
201 W. Water Street  
Piqua, Ohio 45356

**VENDOR**

Attn: Marily Rementeria, Managing Partner  
Springbrook Software, Inc.  
111 SW Fifth Avenue, Suite 2900  
Portland, OR 97204

### Section 2.24 LAWS OF THE CITY OF PIQUA

The rights and privileges granted to VENDOR hereunder shall at all times be subject to local laws, ordinances and resolutions of the CITY as the same are now or may hereafter be prescribed through the lawful exercise of its power, including, but not limited to, all applicable provisions of the CITY's policies and procedures as the same may be amended from time to time.

### Section 2.25 RELATIONSHIPS BETWEEN/AMONG VENDORS

VENDOR will be the single point responsibility for the entire project as defined in the Exhibits in this contract. VENDOR may use subcontractors, but VENDOR accepts full responsibility for the subcontractor's performance. VENDOR must identify all subcontractors and VENDOR must describe the type of contractual arrangement that will exist with all subcontractors. VENDOR shall be solely and exclusively responsible for meeting all the terms of the Contract.

### Section 2.26 DELAYS IN SERVICE DELIVERY

Delays in service delivery caused by any bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God, or any other delays deemed by the CITY to be clearly and unequivocally beyond VENDOR's control will be recognized by the CITY. VENDOR may be relieved of responsibility of meeting service delivery as stipulated in the Contract upon VENDOR's filing with the CITY just and true statements requesting an extension or delay in service delivery, signed by VENDOR and giving in detail all the essential circumstances which, upon verification by the CITY, justify such action under the provisions of this section by the CITY.

## Section 2.27 ACCEPTANCE

For purposes of the Contract, the term "Acceptance" shall be defined as follows with respect to each of the categories listed. In each and every case, the acceptance document must have the signature of the CITY's CITY Administrator or his designee (CITY's Project Manager):

Performance tasks and acceptance tests for each software application module will include:

As agreed upon during the Project, the Project Managers for both VENDOR and CITY will log anomalies during the training and acceptance period -- Report on error messages, reporting failures, failures of functions such as menus, variance from VENDOR'S Proposal, interfaces, data conversions, link from application to spreadsheet, universal customer and so on. CITY will log anomalies during the training and acceptance period to include but not limited to error messages, reporting failures, failures of hardware functions. VENDOR will setup and maintain a training/testing application database throughout the contract period.

- (a) Software Acceptance will be conferred on the basis of individual applications and when mutually agreed to, on a partial application basis, as outlined in the Preliminary Statement of Work attached as an Exhibit and as set forth in this section. Accounts payable, accounts receivable, are examples of what constitutes individual applications. The acceptance of the functionality of the software will be conferred in accordance with its ability to complete successfully the requirements set forth in the proposal for Version Seven software, including deliverables and functional specifications, VENDOR's Proposal, acceptance test, the brochures, and the documentation ("Version Seven Proposal"). Acceptance will also be based upon approved specifications, designs, conversion results, mutually approved by the CITY and the VENDOR during the planning, setup and parallel phase of the implementations ("Design"). If during final acceptance of the project a conflict arises between the V7 Proposal and the Design, the Design shall take precedence.

Application software modules as specified in the Final Exhibits hereto will be installed on the computer hardware per the schedule mutually agreed upon in the planning phase. These application software modules will be scheduled for training in a timetable mutually acceptable to both parties, and accepted by CITY when CITY employees are trained in that application and the application performs in conformance with this Contract. As to each stage of work described herein, the CITY'S acceptance and sign off that the work has been completed to CITY'S satisfaction shall be made in writing such acceptance/sign off forms as may be mutually agreed to by the parties.

In connection with acceptance procedures, the parties acknowledge and agree as follows:

- Delay in acceptance of a deliverable may delay the project schedule. Any delay in the schedule resulting solely from a delay in acceptance by CITY, for which CITY has no reasonable basis to refuse or delay acceptance, shall not constitute a breach of this Contract by VENDOR.

- Any requests for products or services by CITY which are outside of the scope of (a) the Version Seven Proposal or the Design, or (b) VENDOR'S standard training and implementation procedures, as same may be modified by this Contract, will require a change order and additional costs may be incurred.
  - CITY was shown older releases of some of VENDOR'S products for the purpose of giving CITY an understanding of what future products may look like. Any verbal or written documentation about those older release products is not considered to be a part of the acceptance criteria in this Contract.
- (b) **Application Software Acceptance.** Application Software will be timely installed by VENDOR on the computer hardware in accordance with the timetable set forth in Exhibit C, to be completed by mutual agreement of the parties within thirty (30) days after the execution of the Master Agreement.
- (i) CITY personnel will be trained by VENDOR in the use of the Application Software. VENDOR shall provide CITY written certification upon completion of the training. CITY agrees to accept the application software with respect to each application installed, of which there shall be a performance period not to exceed thirty (30) working days. The performance period shall commence on the first work day after receipt by CITY that training on the appropriate application software is complete. It is hereby understood that the "performance period" begins after training, implementation consulting, modification development, conversion and documentation is completed, by individual application.
  - (ii) During the Performance Period, as herein defined, CITY shall operate the application software in accordance with CITY's normal (or new, based on BPS findings) operating practices. CITY shall determine during this period if the application software performs in accordance with all specifications set forth in the VENDOR's Proposal; all representations contained in VENDOR's Proposal, the brochures, and the documentation as well as all representations set forth in VENDOR's planning documents. In the event that the application software fails to operate in accordance with the above-stated criteria, VENDOR shall, at the option of CITY and without election of remedies modify or adjust the application software to meet said specifications at VENDOR's expense. The term "Performance Period" means a period of 90 calendar days after all training on the installed software is completed.
  - (iii) After any adjustment or modification, a second performance period shall commence upon written notice of completion of said adjustment or modification. If the application software still fails to meet the criteria within thirty (30) working days of the commencement of the second performance

period, in addition to any remedy contained herein, CITY shall have the right to cancel the Contract.

- (iv) If CITY chooses to cancel the purchase of any application pursuant to this Section, CITY shall receive from VENDOR a refund of all sums previously paid by CITY to VENDOR for license fees applicable to such application and any fees for services paid to VENDOR but not yet rendered by VENDOR. Such refund shall be made by VENDOR thirty (30) days after notice by CITY to VENDOR of such cancellation.
- (v) Immediately upon successful completion of the performance period, CITY shall notify VENDOR in writing, that the application software has been accepted.

**(c) Training Acceptance**

Training acceptance for the hours of training provided by VENDOR must be confirmed by CITY in writing on forms provided by VENDOR. Such training is to be authorized by the CITY's CITY Administrator or his designee (CITY Project Manager), and conducted by VENDOR.

**(d) Final Project Acceptance and Acceptance Remedies**

CITY shall have reasonably determined to its satisfaction the integrated functionality of the components of the Project outlined in this sub-section of the Agreement for a period of sixty (60) consecutive calendar days after all software applications specified in the Final Exhibits hereto are accepted by CITY (hereinafter the "Acceptance Date") and the specified application software shall function per their individual specifications and in a totally integrated manner continuously during said sixty day period (hereinafter the "Testing Period"). When these components are successfully tested, CITY will proceed to make the final payment outlined in Section (a) of the Contract. In the event that CITY conducts the described functionality and integration testing, but does not approve in writing such testing within the Testing Period, or at some later date, the CITY shall have the same remedies as outlined in Section 2.30, Disputes, or the CITY, at its sole discretion, shall elect to allow VENDOR to continue work subject to further functionality and integration testing until accepted. The CITY agrees to conduct the functionality and integration testing commencing with the Acceptance Date. If the CITY fails to commence and conduct such testing for any reason unrelated to the application software itself or to the VENDOR, then the payment contingent upon such testing shall be due 60 days after the Acceptance Date.

**Section 2.28 FIRM PRICES****(a) Transportation, Delivery, Handling and Installation**

All prices for the products and services to be furnished to CITY by VENDOR pursuant to the Contract are inclusive of the costs of transportation, delivery, handling, insurance, uncrating, and installation, with the exception of travel expenses which are billed per diem for meals and actual for all other out of pocket expenses, per IRS Publication 1542 governing allowable reimbursable expenses, as incurred. No charge will be made by VENDOR for any travel time to and from the city.

**(b) Contract Pricing**

VENDOR agrees to furnish to CITY all of the products and services listed in the Final Exhibits hereto at the unit prices stated therein. The maintenance services described in Exhibits attached herein shall be provided through the term of the initial five year maintenance schedule.

**(c) Training Payment Schedule**

Training will be paid by the CITY as follows:

For modules available upon the signing of this Contract, the City will pay 50% of the estimated training upon the signing of this Contract, and the remainder of actual training costs according to the completed training log approved by City when those modules go live. For the remainder of the modules (the ones still in V7 development) the City will pay for training monthly based upon according to the completed training log approved by City.

**Section 2.29 TITLE**

The right to perpetual license for the application software shall pass to the CITY at the time of full payment for the license fee.

**Section 2.30 DISPUTES**

Should any disputes arise with respect to this contract, VENDOR and the CITY agree to act immediately to resolve any such disputes. VENDOR agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under the Contract in the accomplishment of all non-disputed work; any additional costs incurred by VENDOR as a result of such failure to proceed shall be borne by VENDOR, and VENDOR shall make no claim against the CITY for such costs. If VENDOR and the CITY, via the designated representative and VENDOR's Representative, cannot resolve a dispute within thirty (30) calendar days following notification in writing by either party of the existence of said dispute, then the following procedure shall apply:

- (a) Each party shall appoint one person to act as impartial representative in an attempt to resolve the dispute. The appointed individuals shall be of sufficient knowledge and experience to understand and deal with the dispute but shall not be persons assigned to the Project. The set of four (4) individuals consisting of the CITY Project Manager for the Project, VENDOR Representative and the two (2) appointees is called a Dispute Resolution Group.
- (b) The Dispute Resolution Group shall convene no later than fourteen (14) calendar days following written notification of the existence of a dispute and shall meet for a minimum of four (4) four-hour sessions during the subsequent ten (10) work days in an attempt to resolve the dispute. All resolutions of disputes shall be reduced in writing and signed by the CITY's CITY Administrator or his designee and VENDOR Representative. Such resolutions shall constitute modifications to the Agreement and further shall constitute binding agreement between parties. However, any resolution, previous resolution, or aggregation increasing the total Agreement amount by more than ten percent (10%) will require the prior CITY approval.
- (c) In the event that the Dispute Resolution Group fails to resolve the dispute, then either party may assert its other rights and remedies within the Contract or within a court of competent jurisdiction.
- (d) CITY can withhold in an escrow account any fees due VENDOR as a guarantee to resolve said disputes. During this period, VENDOR cannot withhold support, maintenance or hot line support.
- (e) Client and Vendor understand that due to the summary nature of Client questions and brief nature of Vendor Responses in an RFP Response future miss-understandings may arise (Issue). Client and Vendor agree to work together in good faith to find a mutually agreeable solution. In case of any conflict of interpretation, the parties agree that the order of precedence of interpretations shall be with the last created and agreed upon document: final statement of work signed by both parties; pre-statement of work signed by both parties; the Springbrook proposal that amends the RFP with Springbrook's responses; and the initial RFP document issued by the City.

### Section 2.31 AUTHORIZATION TO PROCEED

This Agreement and all Final Exhibits to this Agreement to be signed when the BPS has been completed and the parties are in agreement as to the final scope of work and timetables and the Final Exhibits and any amendments to the Master Contract must be signed by CITY Administrator and Finance Director prior to authorizing VENDOR to proceed with the installation of successive application modules. VENDOR and CITY shall coordinate implementation schedules contained in Final Exhibits hereto and may, by mutual agreement, amend said schedules as necessary, by execution of amendments by the City Administrator and Finance Director. Subject to the availability of approved and appropriated funding, CITY will not unreasonably withhold authorization and will not unreasonably delay initiation of phases. This representation shall not create or impose upon the CITY any obligation, duty or liability to VENDOR to approve and appropriate any funds beyond those actually approved and appropriated.

### Section 2.32 ACCEPTANCE CERTIFICATES

Each phase will have pre-defined payment terms which will require the signatures of the CITY's CITY Administrator or his designee (CITY Project Manager) as a prerequisite of authorization of payment. CITY will not unreasonably withhold acceptance certification.

### Section 2.33 PERMITS AND LICENSES

VENDOR shall secure and take out all necessary licenses, certificates and permits from any municipality or other public authority, which may be required in connection with the work contemplated by the Contract, or any part thereof, and shall give all notices required by any statute, law, ordinance, rule or regulation. CITY shall notify VENDOR of any known requirements but the burden remains upon the VENDOR to secure any required permit or license.

### Section 2.34 WORK CHANGES

The terms, provisions and conditions of the Contract may only be modified or changed if said modifications or changes shall be in writing and signed by both parties in the form of "Change Order" attached hereto as Exhibit I. CITY reserves the right to order work changes in the nature of addition, deletions or modifications, without violating the Contract, and agrees to make corresponding changes in the Contract price consistent with Exhibits in the Contract. VENDOR shall be consulted with regard to any work changes to ascertain the feasibility of said change and to coordinate said change with the balance of the Project. In the event that CITY shall elect to purchase fewer software applications than the quantities listed in the Final Exhibits hereto - it shall have the right to do so at the unit price shown for said item therein. All changes shall be authorized by written change orders signed by the CITY's CITY Administrator or his designee (CITY Project Manager) of CITY, as authorized by the CITY. The change order will include conforming changes in the Agreement. CITY cannot request any changes without VENDOR's written approval once work has been initiated on services and application software modifications. The CITY may desire additional items beyond those itemized in the Contract. These may be additional applications desired but not requested in the RFP, etc. The CITY may submit written change orders to purchase these items. This is not to be used for pricing errors or items that are scheduled already as deliverable.

### Section 2.35 MANUALS AND DOCUMENTATION

Concerning all applications software, VENDOR shall provide searchable on-line user manuals. As long as maintenance agreements are in force, VENDOR further agrees to make available to CITY at no additional cost any updates and/or revisions to on-line manuals published and/or released during the term of the Contract.

### Section 2.36 VENDOR'S RESPONSIBILITY

It is understood and agreed that VENDOR shall furnish to CITY a complete, fully operational application software system, in accordance with but not limited to the details contained in the Exhibits. In the event that VENDOR's Proposal includes software developed by another VENDOR, manufacturer or supplier, VENDOR shall assume responsibility for such items offered as part of said proposal, and installation of VENDOR provided third party software. Manufacturer and/or supplier or other subcontractor shall contract directly with CITY for on-going maintenance support. Except as specifically referenced in the Contract, VENDOR shall be responsible for carrying out its obligations and responsibilities pursuant to the Contract, and shall be the only entity to receive payment for same from CITY.

VENDOR, jointly with CITY, shall approve in advance and in writing all form layouts, paper quality and design to assure their compatibility with the computer's operating system, software and printers. VENDOR and CITY shall be responsible for implementing all aspects of the Contract, including the technique, sequence, procedures and means of coordination of the work, and shall provide all supervision and direction necessary to accomplish same. VENDOR shall provide all manner of labor, materials, apparatus, appliances, tools, machinery, transportation

and whatever else may be required to do and complete the work, and shall be responsible for same, and for the safe, proper and lawful installation, maintenance and use thereof.

VENDOR and CITY shall protect the work sites and work from damage, and shall make good all entry to same occurring before the completion of the work to be performed under the Contract. All on-site work shall be approved and scheduled in advance by the CITY's CITY Administrator or his designee (CITY Project Manager) of CITY. VENDOR and CITY shall comply with all applicable statutes, laws, ordinances, rules and regulations relating to the performance of the work hereunder. If any portion of the Contract is at variance therewith, VENDOR and CITY shall promptly notify the other party upon discovering same.

### Section 2.37 CITY'S RESPONSIBILITY

CITY will fully cooperate with and assist VENDOR in the performance of its responsibilities under the Contract. As part of CITY's responsibilities, it will designate a qualified staff member who will be the CITY's Project Manager, and who will have authority to act for CITY and provide VENDOR with necessary information and data concerning CITY's operations and activities.

The CITY and VENDOR will agree to a project schedule. The timeliness of the CITY completing their tasks will affect our ability to perform our tasks in a timely manner. Should the CITY slip a deadline, VENDOR's affected milestones will be slipped appropriately without cause by the CITY.

The CITY will:

- Have responsibility for populating data files provided by VENDOR (i.e., pre-formatted Excel file for data to be converted).
- Provide staff to help define all appropriate flows, rules and processes
- Do whatever else is mutually agreed to by both parties during the planning and implementation phases

### Section 2.38 TIME OF PERFORMANCE

It is expressly understood and agreed that time is of the essence in the Contract. VENDOR shall commence performance of the Contract within sixty (60) days of the date of execution of the Contract by CITY, and shall furnish the professional services and materials set forth in the Contract, within the time periods set forth herein.

**Article III.****DEFINITIONS**

## Section 3.01 DEFINITIONS

For purposes of the Contract, these terms have the meanings indicated:

**Acceptance** means the test applied and approved by CITY prior to payment for any item. Acceptance means that all functions as proposed in the Final Exhibits hereto shall perform accordingly.

**Acceptance Certificate** means a certificate in the form mutually agreed by the parties evidencing the CITY's acceptance of each software application.

**Access Agents** are defined as a license for casual users to access the Vendor System.

**Application/Products** means the software applications and products described under the column labeled "Application Products" in the Price List and Application Products List attached hereto as Exhibit A.

**Application Software** is each separate software application/product specified as such in the Final Exhibits hereto.

**Authorization to Proceed** is a formal document that is signed by CITY prior to VENDOR ordering any products or services.

**Casual Users** are defined as users who access the vendor software less than two hours a week.

**CPU** means the processing unit to be installed at CITY.

**Custom** means a modification or addition that, when made or added to the Software, materially changes its utility, efficiency, functional capability, or application, does not constitute an Error Correction, does not constitute a New Product Release, and is made specifically and only for Client rather than all clients as a whole.

**Documentation** means the formal printed paper manuals and electronic versions that include descriptive materials and on-line or other electronic versions of screen displays of all applicable screens and screen choices in the proposed and modified application software.

**Final Exhibits** means the final exhibits to be completed and attached hereto and made a part of the Contract upon completion of the BPS and agreement by both parties as to the final terms specified in those exhibits, including, scope of work, deliverables functional specifications, timetable and pricing.

**Installation Activities** means any and all software configuration activities, software loading, software testing, etc., whether performed at CITY of Piqua, Ohio or at VENDOR's site.

**Major Functionality** means standard reports, standard forms and major product features and functions that were included in the products at the time of initial implementation of licensed products.

**Migrate Software** means that all screens, reports, functions and calculations that were included in the Final Exhibits hereto shall be fully functional on the server and operating system installed by VENDOR.

**Named Users** are defined as Specific users that are granted access to the Vendor Software. These Licenses are assigned to specific individuals and cannot be shared. Named users are users that need more than two hours a week of access to the Vendor Software.

**Perpetual License** means an irrevocable, unconditional license granted to CITY in perpetuity at no additional fee, by VENDOR and permitted subcontractors of the software applications, the terms of which are binding upon the owner, its heirs, assigns and successors-in-interest.

**Product** means software, documentation, including manuals, and any other information confidential to VENDOR or its licensors.

**Proprietary Information** means information developed by VENDOR that is alleged and noted as proprietary information.

**RFP** is the Request For Proposal issued by CITY.

**Software** means the source code and compiled object code version of computer programs and any related documentation, excluding maintenance diagnostics.

**Third Party Software** means any software not developed by VENDOR.

**Training** means dedicated professional education about all software listed in this agreement. Training may consist of both structured classroom training and individual operator training and assistance in "live data" situations. Training does NOT include fit analysis and installation activities. A log shall be signed daily by VENDOR and CITY affirming hours expended by VENDOR.

**Workstation** means a CRT, VDT or Personal Computer.

**Article IV.****PAYMENT****Section 4.01 PAYMENT**

The payment schedule is as follows:

(a) BPS services will be performed for the fixed amount of \$15,000 plus travel expenses. No charge will be made by VENDOR for any travel time. Payment for BPS services is as set forth in Exhibit I. Travel expenses incurred by VENDOR in connection with BPS services shall be reimbursed by CITY and shall be due within thirty (30) days after such expenses are invoiced by VENDOR to CITY. All invoices for travel expenses shall be accompanied by evidence satisfactory to CITY of actual costs incurred.

(b) Third party "Progress Database Manager Software" is being furnished by VENDOR. Terms of payment for this software license are set forth in Exhibit I.

(c) **SOFTWARE LICENSE AND MAINTENANCE PAYMENTS** (to be paid for EACH application separately):

The Application License Fee for each Application/Product is set forth in Exhibit A under the column labeled "Application License Fees" and is payable as described in Exhibit I under the column labeled "Payment Schedule".

Annual Maintenance Costs for each Application/Product are set forth in Exhibit B and are payable as set forth in Exhibit B under the column labeled "Maintenance." Annual Maintenance Costs for Application/Products which may be added to this Contract by change order, if any, shall be payable as set forth in the change order.

(d) **TRAINING/CONSULTING/IMPLEMENTATION  
MANAGEMENT/CONVERSION AND TRAVEL**

Except as otherwise provided in with respect to training in Section 2.28(d), payment for completed training, consulting, implementation management and conversion hours will be paid monthly according to logs with close adherence to next CITY billing and VENDOR payment cycle.

The CITY will be billed only for actual work hours for training, consulting, implementation management and conversion, regardless of estimates of hours and costs for these activities set forth in Exhibits A and I.

VENDOR will keep a log of training/consulting/implementation/conversion hours, and users will be required to sign daily training sheets. The CITY will not be billed for non-training consulting activity performed during designated training time. Billable training and consulting and implementation management and conversion activities are defined in VENDOR's Proposal to the CITY and include certain remote hours prior to or between training sessions wherein trainer is assisting CITY with set-ups and data verification or responding to CITY's calls for remote training/consulting guidance. Non-billable training and consulting time is defined as on-site time spent by VENDOR's personnel to identify and correct any defect in the products, or trainer breaks.

Training, consulting, implementation management and conversion activities are charged at fixed rate of \$150 per hour.

Onsite training events shall include not less than eight (8) hours.

The total cost of all training to be furnished by VENDOR to CITY under the Contract is based on an average class size of 10 CITY employees participating in each one time session. Exceptions to this class size include sessions on Time Card Entry, Requisitions, overall system functionality and certain work flow processes. CITY shall pay VENDOR for all training on an on-going basis as used, in arrears upon the submission of duly verified claim forms or vouchers. All hours of training must be approved in writing by the CITY's CITY Administrator or his designee (CITY Project Manager) of CITY in order to be reimbursable; and no payment for training shall be made in the absence of said approval.

The total cost of all training to be furnished by VENDOR to CITY under the Contract is irrespective of the number of CITY employees participating in such training at a given time. CITY recognizes that a reasonable class size is ten students maximum per class. CITY shall pay VENDOR for all training on an on-going basis as used, in arrears upon the submission of duly verified claim forms or vouchers. All hours of training must be approved in writing by the CITY's CITY Administrator or his designee (CITY Project Manager) of CITY in order to be reimbursable; and no payment for training shall be made in the absence of said approval.

No charge will be made by VENDOR for any travel time.

No employees of VENDOR shall be on-site at CITY without the prior permission and personal on-site check-in to the CITY's CITY Administrator or his designee (CITY Project Manager).

CITY will allow VENDOR access to work-site in early morning and evening hours to expedite installation. VENDOR may, with CITY approval, enter conversion data to further enhance the conversion process. VENDOR agrees to coordinate all activity with CITY on a daily basis. VENDOR will submit vouchers to the CITY's CITY Administrator or his designee (CITY Project Manager) on a monthly basis for reimbursement.

#### Section 4.02 NON-PAYMENT

As defined by the terms of the Contract, if VENDOR is not compliant with the deliverables, the CITY can withhold with cause payments for deliverables that are not compliant until such deficiencies are remedied. During this period of non-payment, VENDOR is still obligated to provide the agreed upon maintenance and support. The CITY must give written notice of intent to withhold payment, and VENDOR must resolve outstanding issues within thirty days.

DRAFT

## Article V.

### SOFTWARE ISSUES

#### Section 5.01 SOFTWARE LICENSE

Simultaneously with the execution hereof, VENDOR and CITY will execute a Software License Agreement in the form attached here to as an Exhibit, pursuant to which VENDOR will grant to CITY a non-exclusive, perpetual license to the Software on the terms and conditions set forth therein.

#### Section 5.02 SOFTWARE MAINTENANCE

Simultaneously with the execution hereof, VENDOR and CITY will execute a Software Support and Maintenance Agreement in the form attached here to as an Exhibit, pursuant to which VENDOR will maintain the Software on the terms and conditions set forth therein. Where any conflict arises between the Master Agreement and the Software License Agreement attached as Exhibit K, the Master Agreement shall prevail.

#### Section 5.03 WARRANTIES FOR APPLICATION SOFTWARE

VENDOR warrants that the Application Software after modification, but before acceptance by CITY, will meet the functional and performance specifications described in the Contract. VENDOR hereby expressly warrants that prior to CITY's acceptance of any deliverables pursuant to the Contract, all delivered programs, documentation, reports and other items will be properly functioning and compliant with the terms of the Contract. VENDOR's liability with respect to said warranty is limited to the correction of errors and defects in the application software system, which VENDOR shall correct or replace within a reasonable time after written notification of said deficiencies by CITY. In the event that VENDOR or its authorized subcontractor fails or refuses to repair an identified error, deficiency or defect within a reasonable time after written notification by CITY, CITY may, at its option, cause same to be repaired or corrected; and VENDOR shall be required to reimburse CITY for any reasonable costs resulting therefrom. See software manufacture warranties. Software is escrowed.

#### Section 5.04 APPLICATION SOFTWARE MAINTENANCE

##### (a) Application Software Maintenance Extended to Five (5) Years

Application software maintenance shall be billed initially by each application and shall begin as described in an attached Exhibit. Applications software maintenance shall include at no additional charge to CITY during the five year maintenance period the complete and timely alteration of any and all applicable software changes that are required or mandated

by the State of Ohio, the Federal Government, the Courts or any federal or state regulatory agencies.

VENDOR agrees to be the prime contractor for all software applications purchased from VENDOR. VENDOR will acquire, deliver, install and certify the proper operation of the software on a turnkey basis. This includes:

- Acting as a single point of contact for software installation and integration issues, and software support issues, for all items purchased from VENDOR;
- Install, setup, configure, certify, and document application system software modules;
- Install, setup, configure, certify, and document third party software on servers and all workstations as appropriate;
- Demonstrate system performance according to acceptance criteria;
- Provide application system support and maintenance on application software provided by VENDOR

The Software Support and Maintenance contract will be pro-rated to fit the CITY's budget year.

**(b) VENDOR Response Time**

VENDOR agrees to provide a maximum 4-hour response time to acknowledge a non-emergency software support call, 2-hour maximum for emergency calls, and will make every attempt to correct reported software problems that are causing the VENDOR the inability to move forward with required processing within 24-hours from the report call to fix the reported software problem. If the reported problem is mission critical (payroll processing, year-end processing, tax billing), VENDOR will expedite support and service on a priority basis to CITY.

**(c) Application Software Support and Maintenance Features**

Application Software Maintenance will include as a minimum:

- Cost of all labor and materials
- On-line repair if necessary of application software commencing with date of delivery to CITY;
- A maintenance program and servicing network available to supply such maintenance on a "4 hour response" basis, or that of the following morning in the case of a late afternoon trouble call, for business hours, excluding holidays and weekends.

**(d) Application Software Support and Maintenance: Hours of Availability**

VENDOR will make Maintenance and Support services available to CITY during standard business hours as defined in CITY Central Standard Time, Monday through Friday except for recognized holidays. VENDOR will extend availability of service coverage for weekend coverage provided CITY provides at least a week notification of the need for such coverage and agrees to pay the surcharge identified at the time of notification.

#### Section 5.05 THIRD PARTY SOFTWARE

VENDOR agrees to be the initial responder to CITY calls for service to determine if the cause for problems with the running of software applications are related to hardware, operating system, Springbrook software, third party software, or communications causes. VENDOR is providing third party software from other vendors. Third party software products shall carry the full warranties provided by the licensor. The database management software maintenance includes telephone support and any enhancements released during the term of the Agreement and will continue provided that CITY maintains in full force and effect a Software Maintenance Agreement with the licensor. VENDOR, as authorized agent for third party software, shall be responsible for furnishing to CITY third party software support.

#### Section 5.06 FEDERAL, GASB, AND STATE REPORTING

VENDOR also agrees to provide to the CITY, at no additional cost, enhancements due to changes to federal, GASB, state, or any federal or state regulatory agencies reporting requirements in a timely manner while maintenance agreements are operational.

#### Section 5.07 SECURITY OF APPLICATION SOFTWARE

CITY will protect the confidential nature of application software by establishing written procedures with respect to CITY's employees who are permitted access to application software or take reasonable efforts to prevent the application software from being acquired by unauthorized persons. CITY will promptly notify VENDOR of any unauthorized person(s) having access to application software.

#### Section 5.08 SOFTWARE MAINTENANCE PRICES

It is understood and agreed that software maintenance annual prices quoted in the proposal shall be firm for five years from the date of installation.

#### Section 5.09 NON-STANDARD SOFTWARE CHANGES

Any changes, modifications or enhancements to said software during the period of the Contract which are initiated by CITY shall be at a price mutually agreed to by the parties. Any changes to software performed by VENDOR will be supported in all future releases without extra fee if software maintenance is in effect.

#### Section 5.10 Intentionally omitted

Section 5.11 OPERATING ENVIRONMENT

VENDOR shall review and provide written approval or rejection of the CITY's site preparation plan and operating environment. VENDOR shall provide written minimum standards for any backup hardware requirements. CITY agrees to install an uninterruptable power supply (UPS) or battery backup with power conditioning or other VENDOR defined equipment to prevent power interruptions and power surges from damaging the hardware or software.

Section 5.12 LICENSE EXCEPTION

In the event the CITY desires to use non-CITY employees to review the Software's proper installation and operation according to VENDOR's specifications, VENDOR will provide written exception to such person(s). Such person(s) will be required to sign an agreement of software non-disclosure to obtain the exception.

Section 5.13 QUIET ENJOYMENT

The CITY shall be entitled during the term of this license and all renewals to the use of the package without disturbance subject only to its obligation to make the required payments hereunder. VENDOR represents that the Contract is not subject or subordinate to any right of VENDOR's creditors.

Section 5.14 VENDOR COMMITMENT

VENDOR shall maintain and upgrade the application software at its current or public-released level and insure that the application software is compliant with all third party software products needed to operate, optimize, interface or integrate the application software at no additional charge to CITY as long as a Software Maintenance Agreement is in effect between VENDOR and CITY. During such period VENDOR will furnish to CITY, at no additional charge, all new upgrades, releases, or replacement software for the licensed software applications. VENDOR's obligation shall be exclusive of any third party or hardware costs, or training, conversion or other services required, which may be separately charged to CITY.

**IN WITNESS WHEREOF**, VENDOR and CITY have each executed this Master Agreement on the dates written below.

CITY OF PIQUA, OHIO

By: \_\_\_\_\_  
Fred Enderle, City Manager  
Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_, CITY Clerk

Dated: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_, City Attorney

Dated: \_\_\_\_\_

SPRINGBROOK SOFTWARE, INC.

By: \_\_\_\_\_

Marily Rementeria, Managing Partner

Dated: \_\_\_\_\_

DRAFT

EXHIBIT A: Price List and Application Products List



. Net Investment Pricing Proposal for City of Piqua, Ohio

Application/Products	Application License Fees	Training & Consulting	Project Management
Finance Suite (GL, AP, ACH, Bank Rec, Bdg)	\$24,000	\$10,000	\$3,000
Extended Budgeting & Forecasting	Included	\$1,000	\$500
Standard Federal/State Reporting	Included	\$1,000	\$500
AP Electronic Check Signature	Included		
Purchase Orders	\$5,000	\$1,500	\$500
Payroll	\$15,000	\$10,000	\$3,000
Decentralized Time Entry	Included	\$1,500	\$500
PR Electronic Check Signature	Included		
Human Resources	\$15,000	\$7,500	\$2,500
Position Budgeting	\$5,000	\$1,500	\$500
Project/Grant Accounting	\$7,500	\$5,000	\$2,000
Fixed Assets	\$7,500	\$1,000	\$500
Miscellaneous Accounts Receivable	\$5,000	\$1,500	\$500
Central Cash Management/Point Of Sale	\$7,500		
9 stations quoted		\$8,000	\$2,000
Inventory	\$7,500	\$1,500	\$1,000
Utility Billing Suite	\$20,000	\$15,000	\$4,000
Service Order Request Management	Included		
Meter Inventory and History	Included		
Standard Meter Reading Interface	\$3,500	\$500	\$500
Standard ArcView GIS Interface	\$3,500	\$500	\$500
Web Portal and Payments	No Upfront Fees		
* .05 active account/month + \$1.00 per transaction + (normal credit card processing fees)			
* If customer pays transaction fee special Utility rates may not apply			
Licenses and Miscellaneous Permits	\$7,500	\$4,000	\$1,500
Code Enforcement/Contact Management	\$7,500	\$1,000	\$500
Building Permits and Inspections	\$7,500	\$5,000	\$2,000
Report and Process Scheduler	Included	\$500	\$500
Work Order Management	\$10,000	\$6,000	\$2,000
Maintenance Scheduling	\$5,000	\$500	\$500
CASS Certification - Utility Billing	\$4,500		
Disaster Recovery Set-up		\$3,600	
Misc. Work Flow Processing Set-up		tbd	
Document Attachment & Cataloging	Included		
Integrated Report Archival	Included		
<b>Total</b>	<b>\$168,000</b>	<b>\$87,600</b>	<b>\$29,000</b>

SQL App Server Tier - 55 named users	\$41,250
Access Agents - (2)	\$3,500
Business Process Study	\$15,000
Total Other	\$59,750

**Pricing is based on standard contract - deviation from standard contract terms may result in modified prices.**

**Training and BPS Estimates do not include travel time or expenses.**

**Monthly Rental and Leasing Options are available**

**DRAFT**

Interface Contingency - Budget Estimate	\$40,000
Income Tax - Third Party	
XC2 Backflow	
Procurement Card	
Misc AR Lock Box	
IVR for Utility Billing and BP	
Custom GIS - UB, WO, BP	
Custom Document Imaging	
Time Clock	
Fuel Purchasing (AP import)	
Fuel Dispensing (IC import)	
BP Drawing Software	
BP PDA (standard)	
Tax OH Business Gateway (CR import)	
OH Pub Emp Ret & OH Pol & Fire Pension	
Utility Refunds interface (thru AP)	
Tax Refunds Interface (thru AP)	
Tax Refunds Interface w/3rd Party	
Custom Contingency - Budget Estimate	\$20,000
PO - 2nd signature line	
Laser bills and self seal mailers	
Inventory Bar Code	
Fixed Assets Bar Code	
AP 20% withholding for no Fed ID	
UB Meter hazard alert codes	
UB Read Instruction Code	
UB Instruction Description	
UB meter hazard code	
<b>Total Estimated Project Costs</b>	<b>\$404,350</b>
First in State Discount	\$57,120
<b>Total Estimated Project Costs</b>	<b>\$347,230</b>

55 - Named Users (Application Server)

200 - Casual Users via Access Agents

\* Customer is responsible for the purchase of MS-SQL client and server licenses

Application to be converted	Conversion Estimates
Chart of Accounts	\$3,375
GL Transaction Balances* (7 Years)	\$5,875
Accounts Payable Vendor Master	\$4,000
Budget Balances (2 years)	\$1,500
Payroll Masters - Employee Data (Does not include History)	\$4,000
Year-end Payroll History (2 yrs)	\$3,500
Inventory Masters	\$3,500
Inventory Detail (define in BPS)	\$2,500
Open Work Orders	\$3,500
Utility Billing Masters - Customers	\$2,875
Utility Billing Financial History (7 years)	\$5,750
Utility Billing Meter History (7 years)	\$5,750
Utility Billing Collection Notes (acct comments)	\$1,500
Utility Billing Suspended Accounts	\$1,000
Fixed Asset Masters (training for Self Import)	\$1,000
Bus. License Masters	\$3,375
<b>Total Estimated Conversion Costs</b>	<b>\$53,000</b>

\* Note: Conversion to include chart of accounts, the current year's budget, current YTD balance (as of a specific date designated by the client), and previous year's ending balance.

**Cost of Data Conversion:**

An estimated cost of your data conversion has been provided in this quote. This estimate is for up to three separate data pulls for UB, one for Finance and Payroll. We will need to review an actual sample of your data to confirm this estimate. Certain factors may cause the cost to exceed the amount quoted. See section below titled "Not Included in Estimate".

**Not Included in Estimate:**

There are a variety of factors that can influence the cost of a conversion and a variety of items that are not included in the standard cost estimate for your conversion. For example, your estimate will not include the following:

- Removal of data from your existing system
- Consulting on removal of data from your existing system
- Changes or modifications requested after the first conversion and different from the specifications we originally received.
- Changes in the format we receive the data in after the first conversion
- More than three conversions in UB or more than one conversion for remaining apps

**Cost Factors:**

In addition, the following items can increase the cost of your conversion:

- Mixed formats of data (a file containing tab delimited or comma delimited format)
- Problems with data integrity
- Data manipulation not for the purpose of the conversion, but for the purpose of supplying you with information you did not previously have access to.
- Changes in the file format after the first conversion
- Changes requested to the data after the second conversion
- No file or incorrect file layouts

**No cost of fees in excess of those set forth in the Schedule of Fees will be incurred by the Licensee without prior acceptance of Licensee as indicated on a signed work order**

**EXHIBIT B: Annual Maintenance Costs**

**Annual Maintenance Costs for City of Piqua, Ohio**

Application/Products	1st Year Maintenance	2nd Year Maintenance	3rd Year Maintenance	4th Year Maintenance	5th Year Maintenance
Finance Suite	\$5,280	\$5,491	\$5,711	\$5,939	\$6,177
Purchase Orders	\$1,100	\$1,144	\$1,190	\$1,237	\$1,287
Payroll	\$3,300	\$3,432	\$3,569	\$3,712	\$3,861
Human Resources	\$3,300	\$3,432	\$3,569	\$3,712	\$3,861
Position Budgeting	\$1,100	\$1,144	\$1,190	\$1,237	\$1,287
Project/Grant Accounting	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Fixed Assets	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Misc. Accounts Receivable	\$1,100	\$1,144	\$1,190	\$1,237	\$1,287
Central Cash Management	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Inventory	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Utility Billing Suite	\$4,400	\$4,576	\$4,759	\$4,949	\$5,147
Standard Meter Reading Interface	\$770	\$801	\$833	\$866	\$901
Standard GIS Interface	\$770	\$801	\$833	\$866	\$901
Web Portal and Payments (.05/active UB Account monthly) (****)	\$1,177	\$1,224	\$1,273	\$1,324	\$1,377
Licenses and Permits	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Code Enforcement/Citizen Tracking	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Building Permits & Inspections	\$1,650	\$1,716	\$1,785	\$1,856	\$1,930
Work Order Management	\$2,200	\$2,288	\$2,380	\$2,475	\$2,574
Maintenance Scheduling	\$1,100	\$1,144	\$1,190	\$1,237	\$1,287
CASS Certification - Utility Billing	\$1,595	\$1,659	\$1,725	\$1,794	\$1,866
Disaster Recovery Annual Services	\$3,600	\$3,744	\$3,894	\$4,050	\$4,211
<b>Total Springbrook</b>	<b>\$42,342</b>	<b>\$44,036</b>	<b>\$45,797</b>	<b>\$47,629</b>	<b>\$49,534</b>
Application Server Tier	\$10,313	\$10,725	\$11,154	\$11,600	\$12,064
Access Agents	\$875	\$910	\$946	\$984	\$1,024
<b>Total Other</b>	<b>\$11,188</b>	<b>\$11,635</b>	<b>\$12,100</b>	<b>\$12,584</b>	<b>\$13,088</b>
Interface Contingency Budget	\$11,200	\$11,648	\$12,114	\$12,598	\$13,102
Custom Contingency Budget Est	\$5,600	\$5,824	\$6,057	\$6,299	\$6,551
<b>Total Contingency Budget Estimate</b>	<b>\$16,800</b>	<b>\$17,472</b>	<b>\$18,171</b>	<b>\$18,896</b>	<b>\$19,654</b>
<b>Total 1st Year Maintenance Costs</b>	<b>\$70,330</b>	<b>\$73,143</b>	<b>\$76,068</b>	<b>\$79,111</b>	<b>\$82,276</b>

**EXHIBIT C: Timetable**

To be completed by mutual agreement of the parties within thirty (30) days after signing the Business Process Study (BPS)

DRAFT

**EXHIBIT D: Preliminary Statement of Work**

DRAFT

## SPRINGBROOK SOFTWARE PRELIMINARY STATEMENT OF WORK ADDENDUM

This Addendum sets forth additional terms and conditions applicable to Licensed Software Products purchased by The City of Piqua, OH (Client) from Springbrook Software (Vendor), including, without limitation Client Master Agreement (Master Agreement), its supplements and the terms and conditions set forth therein, entered into by Vendor and Client. Capitalized terms used in this Addendum but not defined herein will have the meanings set forth in the Master Agreement.

1. SUMMARY

1.1. This contract agreement documents additional services that are not identified in the Software License Agreement (SLA) and the Software Maintenance Agreement (SMA). This document outlines the specific additional services being provided above and beyond Springbrook's (Vendor) products and services. The additional costs for these items will be identified in either this document, the SLA and/or the SMA.

2. SCOPE

2.1. This document defines specific services that are being offered to the client that were not included in the Software License Agreement or the Software Maintenance Agreement. These additional services which may include but are not limited to; Client Specific Product Modifications, Conversion Services, Training Services, Consulting Services, and Data Entry Services.

2.2. In addition the client stipulates that the services identified in this agreement represent all of the required services that are not part of the Software License agreement and the Software Maintenance Agreement. Both parties understand that additional items may be identified during the business process study. An additional Preliminary Statement of Work will be provided at that time.

3. PRODUCTS REVIEWED WITH CLIENT AS A PART OF THIS STATEMENT OF WORK

3.1. The products identified in Table A are the subject of this statement of work.

3.2. THE FOLLOWING ADDITIONAL (OR CHANGES TO EXISTING) SERVICES HAVE BEEN IDENTIFIED AS A RESULT OF PRE-CONTRACT DISCUSSIONS AND REQUEST FOR PROPOSAL REVIEW.

<input checked="" type="checkbox"/> Finance Suite (GL)	<input checked="" type="checkbox"/> Utility Billing (UB)	<input type="checkbox"/> Special Assessments (SA)
<input checked="" type="checkbox"/> Accounts Payable (AP)	<input type="checkbox"/> Inventory Control (IC)	<input type="checkbox"/> Building Permits (BP)
<input type="checkbox"/> Clearing House (CH)	<input type="checkbox"/> Human Resources (HR)	<input type="checkbox"/> Bids and Quotes (BQ)
<input type="checkbox"/> Bank Reconciliation (BR)	<input checked="" type="checkbox"/> Fixed Assets (FA)	<input type="checkbox"/> Contract Administration (CA)
<input type="checkbox"/> Purchase Orders (PO)	<input checked="" type="checkbox"/> Work Orders (WO)	<input type="checkbox"/> Fleet Maintenance
<input type="checkbox"/> Requisitions	<input type="checkbox"/> Payroll (PR)	<input type="checkbox"/> Extended Budgeting (EB)
<input type="checkbox"/> Project/Grant Management (PM)	<input type="checkbox"/> Licenses and Permits (LP)	<input type="checkbox"/> Business Tax (BT)
<input type="checkbox"/> Accounts Receivables (AR)	<input type="checkbox"/> Code Enforcement (CM)	<input checked="" type="checkbox"/> RFP Review
<input type="checkbox"/> Central Cash/POS	<input type="checkbox"/> Parking Tickets (PT)	
Table A		

- 3.3. Client stipulates that additional services identified represent all of the known required modifications to the product and terms of the SLA. Both parties understand that additional items may be identified during the business process study. Such items will be noted in the BPS Preliminary Statement of Work.

#### 4. SUMMARY OF SERVICES

- 4.1. Listed below are potential custom features, functions, or interfaces the Client may put into practice during the course of the implementation project. These items are not mandatory but should the Client desire to take advantage of the custom application, Vendor will process a formal bid with specifications for the prices as outlined.

1	<p>Fixed Asset functionality</p> <ol style="list-style-type: none"> <li>1. Vendor will add functionality to the Standard application to accommodate adjustments to a fixed asset value.</li> <li>2. Fixed Asset values will be able to be adjusted using either the Work Order Adjust Fixed Asset process or a newly developed process in the Fixed Asset module.</li> <li>3. Asset transactions will be modified to allow depreciation by units.                         <ol style="list-style-type: none"> <li>a. Retirement of infrastructure sections:                                 <ol style="list-style-type: none"> <li>i. As sections of infrastructure are retired from an existing asset, the value of the retired asset will decrease the book value of the asset affecting the prior depreciation only for the portion retired.</li> <li>ii. Retirements of infrastructure will be posted using the Fixed Asset Adjustment process.</li> <li>iii. Future depreciation for the asset will be calculated on the book value of the asset after the retirement over the remaining life.</li> <li>iv. Reduction of the value of the asset will be calculated based on the average value of the infrastructure in service. This calculation will be made by dividing the book value of the asset by the number of units to determine the value of the reduction. The per unit value of the change will be allowed to be modified in the Fixed Asset Adjustment process.</li> </ol> </li> <li>b. Increase in asset value:                                 <ol style="list-style-type: none"> <li>i. As sections of infrastructure are added to an existing asset, the value of the increase will increase the book value of the asset without affecting prior depreciation.</li> <li>ii. Increases to infrastructure can be manually keyed in the Fixed Asset Adjustment process or posted from a Work Order.</li> <li>iii. Future depreciation for the asset will be calculated on the book value of the asset after the increase.</li> </ol> </li> </ol> </li> <li>4. Depreciation will continue to be on a straight-line basis for the value at the Fiscal Year or Month and Year of the Calculate Depreciation process.</li> <li>5. Estimated to be available first quarter 2011. See Springbrook Development Disclaimer.</li> </ol>
2	<p>Work Order split to multiple fixed assets using Activity Code.</p> <ol style="list-style-type: none"> <li>1. Vendor will add custom functionality to the Work Order (WO) Create Fixed Assets and Adjust Fixed Assets processes. Springbrook will review posting Work Orders to multiple Fixed Assets manually (without custom) prior to determination if this custom is necessary.</li> <li>2. Vendor will consider alternate methods to split Work Orders to multiple assets. Process will be finalized prior to or during implementation. Possible alternate processes will include utilizing GL Accounts to split the total to different assets. Vendor would like to work with the City during training to determine the best method utilizing Work Order functionality.</li> <li>3. Client will be responsible to associate the Fixed Asset code with the WO Activity Type using the Character 2 field on the Activity Type.</li> <li>4. Functionality will include:                         <ol style="list-style-type: none"> <li>a. Ability to create or adjust more than one Fixed Asset with a single Work Order.</li> <li>b. Activity Codes on the Work Order history lines will be utilized to split the WO costs.</li> <li>c. The Client will be responsible to key Activity Codes to any WO line that should be split.</li> <li>d. If an incorrect Activity Code is keyed to the WO, a WO Adjustment must be created to have the costs posted correctly.</li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>e. During the WO Create Fixed Asset or Adjust Fixed Asset process, the following modifications to the process will be programmed:                             <ul style="list-style-type: none"> <li>i. Completed WO's can be selected to capitalize.</li> <li>ii. Custom programming will total history costs by Activity Code and include that amount as an improvement or new Fixed Asset.</li> <li>iii. User will adjust the amounts as necessary and complete the process.</li> </ul> </li> <li>5. This will be a custom process. Any modifications to the process will require a change order with associated bid.</li> </ul>
3	Budgetary Compliance report - Custom budget report using Work Order Activity Codes <ul style="list-style-type: none"> <li>1. Client will set up Activity Codes in Work Order/Maintenance that include the GL Account number in Vendor specified format in the Misc Character 1 field.</li> <li>2. Client will utilize Activity Codes for any entries that need to be included on the Budgetary Compliance report. Activity items without Activity Codes will not be included in the report.</li> <li>3. Vendor will program a custom budget report that includes the following information:                         <ul style="list-style-type: none"> <li>a. Account number from the Activity Code Misc Character 1 field.</li> <li>b. Account description from the GL Account.</li> <li>c. Budget for the GL Account.</li> <li>d. Column that includes balance from the activity for the period from GL Journal Entries.</li> <li>e. Column that includes balance from the Work Order system for the period from WO History using Activity Codes.</li> <li>f. Column that includes Encumbrances from the PO Module for the GL Account.</li> <li>g. Column with the total balance.</li> <li>h. Column with the budget variance dollars.</li> </ul> </li> <li>4. Report will be generated from a custom window that allows the user to select the period range and fiscal year for the data.</li> <li>5. Detail and Summary versions will be available.                         <ul style="list-style-type: none"> <li>a. Summary version will print a single line per GL Account.</li> <li>b. Detail version will print a total line at the top of the GL Account with totals and a listing below of each transaction included in the balance.</li> </ul> </li> <li>6. Client and Vendor will agree on a report format prior to programming start.</li> <li>7. If report is added as a standard option in the Work Order module in a future release and Client is willing to utilize the standard report; Client can request Maintenance charges be discontinued.</li> </ul>
4	Fixed Asset Trail Balance report – Custom Fixed Asset report <ul style="list-style-type: none"> <li>1. Vendor will create a custom report to display Fixed Asset and Work Order information.</li> <li>2. Report will be sorted and grouped by the GL Account number and can be run by a single account number or account number section.</li> <li>3. Report will contain the following information:                         <ul style="list-style-type: none"> <li>a. Information from the General Ledger Account:                                 <ul style="list-style-type: none"> <li>i. Journal Entry Month and Year</li> <li>ii. Journal Entry Date</li> <li>iii. System that created the Journal Entry</li> <li>iv. Journal Entry amount (minus indicates credit)</li> <li>v. Journal Entry description</li> </ul> </li> <li>b. Work Order information:                                 <ul style="list-style-type: none"> <li>i. Work Order number</li> <li>ii. Transaction date from the detail line</li> <li>iii. System that generated the detail line (AP for Accounts Payable, IC for Inventory, PR for Payroll)</li> <li>iv. Overhead will be displayed in a separate column from the LEMS information</li> </ul> </li> <li>c. Work Order information will be added to the General Ledger account using the Activity Type GL Account.</li> <li>d. Totals for the posted and work order amounts will be listed separately on the report.</li> </ul> </li> <li>4. Client and Vendor will agree on a report format prior to programming start.</li> <li>5. If report is added as a standard option in the Work Order module in a future release and Client is willing to utilize the standard report; Client can request Maintenance charges be discontinued.</li> </ul>

5	<p>Utility Billing – Custom Utility Billing (UB) statement.</p> <ol style="list-style-type: none"> <li>1. Client requires additional information be added to the standard UB statement.</li> <li>2. Billing needs to be broken down by             <ol style="list-style-type: none"> <li>a. Service type (Electric, Water, Street Lights, etc.)</li> <li>b. Meter present and previous readings                 <ol style="list-style-type: none"> <li>i. KVAR</li> <li>ii. Time of Day</li> <li>iii. Kwh</li> <li>iv. Demand</li> <li>v. Bypass and compound meter (water and electric)</li> </ol> </li> <li>c. Calculated meter based billing dollars</li> <li>d. Base charges</li> <li>e. Power Factor adjustment in item #7 below</li> <li>f. Tax amount in item #6 below</li> </ol> </li> <li>3. Vendor will print unit charges on Utility Billings. (RFP Page 76 UB F.2 hhh – Can system provide: Print on utility bill the <i>unit</i> charge and showing the extension calculation of the unit charge?)             <ol style="list-style-type: none"> <li>a. Unit charges for electric billings must include KWH, KVAR, Demand and power factor penalty calculations. Rates must be separated by usage as in the example below:                 <table border="0" style="margin-left: 20px;"> <tr> <td>i.</td> <td>First 600</td> <td>600</td> <td>\$53.73</td> </tr> <tr> <td>ii.</td> <td>Next 4400</td> <td>4400</td> <td>\$175.33</td> </tr> <tr> <td>iii.</td> <td>Next 10,000</td> <td>10,000</td> <td>\$265.00</td> </tr> </table> </li> <li>b. Large water By-pass/compound meters also need to be broken down on the billing.</li> </ol> </li> <li>4. Graph will display billable rather than actual consumption after the multiplier is applied for electric only.</li> <li>5. Billings will be printed on full page laser paper.</li> <li>6. Client and Vendor will agree on final format prior to programming start.</li> <li>7. Billing statements may be custom for initial implementation.</li> <li>8. Vendor reserves the right to assess a custom charge for the statement if additional items to be included on the billing are requested that will not be acceptable to other clients.</li> <li>9. Vendor will consider adding this functionality to standard functionality in a future version of the software.</li> <li>10. See Springbrook Software Development Disclosure Agreement.</li> </ol>	i.	First 600	600	\$53.73	ii.	Next 4400	4400	\$175.33	iii.	Next 10,000	10,000	\$265.00
i.	First 600	600	\$53.73										
ii.	Next 4400	4400	\$175.33										
iii.	Next 10,000	10,000	\$265.00										
6	<p>Ohio Excise Tax – Required by Section 5727 of the Ohio Revised Code.</p> <ol style="list-style-type: none"> <li>1. Vendor will modify Tax calculation to multiply by kWh rather than percentage.</li> <li>2. Client user will set tax code to have a target service of Electric.</li> <li>3. System will calculate tax for all accounts with Service Rates that have a Service of Electric.</li> <li>4. Current Tax setup utilizes the following fields:             <ol style="list-style-type: none"> <li>a. Tax Code and Description</li> <li>b. Target Service</li> <li>c. Level breaks 1-4 – This is where the kWh consumption will be set</li> <li>d. Percentage 1-4 – These will be set up with the rate per kWh. – System will utilize kWh for this tax code only. Other tax codes will calculate taxes by percentage.</li> </ol> </li> <li>5. System will prorate consumptions for meter reading periods other than 30 days and bill accordingly.             <ol style="list-style-type: none"> <li>a. Levels will be divided by 30 days to determine a daily rate.</li> <li>b. Daily rate will be rounded to the nearest whole number.</li> <li>c. Tax will be calculated based on the number of days between meter readings times the daily rate.</li> </ol> </li> <li>6. Calculated tax will be added to account in the New and Final Billing processes.</li> <li>7. This will be implemented as custom for implementation. No charges will be assessed for this custom programming due to state requirements.</li> <li>8. Vendor will consider adding this functionality as standard to a future version of the software.</li> <li>9. See Springbrook Development Disclaimer.</li> </ol>												
7	<p>Utility Billing – Power Factor adjustment.</p> <ol style="list-style-type: none"> <li>1. Vendor will provide Power Factor penalty programming.</li> <li>2. Programming will be added as custom for the implementing version of the software.</li> </ol>												

	<p>3. Client will work with Vendor to finalize specifications prior to programming start.</p> <p>4. The formula for the adjustment is based on the maximum fifteen-minute kilowatt of demand for the month which is increased by 1% for each 1% or major fraction of a percentage if under 85% of the average power factor calculated using the formula below.</p> $\text{AVERAGE POWER FACTOR} = \frac{\text{KWH}}{\sqrt{\text{KWH}^2 + \text{KVARH}^2}}$ <p>5. Details will be finalized during the Business Process Study.</p> <p>6. Vendor and Client will agree on programming prior to programming start.</p> <p>7. Vendor will consider adding this functionality as standard to a future version of the software.</p> <p>8. If functionality is added as a standard option in a future release and Client is willing to utilize the standard process; Client can request Maintenance charges be discontinued.</p> <p>9. See Springbrook Development Disclaimer.</p>
<p>8</p>	<p>Utility Billing – Time of use meters</p> <p>1. Vendor system includes up to 6 time of use fields on the meter record to store time of use readings for on and off peak readings.</p> <p>2. Separate meter records will be imported for on-peak and off-peak demand readings.</p> <ol style="list-style-type: none"> <li>Client meter reading equipment will store on peak or off peak demand readings in a consistent manner to be imported to account.</li> <li>Vendor system will not record the hh/mm time of day but will import the readings to the appropriate period based on meter import specifications below.                     <ol style="list-style-type: none"> <li>First meter imported will be recorded as time of day period 1.</li> <li>Second meter imported will be recorded as time of day period 2.</li> <li>Order of readings imported will need to match the system setup.</li> </ol> </li> </ol> <p>3. Vendor will add additional functionality as custom to compare use during each time of use period to determine actual billing rates for the billing period.</p> <p>4. Programming will utilize the following rules to determine the billing rate:</p> <ol style="list-style-type: none"> <li>If the Service Rate contains more than one time of use level, the meter readings will be compared.</li> <li>The level that is determined to be off peak will have the reading multiplied by .25.</li> <li>The result of calculation b. will be compared to the reading for the level determined to be on peak.</li> <li>If the result of calculation b. is smaller than the reading for the on peak level, the on peak meter reading with associated billing rate will be billed.</li> <li>If the result of calculation b. is greater than the on peak meter reading, the off peak meter reading with associated billing rate will be billed.</li> <li>In both cases, d. and e. the reading that is not used will not be billed.</li> </ol> <p>5. Client will notify Vendor prior to programming start which level will represent on peak and off peak demand readings.</p> <p>6. Specifications for programming will be finalized in detail prior to programming start.</p> <p>7. Vendor will consider adding this functionality as standard to a future version of the software. Vendor does not currently have plans to add this functionality.</p> <p>8. If functionality is added as a standard option in a future release and Client is willing to utilize the standard process; Client can request Maintenance charges be discontinued.</p> <p>9. See Springbrook Development Disclaimer.</p>
<p>9</p>	<p>Utility Billing – Custom payment plan rules</p> <p>1. Vendor will add custom functionality to not have the system remove an account from a payment plan if the customer pays the payment plan amount at any time during the billing period.</p> <ol style="list-style-type: none"> <li>Many customers pay \$10 extra per week for a \$40 extra per month payment plan</li> </ol> <p>2. This functionality does not exist in the current system. Current system will remove customers from a payment plan if any payment is made that does not fully comply with the payment plan.</p> <p>3. Vendor will provide a custom process to evaluate payments made during a month to re-set a payment plan status.</p> <p>4. User will run this custom utility prior to billing or running past dues</p> <p>5. Vendor will consider adding similar functionality to standard in a future version of the software.</p>

	<p>6. If functionality is added as a standard option in a future release and Client is willing to utilize the standard process; Client can request Maintenance charges be discontinued.</p> <p>7. See Springbrook Development Disclaimer.</p>
10	<p>Utility Billing – Specify Vacation dates on/off for each service.</p> <ol style="list-style-type: none"> <li>1. Client requests the ability to specify if a service rate on an account is eligible for a vacation status. Some services can be set for vacation with others remaining active and billing.</li> <li>2. The purpose of this functionality is to automate stop and start dates for the suspension of billings.</li> <li>3. This functionality will be custom for implementation.</li> <li>4. Due to the risks associated with customizing the UB Account maintenance screen, Vendor strongly recommends not implementing custom functionality for this process.</li> <li>5. Vendor recommends utilizing the following functionality to handle vacation requests.             <ol style="list-style-type: none"> <li>a. Final the service(s) that are set to be put on vacation status.</li> <li>b. Add a new line for the service that was finalled.</li> <li>c. Make the Connect Date for the new service line the date the vacation should end and the service should be billed.</li> </ol> </li> <li>6. If custom is implemented, functionality is expected to be implemented in using the following method:             <ol style="list-style-type: none"> <li>a. User will input stop and restart dates for each service on the account to have billings suspended. Any service without vacation status dates attached will continue to bill during the vacation period.</li> </ol> </li> <li>7. If Client determines that the additional functionality is required, Vendor would consider adding the functionality to the standard application in the upcoming version which will avoid any maintenance charges. This decision will need to be made immediately if functionality is to be added in this manner.</li> <li>8. Final specifications of the programming will be determined prior to programming start.</li> <li>9. Functionality as standard will be considered for a future version of the software.</li> <li>10. If functionality is added as a standard option in a future release and Client is willing to utilize the standard process; Client can request Maintenance charges be discontinued.</li> <li>11. See Springbrook Software Development Disclaimer.</li> </ol>
11	<p>Utility Billing – Allow alerts to stay on indefinitely.</p> <ol style="list-style-type: none"> <li>1. Vendor is currently modifying standard functionality to consider 000 days for an alert to leave the alert on indefinitely.</li> <li>2. This change will be in place prior to Client Utility Billing training.</li> <li>3.</li> </ol>
RFP 1	<p>Page 51 AP B. 2-I – Utilize Position Control as a budget preparation tool</p> <ol style="list-style-type: none"> <li>1. Vendor will add functionality to the system to allow Position Budgeting.</li> <li>2. Position Budgeting can be handled utilizing either employees or positions.</li> <li>3. Position Budget revisions will be posted to an Extended Budget revision when approved.</li> <li>4. Budget training will be scheduled in the project plan by the Project Manager.</li> <li>5. This functionality is expected in a future version of the software.</li> <li>6. See Springbrook Software Development Disclaimer.</li> </ol>
RFP 2	<p>Page 98 PR G 1-o – Tracks temporary appointments and provides flag and/or report that employee is approaching user defined # of weeks limit?</p> <ol style="list-style-type: none"> <li>1. Vendor will work with Client to determine the best existing miscellaneous fields to store this information.</li> <li>2. Vendor will work with Client to set up a QBE report to provide this information. If this reporting method is not satisfactory, a report noted below will be provided.</li> <li>3. If necessary, Vendor will provide a report to list temporary employees with the date of assignment and the assignment period.</li> <li>4. Client will work with Vendor to determine final report specifications prior to programming start.</li> <li>5. Fields that will be displayed on the report will include only fields available in the database.</li> </ol>
RFP 3	<p>Page 134 SS N. b. – System track and record attempts of illegal access to system?</p> <ol style="list-style-type: none"> <li>1. Vendor system utilizes an external LDAP (Lightweight Directory Access Protocol) system to log in to the system.</li> <li>2. System access is controlled by the LDAP settings on the client network.</li> <li>3. LDAP provider settings can record attempts of illegal access to Vendor system.</li> </ol>
RFP 4	<p>Page 134 SS N. c – System to identify an illegal access attempt both at the place where the attempt occurs and at the</p>

	<p>system console?</p> <ol style="list-style-type: none"> <li>1. Vendor system provides security to allow no access, read only access or full access based to database fields on a user or group basis. All database fields are available to secure on this basis.</li> <li>2. Vendor system provides menu security that will prevent users from accessing any menu items set as no access..</li> <li>3. Vendor is willing to provide a demo to Client of system security setups.</li> </ol>
RFP 5	<p>Page 134 SS N. d – Track of ALL activity on the whole system (Who did what, when)?</p> <ol style="list-style-type: none"> <li>1. Vendor software tracks activity in all major systems.</li> <li>2. Vendor software has a complete audit trail in all major maintenance screens including Payroll Employee Maintenance, Vendor Maintenance, Utility Billing and other Customer Information Systems accounts.</li> <li>3. Activity is tracked using an internal audit trail.</li> <li>4. Some maintenance functions track only the last user to update the file.</li> <li>5. Client can request audit trail functionality be added to specific fields for future versions of the software.</li> <li>6. See Springbrook Software Development Disclaimer.</li> </ol>
RFP 6	<p>Page 135 GL N. 1 a, e, f – Do on-line approval of transactions by another person before orders/entries are posted to files in the following systems? General Ledger, Accounts Payable /Purchase Orders, Payroll, Work Orders, Utility Billing and Cash Receipts?</p> <ol style="list-style-type: none"> <li>1. Vendor software currently includes workflow in Payroll, Purchase Orders (including Requisitions), Accounts Payable and Work Orders.</li> <li>2. Workflow is planned to be added to many processes in future versions of the software. Client can request specific workflows desired for priority development consideration.</li> <li>3. Client should advise Vendor of any critical workflows needed for implementation during the Business Process Study.</li> <li>4. See Springbrook Software Development Disclaimer.</li> </ol>
RFP 7	<p>Page 68 UB F. r – Provide multiple accounts to a master billing for a large real estate owner or banks?</p> <ol style="list-style-type: none"> <li>1. Vendor provides standard functionality to combine billings by printing billing in succession if the customer number is the same.</li> <li>2. Client desires combined billings for situations such as:             <ol style="list-style-type: none"> <li>a. Banks that have various properties in foreclosure.- Would like to send a separate page for each account but doesn't want to have to pull or send 10 bills.</li> </ol> </li> <li>3. Vendor expects Client required combined billing may require custom programming to function in the manner the City desires. Custom programming may have associated charges.</li> <li>4. Details of this functionality will be determined during the Business Process Study.</li> <li>5. If standard combined billing functionality will satisfy City requirements no custom will be needed.</li> </ol>
RFP 8	<p>Page 79 UB F. 3.I – Can system screen inquiry and print hard copy of the following: Laser bills and sealed mailers with CASS certified, postal bar codes and carrier route groupings in OCR bill scan line bar codes on bill stub?</p> <ol style="list-style-type: none"> <li>1. Vendor standard billings are laser bills.</li> <li>2. Postal certification is included in pricing for billings.</li> <li>3. Sealed mailers are not a standard system billing format. Vendor will provide sealed mailers for billings as custom for implementation at no charge if an alternate billing format is not selected.</li> <li>4. Vendor will consider adding a sealed mailer billing format in a future version of the software.</li> <li>5. See Springbrook Software Development Disclaimer..</li> </ol>
RFP 9	<p>Page 91 UB F. 6 b – Can the system provide a service order hard copy that includes at least the following data elements: the installation date of the meter and months in service?</p> <ol style="list-style-type: none"> <li>1. Vendor standard service requests do not print the installation date of the meter as a standard field.</li> <li>2. Vendor can add the installation date and/or months in service (based on date the service request is generated) as a custom modification to the service request.</li> <li>3. Vendor will consider adding this information as standard to a future version of the software.</li> <li>4. See Springbrook Development Disclaimer.</li> </ol>

**Springbrook Software Development Disclaimer**

Springbrook will review its development methodologies with the Licensee. Springbrook will continue to solicit input from the licensee from time-to-time as appropriate during the development life cycle for each release.

For each line item associated with a future release the following applies:

1. Licensor will include this item for review and consideration of inclusion in the next or a subsequent release during its development processes. During the design and discovery phase of each release this item will be evaluated in conjunction with overall Springbrook client needs and prioritized.
2. If this Item is not selected by Springbrook for the then current release, Licensee has the following options:
  - a. Licensee can request that the item be included for review in the next or subsequent release of the application.
  - b. If the item is not part of an online Web Application Licensor can fund early development of the enhancement. This requires that Licensor agrees the item is functionally acceptable to all Springbrook Clients and that the resources are available to complete the work effort. Licensor may opt in this case to request a custom modification to the application and fund the work.

TYPE	#	FEATURE	SERVICE FEE'S	ANNUAL MAINTENANCE INCREASE	TRAINING AND IMPLEMENTATION MANAGEMENT
To be determined	1	Add Infrastructure Asset functionality	NC	NC	NC
To be determined	2	Work Order split to multiple fixed assets using Activity Code	\$1,800.00	\$486.00	\$600.00
To be determined	3	Budgetary Compliance report	\$1,200.00	\$324.00	\$600.00
To be determined	4	Fixed Asset Trail Balance report	\$900.00	\$243.00	\$600.00
To be determined	5	UB - Custom Billing Statement	NC	NC	NC
To be determined	6	UB - Ohio Excise Tax calculation	NC	NC	NC
To be determined	7	UB - power factor penalty	\$3,000.00	\$840.00	\$600.00
To be determined	8	UB - Time of use meter readings	\$900.00	\$252.00	\$600.00
To be	9	UB - Custom payment plan	\$6,000.00	\$1,680.00	\$600.00

determined		rules			
To be determined	10	UB – Vacation setups for each service	\$6,000.00	\$0.00	\$0.00
To be determined	11	UB – Alert status setup to never automatically expire.	NC	NC	NC
Optional for Imp.	RFP 1	HR - Position Budgeting	NC**	NC**	NC**
To be determined	RFP 2	HR - Temporary Appointment report	NC**	NC**	NC**
To be determined	RFP 3	Track illegal access attempts to system	NA	NA	NA
To be determined	RFP 4	Identify illegal access anywhere in system	NA	NA	NA
To be determined	RFP 5	Track all activity in system	NA	NA	NA
To be determined	RFP 6	On-line approvals in systems	NC**	NC**	NC**
To be determined	RFP 7	UB – Combined Billings if customization is required.	\$3,000.00**	\$840.00**	\$600.00**
To be determined	RFP 9	UB - Pressure sealed billing	NC**	NC**	NC**
To be determined	RFP 10	UB – Custom service request to include meter install date	NC**	NC**	NC**

\*\*Custom will be provided at no charge for these items if Vendor cannot find an alternate method of handling within the standard solution.

#### 4.2. SCHEDULE

Clients are scheduled for implementation services on a first come first serve basis. Scheduling can proceed once the following has occurred:

4.2.1. Software License Agreements (SLA) are fully executed by both parties; and

4.2.2. Software Maintenance Agreements are fully executed by both parties; and

4.2.3. A business Process Study has been completed and the Preliminary Statement of Work has been fully executed by both parties.

#### 4.2.4. Initial Payment.

### 5. CONVERSIONS

- 5.1. Vendor cannot guarantee that all data elements supported in the current system can be converted to the Vendor system. Cost quotes assume that only data that is presently supported by Vendor data schema and processes will be converted.
- 5.2. Vendor cannot populate data that is not available in the legacy system as part of a conversion. If the Vendor systems require information to operate correctly that is not in the legacy system and available for conversion, client understands that data entry will be required. Client agrees that it is responsible to either contract with Vendor to provide these services or to perform the data entry activities themselves.
- 5.3. Client except sole responsibility for ensuring that the final converted data sets are accurate and meet the client's regulatory, reporting, business and audit requirements.
- 5.4. Client agrees to provide any and all information and resources requested by Vendor to facilitate the conversion process.
- 5.5. All Conversations assume that data is provided in electronic format that can be manipulated by standard database tools.
- 5.6. A variety of factors will increase the cost of a conversion as estimated on agency's Signed License Agreement. Also, there are several items that are not included in the standard cost estimate; these will require a Change Order. For example, the estimate for fixed conversion cost will not include the following:
  - 5.6.1. If the client is unable to provide legacy data for conversions, vendor will assess if additional resource time is required to acquire and compile the data into a usable format. This may require a change order.
  - 5.6.2. Removal/clean-up of data from the legacy system.
  - 5.6.3. Data modifications, outside terms of this agreement or requested after the 1st draft conversion.
  - 5.6.4. Changes in the format/schema of data provided by client after the first conversion.
  - 5.6.5. Mixed formats of data (a file containing tab delimited and comma delimited format).
  - 5.6.6. Obstacles and/or problems with data integrity.
  - 5.6.7. Data manipulation not for the purpose of the conversion, but for the purpose of supplying information not previously accessible.
  - 5.6.8. Data fixes to completed data conversion due to data not provided in the files utilized for the conversion process(s)

### 6. REPORTING REQUIREMENTS

- 6.1. Client agrees that not every legacy system report can be precisely duplicated using Vendor Standard Reports, and/or Report Writing Tools. The Client agrees to the new report formats and designs that will be provided and where appropriate the client will produce reports using standard Vendor reporting tools. Client understands that requests for custom report development will be considered additional bid items.
- 6.2. Client has reviewed and approved the **Vendor** Standard Reporting examples presented during the Business Process Study. With the exception of reports identified in the Additional Services or reports that the Client can create using standard spring brook reporting tools, client agrees that the reporting meets requirements and that any additional reporting requirements that are identified outside of this agreement will require that a change order be completed.

### 7. HARDWARE AND SOFTWARE REQUIREMENTS

- 7.1. Client has reviewed vendor’s current hardware and software requirements included in the BPS findings document. Client agrees to make available appropriate configured servers and software as required. Client understands that vendor does not provide IT services for its clients.
- 8. Change Orders
  - 8.1. Any Service or product that was not identified in this document, the Service Level Agreement, or the Software Maintenance Agreement will require that a Change Order be created and approved in writing by both parties. Client understands that these items may incur additional costs.
- 9. Failure of Vendor to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.
- 10. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

IN WITNESS WHEREOF, parties hereto have caused their duly authorized representatives to execute this Agreement.

Springbrook Software Inc.

Client

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

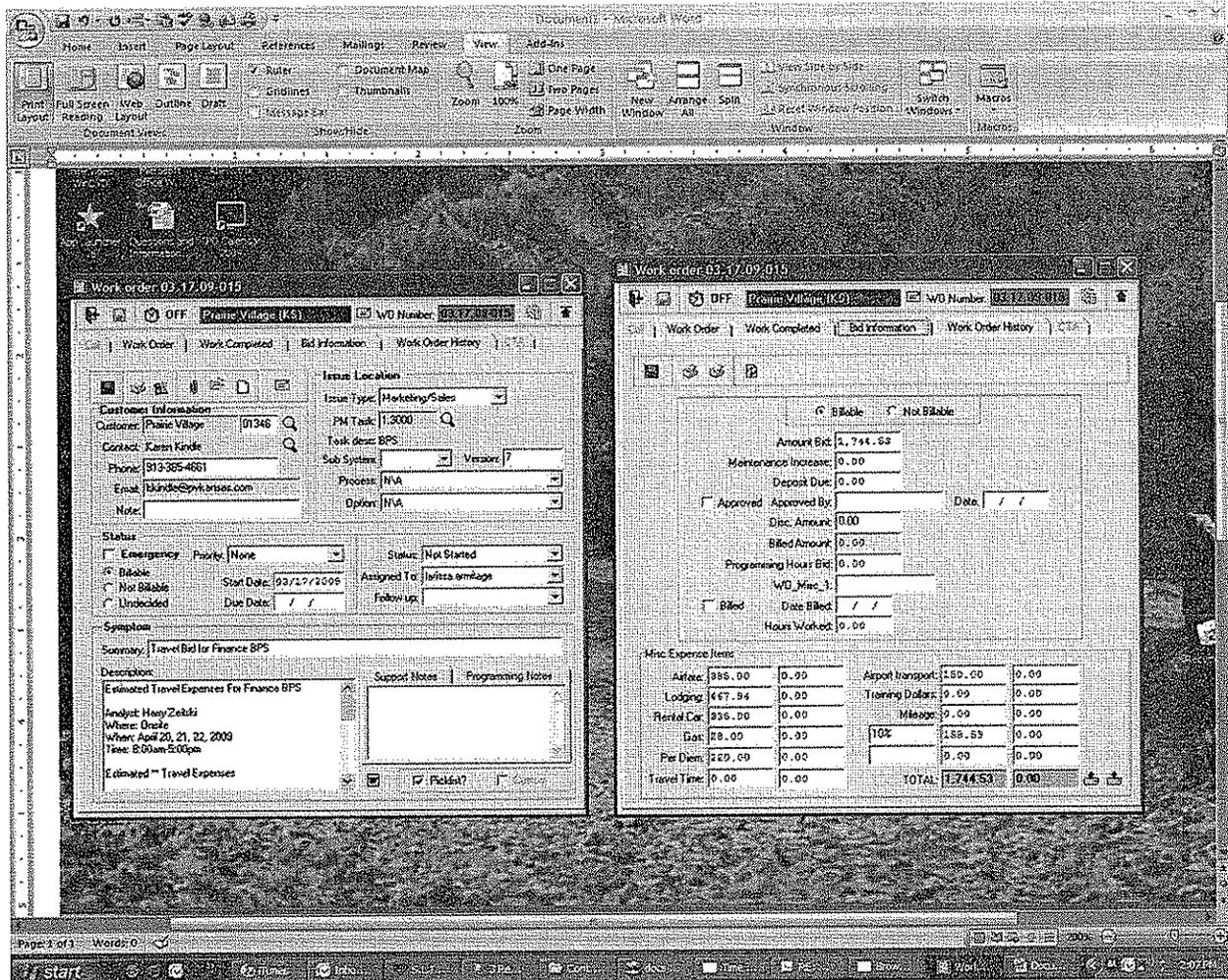
Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT E: Form of Change Order (as example only)**



**EXHIBIT F: VENDOR's Software License Agreement****SPRINGBROOK SOFTWARE  
SOFTWARE LICENSE AGREEMENT ADDENDUM**

This Addendum sets forth additional terms and conditions applicable to Licensed Software Products purchased by **City of Piqua** (Client) from Springbrook Software (Vendor), including, without limitation Client Master Agreement (Master Agreement), its supplements and the terms and conditions set forth therein, entered into by Vendor and Client. Capitalized terms used in this Addendum but not defined herein will have the meanings set forth in the Master Agreement.

**GENERAL TERMS AND CONDITIONS****1 DEFINITIONS**

Capitalized terms in this Agreement mean the following unless specifically defined in the section of the Agreement.

**"Application"** means a licensed Software Product module as set forth on the appropriate Order Form.

**"Custom"** means any modification, enhancement or addition to the Licensed Software Products developed by or for Vendor especially for Client's use or at Client's Request.

**"Enhancement"** means any change to License Software Products that the vendor, at its sole discretion, has determined will become part of the standard product. Vendor reserves the right to charge for enhancements.

**"Escrow Agreement"** means an agreement that Vendor has entered into with an appropriate Escrow Management Firm for the storage of the current release of Vendors Licensed Software Products. Selection of such firms and the right to change firms at any time is solely at the discretion of the Vendor.

**"Material"** as applied to the Licensed Software Products or an application, shall mean a significant or substantial alteration or effect on the function or output thereof, and "cure" as applied to a Material failure shall mean the provision of functional equivalent functions or means.

**"Specifications"** mean the written (both hard copy and electronic text files) description of the functions, capacity, performance and features of the Licensed Software Products as delivered by Vendor to Client under this Agreement and the Master Agreement Vendor reserves the right to update, change or retire certain aspects of the specification.

**"User Materials"** means all written and electronic documentation, manuals and materials provided by Vendor to Client for use in connection with the Licensed Software Products.

**2 GRANT OF LICENSE****2.1 Scope of License**

Under the License granted herein Client may use, copy and distribute the Licensed Software Products (in machine-readable, object code form only) and User Materials to;

(a) support Client's use of the Licensed Software Products under this Agreement, and;

(b) install, use and execute the Licensed Software Products on computers that Client owns or leases for purposes of serving Client's internal business needs, and;

(c) transfer licensed products to replacement hardware. The costs for any replacement media or technical assistance to accommodate the transfer would be billable charges to the Client. Client will give Vendor advance written notification of its intent to transfer licenses to new hardware, and;

(d) store the Licensed Software Products machine-readable instructions or data on a temporary basis in main memory, extended memory, or expanded memory of such computers as necessary for such use, and transmit such instructions or data through Client's computers and associated devices.

**2.2 License Restrictions**

Client may only use the Licensed Software Products and User Materials within the limited scope set forth herein. In particular, and without limitation, Client agrees that Client and Client's employees will not;

(a) assign, sublicense, transfer, pledge or grant a security interest in, lease, rent or share Client's rights under this License Agreement with any third party;

(b) reverse assemble, reverse compile, cross compile or otherwise adopt, translate or modify the Licensed Software Products; or

(c) refer to or use any portion of the Licensed Software Products or User Materials as part of any effort to develop any other Licensed Software Products program.

(d) modify the product in anyway other than that supported through configuration options available to the client.

**2.3 Conditions of License**

Client is granted a license to use Licensed Software Products as set forth in the appropriate Order Form as long as;

(a) client is current on Licensed Software Products Maintenance payments set forth in the Licensed Software Products Maintenance Addendum and the appropriate Order Form. And;

(b) client is in compliance with the terms and conditions of this Agreement, the Master Agreement, all Addenda and appropriate Order Forms. Vendor reserves the right to revoke licenses for failure to meet the conditions of this section.

#### 2.4 Source Code

Vendor will maintain an Escrow Agreement under which Vendor will place the source code for each major release. At Clients request Vendor will add Client as a beneficiary on its escrow account. Client will be invoiced for Fees associated with beneficiary status on the Escrow account and is solely responsible for maintaining its status as a beneficiary.

#### 3 OWNERSHIP; PROPRIETARY PROTECTION.

This Agreement does not provide Client with title to or ownership of the Licensed Software Products, but only a right of limited use. Vendor shall have sole and exclusive ownership of all right, title and interest in and to the Licensed Software Products and User Materials, all copies thereof, all derivative works, and all related material generated from the Licensed Software Products including material displayed on the screen such as icons, screen displays, etc. (including ownership of all copyrights, trademarks and other intellectual property rights pertaining thereto), whether created by Vendor or any other party, subject to the rights of Client expressly granted herein.

##### 3.1 Acceptance Period

Upon completion of Implementation of each Licensed Software Product purchased by the client as set forth in the appropriate Order Form, the acceptance period starts, during the next 30 calendar day period the Client will validate that the products are performing in accordance with this Agreement, the Master Agreement related addenda. Application will be considered accepted by the client if:

(a) Client provides vendor written affirmation that the application is performing within the terms of this agreement, the master agreement and related addenda, or;

(b) 30 days has passed since the implementation of the application, or;

(c) Client is using the Licensed Software Products for its intended purpose.

(d) Eighteen months have passed since the effective date of the appropriate Order Form. Client will grant Vendor access to systems that have Licensed Software Products installed to audit customer use of the Licensed Software Products under this section.

#### 4 LIMITED WARRANTY.

Vendor warrants that it has title to the Licensed Software products and that it has full authority to grant this license to Client. Vendor also warrants that, as to each Application, for a period of ninety (90) days from the date of Client's acceptance of the Application, the Application will function in Material conformity with the Specifications. Vendor makes no warranty regarding the usability or convertibility of any of Client's data, the suitability of the Licensed Software Products for Client's needs, or any performance problem, claim of infringement or other matter to the extent attributable to any use or modification of the Licensed Software Products, or combination of the Licensed Software Products with any other Licensed Software Products or computer program or communications device, not expressly authorized by Vendor in writing. Additionally the Licensed Software is subject to the stability and capability of the Locality's existing operating system(s). **VENDOR DOES NOT WARRANT THAT THE LICENSED SOFTWARE WILL OPERATE PROPERLY WITH OTHER HARDWARE OR SOFTWARE** Determination of breach of the foregoing limited warranty or default under this Section shall be subject to the notice and cure provisions of Section 8 of the Master Agreement, and upon receipt of written notice of breach of warranty Vendor shall be afforded a period of forty-five (45) days to cure the reported Material defect, failure or other breach. Client agrees that the foregoing limited warranty is in lieu of all other warranties of Vendor and Vendor disclaims all other warranties, express or implied, including without limitation any implied warranty of merchantability, fitness or adequacy for any particular purpose or use, quality, productiveness or capacity, or that the operation of the Licensed Software Products will be error-free.

#### 5 CLIENT RESPONSIBILITIES

Client assumes all responsibility for the selection of, use of, and results obtained from the License Software Products. Client agrees to and is solely responsible for implementing the appropriate internal controls to ensure the accuracy of and appropriate use of any Licensed Software Products. All warranties, express or implied, extend solely to Client and not to any third parties.

#### 6 CUSTOM AND ENHANCEMENTS

Notwithstanding any prior agreements verbal or written, Vendor reserves the right at its own discretion to determine if and when any type of Enhancements or Custom modifications will be made to the Licensed Software Products.

**EXHIBIT G: Source Code Escrow Agreement  
(through Iron Mountain)**

**To be supplied after contracts are signed.**

**DRAFT**

**EXHIBIT H: VENDOR's Software Support and  
Maintenance Agreement.**

Included in this Exhibit by reference only.  
Software Maintenance Agreement (SMA) is a  
separate document.

DRAFT

## EXHIBIT I: Payment Schedule

Springbrook License Fees:	50% (\$84,000) due at contract signing; 25% (\$42,000) due 30 days after installation; 25% (\$42,000) due 30 days after go live, per module
SQL Client Runtime Fees:	100% (\$41,250) due at contract signing 55-named users 100% (\$3,500) due at contract signing 2 access agents for up to 200 casual (part-time) users
Consulting and Training: (All Modules except below) (Does not include travel expenses)	50% (\$35,550) due at contract signing; 50% (\$35,550) due at completion of Consulting/Training (by module)
Consulting/Training: (Position Budgeting)	50% (\$750) due at installation; 50% (\$750) due at completion of Consulting/Training
Consulting/Training: (Utility Billing)	50% (\$7,500) due at installation; 50% (\$7,500) due at completion of Consulting/Training
Implementation Management:	50% (\$14,500) due at contract signing; 50% (\$14,500) due at project completion (Licensee achieves Live Status) per Application
1 <sup>st</sup> year Springbrook Maintenance:	Due 6 months after contract signing. First payment will be pro-rated through end of current fiscal. Exception: Maintenance for UB and Position Budgeting will be charged on a pro-rata basis from date of initial training on each application.
Licensee Enhancements: (if applicable)	50% (\$) due when/if requested and approved 50% (\$) due upon completion of each Modification as detailed and invoiced on each work order (Note: Maintenance on enhancements is 28%)
Data Conversion(s):	50% (\$26,500) due at contract signing; 50% (\$26,500) due upon completion/acceptance of conversion by product
BPS:	100% (\$15,000) due upon completion and signing
<b>Total Due with Signed Contracts:</b>	<b>\$205,300</b>

**EXHIBIT J: City of Piqua Request for Proposal.**

Included in this Exhibit by reference only. City of Piqua Request for Proposal is a separate document.

DRAFT

**EXHIBIT K: Springbrook Software  
response to City of Piqua Request for  
Proposal.**

Included in this Exhibit by reference only.  
Springbrook Software response to City of  
Piqua Request for Proposal is a separate  
document.

DRAFT

## SPRINGBROOK SOFTWARE SOFTWARE MAINTENANCE ADDENDUM

This Addendum sets forth additional terms and conditions applicable to Maintenance of Software Products purchased by City of Piqua (Client) from Springbrook Software (Vendor), including, without limitation Client Master Agreement (Master Agreement), its supplements and the terms and conditions set forth therein, entered into by Vendor and Client. Capitalized terms used in this Addendum but not defined herein will have the meanings set forth in the Master Agreement.

### GENERAL TERMS AND CONDITIONS

#### 1 DEFINITIONS

Capitalized terms in this Agreement mean the following unless specifically defined in the section of the Agreement.

**"Enhancement/s"** means a modification or addition that, when made or added to the Software, materially changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction, and does not constitute a New Product Release. Vendor may designate Enhancements as "Major Enhancements" or simply as "Enhancements," depending on Vendor's assessment of their value and of the function added to the Software or Application. "Major Enhancement" may be a substantial rewrite of an Application, similar to a New Product Release, or may be additional functionality benefiting only certain clients rather than all clients as a whole, and requiring those Enhancements to be packaged as a separate module.

**"Temporary Fix"** means an initial correction or "fix" to a problem in the Software prior to the release of an Error Correction.

**"Error Correction"** means either a modification or addition that, when made or added to the Software, brings the Software into Material conformity with its published specifications, or a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of such nonconformity.

**"Maintenance Fees"** means Fees paid by Client on a periodic basis to purchase services under this Addendum. These Maintenance Fees are subject to the Terms and Conditions of the Master Agreement, for this purpose Maintenance Fees and Fees are considered the same.

**"New Product Release"** means either the total rewrite of an Application or new version(s) of the Software (including, without limitation, offering of an Application in a new language), the offering of new suites of Applications or databases, generally packaged as a separate module, and which may incorporate Error Corrections and/or Enhancements. A New Product Release shall be distinguished from an Enhancement by Vendor's determination, based on Vendor's assessment of the New Product's value and of the function added to the Software or an Application.

**"Upgrade"** has substantially the same meaning as "Enhancement."

#### 2 SCOPE OF MAINTENANCE AGREEMENT

Client has purchased its products from the Vendor and Client wishes to have Vendor maintain and support the use of the Software. Vendor and Client therefore agree as follows:

##### 2.1 Scope of Support Services

During the term of this Agreement, Vendor agrees to provide "Basic Support Services" in support of the Product. Basic Support Services shall consist of:

(a) Unlimited Support Services. Vendor will supply a toll-free line plus Internet access into support to answer questions about the Products and help resolve issues not related to error corrections as defined below.

(b) Telephone/Internet. Vendor shall maintain a telephone and Internet connection, during normal business in accordance with its published hours of operation.

##### 2.2 Scope of Product Maintenance Services

During the term of this Agreement, Vendor agrees to provide "Maintenance Services" in support of the Products as set forth in the appropriate Order form. Basic Maintenance Services shall consist of:

(a) **Error Correction.** Vendor warrants that it will use all reasonable diligence to correct verifiable and reproducible Errors where products are not performing to Specifications within a reasonable time period after reported to Vendor. The Error Correction, when completed, may be provided in the form of a "temporary fix," consisting of sufficient programming and operating instructions to implement the Error Correction. In some cases, at the Vendor's discretion, a work around may be provided in the form of recommended alternate methods of using the products.

(b) **Changes in State and Federal Reporting Requirements.** Vendor warrants that it will provide updates needed to conform to state and federal Reporting Requirements, including changes to tax tables and routine forms, as changes become effective. Maintenance services under this Agreement do not include updates to conform to any changes in local governmental regulations, including without limitation changes in utility billing rates, reports or methods.

(c) **Service Packs.** Vendor may, from time to time, issue routine minor Releases of the Software, known as Service Packs, which contain Error Corrections to Clients who have maintenance agreements in effect. Vendor warrants that installation of Service Packs is provided at no charge to Client if completed over the Internet. Installation of routine releases and updates by Vendor at Client's site will be billed to Client at the then current hourly rate.

(d) **Discounts on Major Enhancement Releases.** Vendor may, from time to time, offer Major Enhancements to Client. To the extent Vendor offers such Major Enhancements, Vendor warrants that it shall permit Client to obtain one copy of each Major Enhancement for each copy of the Software or Application being maintained under this Agreement at the discount then specified by Vendor.

##### 2.3 Limitation of Support and Maintenance Services

(a) Training, Data Conversion, and Consulting Services Project Management Services (whether onsite or offsite);

(b) Maintenance or support services resulting from any problem resulting from Client's deliberate or inadvertent misuse, alteration (including local reports written by the Client), or damage of the Software;

(c) Support of operating systems; support of non-Vendor software (including but not limited to spreadsheets, word processors, general office software, and report writers (including Crystal Reports, except for the standard Springbrook reports written in Crystal);

(d) Onsite installation and management services for Upgrades or Major Enhancements;

- (e) Providing Internal Controls and/or balancing Client's books;
- (f) Any training, consulting, implementation management services, and data conversion services, required on an individual Client basis for Upgrades or Major Enhancements (whether onsite or offsite);
- (g) Any set up, support for and maintenance of additional *production* databases (whether onsite or offsite);
- (h) Travel (including travel time) and living expenses for installation and training, or any other onsite support or services;
- (i) New (additional) Product license and service fees.

### 3 CLIENT RESPONSIBILITIES

Under this agreement the client is responsible for items not specifically assigned to the vendor, including the following:

#### 2.4 Cooperation of Client.

Client agrees to notify Vendor promptly following the discovery of any Error. Further, upon discovery of an Error, Client agrees, if requested by Vendor, to submit to Vendor a listing of output and any other data that Vendor may require in order to reproduce the Error and the operating conditions under which the Error occurred or was discovered. Vendor shall treat any such data as confidential.

#### 2.5 Vendor Access

- (a) Client agrees to provide and maintain a means for Vendor to remotely access and maintain the Products as installed on Client's computers or networks. This access will include the following:
  - (b) An Internet connection and a static IP address that allows connectivity from Vendor support centers to the client's servers.
  - (c) Appropriate Vendor approved software that will allow Vendor support personnel to access client server environment for the purposes of installation of Products, troubleshooting and problem resolution.
  - (d) Client will allow vendor personnel to access servers and Products with administrative level access.

#### 2.6 Key Client personnel replacement

If key Client personnel replacement occurs, Vendor reserves the right to require that the new employee(s) acquire Vendor-required training. Vendor offers free training at Vendor's Portland Training Center to all new department heads and one (1) new primary user per year for Products purchased by the Client. Up to a ten percent (10%) increase in maintenance fees may occur if training is not received by all applicable users who call in for support.

#### 2.7 Additional Costs not covered by this agreement.

Client understands that Vendor reserves the right to bill hourly for maintenance and support. Vendor will seek prior written approval from client prior to performing any work defined in this section. The Client will be billed hourly for the following services;

- (a) Support or maintenance in cases where repeated operator-produced error, by the same user continues to occur despite notification to Client Management;
- (b) Support and Maintenance services not associated with applications not purchased by client as documented in an appropriate Order Form;
- (c) Support and Maintenance Services outside the scope of this Agreement.
- (d) Support and Maintenance Services for client's failure to provide adequate internal controls to ensure the accuracy and appropriate use of the Products and compliance with local, state and federal regulations and auditors requirements.
- (e) Support and Maintenance Services associated with Clients failure to provide adequate internal controls to ensure the accuracy and appropriate use of the Products.
- (f) Costs associated with Client's creation or modification of data in Vendor database except through the appropriate use of Vendor Products.
- (g) Costs associated with Clients own actions to integrate Vendor Products with applications or services not purchased from Vendor.
- (h) Costs associated with client's failure to meet the terms and conditions of Section 3 of this agreement.

### 4 MAINTENANCE FEES

#### 4.1 Failure to pay maintenance fee's

If Client fails to pay Maintenance Fees as specified in the appropriate order form, Vendor reserves the right to suspend services under this agreement. If Client's account is placed on hold due to failure to pay maintenance, Vendor will suspend all services under this agreement. Client's Account will not be taken off hold until the following occurs:

- (i) A "Reconnect" fee consisting of 10% of the full year annual maintenance amount is paid. And;
- (j) All outstanding Maintenance Fees are paid in full. Client may choose to purchase new licenses from vendor and restart Maintenance at that point in lieu of paying all outstanding Maintenance Fees.

### 5 USE AND RESTRICTIONS.

Error Corrections, Enhancements, Upgrades, New Product Releases and any other programming provided by Vendor, regardless of its form or purpose shall be considered part of the Software for purposes of determining the parties' rights and obligations related thereto pursuant to the License Agreement and this Agreement. Vendor shall have sole and exclusive ownership of all right, title and interest in and to such works (including ownership of all copyrights, trade secret rights and other intellectual property rights pertaining thereto), subject to the terms and conditions of the License Agreement.

**RESOLUTION NO. R-89-10**

**A RESOLUTION ACCEPTING THE RESIGNATION  
OF DEBRA OSBORNE AS A MEMBER OF THE  
COMMUNITY DIVERSITY COMMITTEE**

WHEREAS, Debra Osborne was appointed to the Community Diversity Committee on July 20, 2009 by Resolution No. R-62-09; and

WHEREAS, Debra Osborne submitted a letter of resignation to the Community Diversity Committee on Tuesday, July 6, 2010.

NOW, THEREFORE BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby accepts the resignation of Debra Osborne as a member of the Community Diversity Committee.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION