

RESOLUTION APPROVING SOFTWARE SERVICES ADDENDUM, AMENDMENT TO WENTWORTH, INC. DBA CITYFORCE AGREEMENT AND THE CITYFORCE CONNECT PAYMENT PROCESSING ADDENDUM BY AND BETWEEN THE ASHTABULA COUNTY BOARD OF COMMISSIONERS ACCEPTANCE OF PAYMENTS BY FINANCIAL TRANSACTION DEVICES (CREDIT CARDS) FOR EXPENSES OWED TO ASHTABULA COUNTY

WHEREAS, a Software Services Addendum; amendment to the Wentworth, Inc. dba CityForce Agreement and the CityForce Connect Payment Processing Addendum have been presented for the approval of the Board, to-wit:

Scope of Contract: amendment to Wentworth, Inc. dba CityForce Agreement to include acceptance of payments by financial transaction devices (credit cards) for expenses owed to Ashtabula County, the Software Services Addendum with Ashtabula County, and the CityForce Connect Payment Processing Addendum.

Provider: Wentworth, Inc. dba CityForce, 1265 Ridge Road, Hinckley, OH 44233

Cost: None to the county

Contract Period: Begins upon approval, ending one calendar year from this date, may renew for additional one year periods of time at the sole discretion of the County

WHEREAS, this Board of Commissioners approves the Software Services Addendum, amendment to the Wentworth, Inc. dba CityForce Agreement and the CityForce Connect Payment Processing Addendum; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio that the Software Services Addendum, amendment to the Wentworth, Inc. dba CityForce Agreement and the CityForce Connect Payment Processing Addendum are approved in accordance with the copies now on file in this office.

BE IT FURTHER RESOLVED that the President of the Board, on behalf of the Board of Commissioners of Ashtabula County, is authorized to execute any and all necessary documents.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2023-646

December 28, 2023

RESOLUTION APPROVING SOFTWARE SERVICES ADDENDUM AND AMENDMENT TO WENTWORTH, INC. DBA CITYFORCE AGREEMENT BY AND BETWEEN THE ASHTABULA COUNTY BOARD OF COMMISSIONERS FOR THE ACCEPTANCE OF PAYMENTS BY FINANCIAL TRANSACTION DEVICES (CREDIT CARDS) FOR EXPENSES OWED TO ASHTABULA COUNTY

Upon the motion of J.P. Ducro IV, seconded by Casey R. Kozlowski.

VOTE:

**Casey R. Kozlowski
Kathryn L. Whittington
J.P. Ducro IV**

**Aye
Absent
Aye**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

AMENDMENT

This Amendment to the Enterprise Software Agreement (“Agreement”) dated August 15, 2014 is entered between Ashtabula County Board of Commissioners (“County”) and Wentworth, Inc. d.b.a. CityForce (“Vendor”). The County and Vendor are sometimes collectively referred to herein as the “Parties” and individually as a “Party.”

The Parties agree to the amend the Agreement as follows:

1. The current Renewal Term shall end one calendar year from the date of this Amendment. Subsequently, the Agreement may renew for additional one year periods at the sole discretion of the County.
2. The County’s total liability under the Agreement shall be limited to the amount set forth in the Auditor’s certificate accompanying the Agreement. Under no circumstances shall the elected officials, officers, employees, council members, or agents of the County be personally liable for any obligations or claims arising out of or related to this Agreement. No change or additional schedule to the Agreement shall be effective against the County without a new Auditor’s certificate.
3. The County shall have no obligation to indemnify, defend, or hold harmless Vendor, its affiliates, officers, directors or employees in regard to any claim or legal action arising under this Agreement. Vendor agrees to indemnify, defend, and hold harmless the County and all of its respective officials, employees, representatives, servants, volunteers, successors, assigns, and agents from any liability arising out of any acts or conduct, whether intentional or negligent, of the Vendor, its officers, employees, and agents which may give rise to liability.
4. All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligations of the parties shall be construed and resolved under the laws of the State of Ohio. The parties agree that any suit which may be brought to enforce any provision of this Agreement or any remedy with respect hereto shall not be brought either in the Common Pleas Court of Ashtabula, Ohio or the Common Pleas Court of Medina, Ohio.
5. The County’s Software Services Addendum attached hereto shall be incorporated into the Agreement as if fully set forth therein.
6. The Vendor’s Payment Processing Addendum attached hereto shall be incorporated into the Agreement as if fully set forth therein.

All other terms and conditions of the Agreement shall remain in full force and effect. In the event of any conflict or ambiguity between any provision of this Amendment and the Agreement, the provisions of this Amendment shall take precedence.

Agreed upon and accepted by:

WENTWORTH, INC. d.b.a. CITYFORCE

By: Anne Walton

Date: November 13, 2023

Its: Director of Sales

ASHTABULA COUNTY

By:  _____

Date: 12-28-23

Its: President

Approved as to Legal Form Only:

By: _____

Colleen M. O'Toole,
Ashtabula County Prosecutor

Dated: _____,

Agreed upon and accepted by:

WENTWORTH, INC. d.b.a. CITYFORCE

By: Anne Walton

Date: November 13, 2023

Its: Director of Sales

ASHTABULA COUNTY

By: _____

Date: _____

Its: _____

Approved as to Legal Form Only:

By: Colleen M. O'Toole

Colleen M. O'Toole,
Ashtabula County Prosecutor

Dated: _____,

MJO
11.13.23
Matrix Matter #2023-LRI-0037

SOFTWARE SERVICES ADDENDUM

This Addendum is hereby incorporated into the Agreement (the "Agreement") between Ashtabula County (the "County") and Wentworth Technologies LLC d.b.a. CityForce ("Vendor") dated August 15, 2014. Whereas the Services includes computer software programs licensed by Vendor, the parties agree to the additional terms and conditions as set forth below. In the case of any conflict or ambiguity between the terms of this Addendum and the terms in the Agreement, the terms of this Addendum shall take precedence.

A. REPRESENTATIONS AND WARRANTIES

1. Vendor represents that it has sufficient training, expertise, staffing and experience to professionally provide the services as delineated in the Agreement and any exhibits attached thereto.
2. Vendor represents and warrants to County that neither Vendor, in connection with performing the services in performance of this Contract, nor the completed product delivered by Vendor, will infringe any patent, copyright, trademark, trade secret or other proprietary right of any person. Vendor further represents and warrants to County that it will not use any trade secrets or confidential or proprietary information owned by any third party in performing the services related to this Contract or in delivery of the completed product unless Vendor has the authority to license, use or provide those trade secrets or confidential or proprietary information to County. Vendor further represents and warrants to County that neither Vendor nor any other company or individual performing services pursuant to this Contract is under any obligation to assign or give any work done under this Contract to any third party.

B. INTELLECTUAL PROPERTY INFRINGEMENT

1. Vendor, at its own expense, shall defend and indemnify County against claims that products furnished under this Contract infringe a United States patent or copyright or misappropriate trade secrets protected under United States law.
2. As to any product which is subject to a claim of infringement or misappropriation, Vendor may (a) obtain the right of continued use of the product for County or (b) replace or modify the product to avoid the claim. If neither alternative is available on commercially reasonable terms then, at the request of Vendor, any applicable Software license and its charges will end, County will stop using the product, and will return the product to Vendor. Upon return of the product, Vendor will give County a credit for the price paid to Vendor, less a reasonable offset for use and obsolescence.

C. INSURANCE

Vendor shall secure and maintain Cyber Liability and Security Insurance or equivalent insurance product(s), with minimum liability limits of not less than \$5,000,000 and first

party limits of not less than \$1,000,000, that will provide, without cost to the Vendor or County, an immediate response in the event of a data breach, including meeting all notification obligations of Vendor and County and, in the event the Data Breach involves personal information as defined by Chapter 1347 of the Ohio Revised Code, provide free credit monitoring for any affected individual for a minimum period of one year.

D. CONFIDENTIALITY

1. Either Party who discloses Confidential Information, as defined herein, is a “Disclosing Party” for purposes of this Article, and either Party who receives such Confidential Information is a “Receiving Party” for purposes of this Article. “Confidential Information” means inventions, ideas, intellectual property, formulae, patterns, compilations, programs, methods, techniques, processes, data, designs, algorithms, source code, object code, research plans, business plans, financial forecasts, business opportunities, pricing lists, customer lists, personnel lists, financial statements, and similar information, whether written or oral, that generally is not known to the public and is the subject of reasonable efforts to maintain its secrecy. Notwithstanding the foregoing, Confidential Information shall not include information that (a) is or becomes generally available to the public other than as a result of disclosure thereof by the Receiving Party, (b) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which is not prohibited from disclosing such Confidential Information to the Receiving Party by a legal, contractual or fiduciary obligation to the Disclosing Party, (c) Receiving Party can demonstrate is independently developed by Receiving Party without use, directly or indirectly, of any Confidential Information, or (d) is required to be disclosed by law, including under O.R.C. Chapter 149, or by valid court order.
2. Confidential Information furnished directly or indirectly by the Disclosing Party to the Receiving Party or to any directors, officers, employees, agents, attorneys, accountants, advisors, affiliates, and other representatives and potential financing sources of the Receiving Party (collectively, “Representatives”), whether obtained by or furnished to the Receiving Party prior, contemporaneously, or subsequent to the Effective Date, shall be kept confidential and shall not, without the Disclosing Party's express prior written consent, be disclosed by the Receiving Party or its Representatives in any manner whatsoever, in whole or in part, and shall not be used by the Receiving Party or its Representatives other than in connection with this Agreement. Each party agrees to reveal the Confidential Information only to its Representatives who need to know the Confidential Information for the purpose of this Agreement, who are informed of the confidential nature of the Confidential Information and who agree to act in accordance with the terms and conditions of this Agreement.

3. In the event the Receiving Party or any party to which it transmits the Confidential Information pursuant to this Agreement becomes legally compelled to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt notice so that the Disclosing Party may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by written opinion of counsel is legally required, and the Receiving Party shall exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.
4. Each party acknowledges and agrees that, given the nature of the Confidential Information, money damages would not be a sufficient remedy for any breach of this Article, and that, in addition to all other remedies, the aggrieved party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach.

E. PUBLIC RECORDS

By entering into the Agreement, Vendor acknowledges and understands that records maintained by Vendor pursuant to the Agreement may be deemed public records and subject to disclosure under Ohio law. Vendor agrees to comply with Ohio Revised Code Chapter 149 and all public record laws and shall be responsible for any and all costs related to disclosing public records in its possession. Vendor further agrees that it will not in any manner interfere with County's access to any County public records, court records, data, or information in Vendor's possession or under Vendor's control. Vendor shall ensure that any software or hardware it owns, maintains, distributes, licenses, or in any manner controls or is utilized to access County public records, court records, information, or data will house or be able to be utilized in such a manner that ensures County's accessibility and readability to such public records, court records, information, and data before and after the term of the Agreement. Vendor agrees that it will not take any action or refrain from any action that corrupts, destroys, interferes with, or in any way limits County's ability to utilize any County public records, court records, data, or information during or after the term of the Agreement. Vendor acknowledges that taking or refraining from any action that in any way prevents, harms, or limits County's ability to access or utilize County public records, court records, data, or information is a material breach of the Agreement and a violation of Ohio law. Vendor shall transfer a copy of all electronically formatted County public records, court records, data, and information in its possession, under its control, or kept on any software or hardware it maintains, distributes, or licenses to County in a format suitable to for use by County, as determined by County, within ten (10) days after termination of the Agreement unless an alternative time period or arrangement for such transfer is agreed upon by the Parties in writing and formally executed as an amendment to the Agreement. Vendor or its agents and assigns

shall be responsible for the cost of the aforementioned transfer of public records, court records, information, and data to the County.

F. DATA SECURITY

Vendor shall implement and maintain all appropriate administrative, physical, technical and procedural safeguards at all times during the term of this Contract to secure any County Data (which shall be defined as “any information provided to, or collected, generated, stored, or processed by the system, including user identification information and metadata which may contain such information or from which such information may be ascertainable”) from any access, destruction, loss, theft, use, modification or disclosure of data by an unauthorized party or that is in violation of Agreement terms and/or applicable state or federal law (a “Data Breach”), and protect the data from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the County access to its data, Vendor shall quarantine the Data Breach, ensure secure access to data, and repair the Services as needed in accordance with the Contract Documents. Failure to do so may result in the County exercising its options for assessing damages or other remedies under this Agreement. Upon discovery or reasonable belief of any Data Breach, Vendor shall provide notice, by phone and through electronic mail, to County within the lesser of twelve (12) hours or the timeframe required by applicable laws and regulations after Vendor reasonably believes there has been such a Data Breach. To the extent known at the time of notification, Vendor’s notice shall include:

- (a) The nature of the Data Breach;
- (b) The Data accessed, used or disclosed;
- (c) The person(s) who accessed, used, disclosed and/or received Data (if known);
- (d) What Vendor has done or will do to quarantine and mitigate the Data Breach; and
- (e) What corrective action Vendor has taken or will take to prevent future Data Breaches.

Vendor shall conduct an investigation of the Data Breach and shall share the report of the investigation with the County. The County and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Vendor shall cooperate fully with the County, its agents and law enforcement.

G. RIGHTS TO DATA

The parties agree that as between them, all rights, including all intellectual property rights, in and to Data shall remain the exclusive property of the County, and Vendor has a limited, non-exclusive license to access and use the Data as provided to Vendor solely for

performing its obligations under the Contract. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of Data by Vendor or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized. County shall have the ability to export Data in partial or in entirety at its discretion without interference from the Vendor. This includes the ability for the County to export data to other service providers.

Upon expiration or termination of the Agreement for any reason, Vendor agrees to provide County with a copy of County's data files, in a format determined by County, and within forty-five (45) days unless otherwise determined by County. After written notification to Vendor of verified inspection of the returned data by County, Vendor will make commercially reasonable efforts to destroy any County data under Vendor control, including County data stored at any off site back-up facility. Vendor shall provide County with a certification of destruction within an additional forty-five (45) days of notification of the verified inspection of the returned data.

Agreed upon and accepted by:

Ashtabula County, Ohio:

By:  _____

Date: 12-28-23

Its: President _____

Wentworth, Inc. d.b.a. CityForce:

By: Anne Walton _____

Date: November 13, 2023

Its: Director of Sales _____