

STATE OF TEXAS §
COUNTY OF WEBB §

2023 NOV -8 PM 3: 23

WEBB COUNTY, TEXAS
BY *all* _____ DEPUTY

**IWORQ SERVICE CONTRACT
WEBB COUNTY PLANNING DEPARTMENT
FOR iWorQ's Cloud based File Management and Application Software Services**

THIS CONTRACT is made and entered into by and between **Webb County**, Texas (hereinafter "County"), a political subdivision of the State of Texas, acting through its governing body, the Webb County Commissioners Court, 1000 Houston Street, Laredo, Texas 78040, and **iWorQ Systems Inc.** ("iWorQ"), a Foreign For-Profit Corporation, (hereinafter "Service Provider"), 400 North, Suite 102, Logan, Utah 84321. County and Service Provider may be referred herein individually as a "Party" or jointly as "Parties." The County agrees to engage Service Provider as an independent contractor, to provide online cloud-based file management and application software services for the Webb County Planning Department pursuant to the following terms, conditions, and restrictions.

WHEREAS, County sought proposals ("RFP 2023-013") from vendors for a "Cloud Based File Management and Application Software" system for the Webb County Planning Department; and

WHEREAS, vendors were invited to participate and submit proposals; and

WHEREAS, County approved the chosen proposer, Service Provider (iWorQ), to undertake for the Webb County Planning Department, which includes requested software, and licenses for Service Provider's "Community Development ("Enterprise Package")" for the Webb County Planning Department which encompasses, among other things, (1) Permit Management, (2) Code Enforcement, and (3) Online credit/debit card processing integrated with iWorQ ("Pay Roc").

NOW THEREFORE, County and Service Provider agree as follow:

1. Purpose. The purpose of this Contract is to define the terms and conditions by which Service Provider will provide to the Webb County and its Planning Department specific cloud-based software services with accompanying license(s), as more specifically defined in **Attachment A** and incorporated herein for all purposes (the "Application and Services").
2. Term. The Contract shall begin October 23, 2023 and end on October 22, 2026.
3. Authority. County shall administer this Contract through the Webb County Planning Director/Floodplain Administrator, Mr. Jorge Calderon, CFM, (the "County Representative"), or his designee, who is authorized to act on behalf of Webb County for all purposes relating to the performance, payment, and administration, of the Contract. Mr. Calderon can be contacted at (956) 523-4100.

4. Consideration and Compensation. Service Provider will be compensated based on a not-to-exceed amount as set forth in its “Pricing Proposal” (**Attachment “A”**) submitted as part of its proposal response, which is incorporated herein as if copied in full. Specifically, the amount of ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00) for the purchase and installation of “Community Development Enterprise Package” software with accompanying license(s) for the Webb County Planning Department

Additionally, payment for good and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Webb County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrued on a late payment is the rate in effect on September 1 of County’s fiscal year in which the payment is due. The said rate is in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

- (a) Invoicing Procedure. Payment(s) will be made to the Service Provider upon receipt and approval of an invoice by the County Representative, who shall be the sole judge of the acceptability of the goods and services. The Service Provider and the County Representative shall agree upon a mutually acceptable annual invoicing schedule. County reserves the right to require additional information to support payments to Service Provider. Payments will be made to the Service Provider within thirty (30) days of receipt of invoice or other mutually agreed upon period.
- (b) Mailing Address. All invoices and notices related to this Contract shall be sent to the County Representative (Mr. Calderon) at the following address: 1620 Santa Ursula, 2nd Floor, Laredo, Texas 78040, or in care of the following email address: jcalderon@webbcountytx.gov

5. Service Provider Responsibilities.

- (a) Software as a Service (SaaS) Terms of Access. Service Provider (iWorQ) grants County a non -exclusive, non-transferable limited access to use Service Provider’s service(s), application(s) on Service Provider’s authorized website for the fees and terms listed in **Attachment “A.”** All services provided by Service Provider shall be performed strictly in accordance with this Contract and in an efficient business-like manner.
- (b) Warranties. Service Provider warrants it products and all applicable provisions and remedies under the Texas Business and Commerce Code’s Uniform

Commercial Code relating to express implied warranties are incorporated into the terms of this Contract, as are any Service Provider's warranties.

(c) No changes. Service Provider shall furnish products or services strictly in accordance with the specifications and price(s) as agreed for each item as set out in **Attachment "A"**.

(d) Service Provider is not responsible for the content entered into Service Provider's database or uploaded as a document or image. Access to Service Provider database cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload or documents considered personal or confidential.

6. County's Responsibilities. County shall provide information as necessary or requested by the Service Provider to enable Service Provider to perform under this Contract. County acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or the application(s), services(s), and related documentation all of which title and rights shall remain with Service Provider. County shall not permit any user to reproduce, a copy, or reverse engineer any of the application(s), service(s) and related documentation.

7. County Warranty. County represents and warrants the application(s) and service(s) provided by Service Provider will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. Service Provide may restrict access to users upon issuance of application(s) and service(s).

8. Training and Implementation. County agrees to provide the time, resources, and personnel to implement Service Provider's service(s) and application(s). Service Provider will assign a Project Manager (Senior Account Manager) and a senior account management team to implement service(s) and application(s). Typical implementation shall take less than sixty (60) days. Service Provider shall support, implement, and train County staff on deliverables. Service Provider's account managers will call twice per week to provide remote training once per week, and send weekly summary emails to County's implementation team. Service Provider shall provide management and implementation documents upon request. Service Provider will do ONE (1) import of the County's data. This import consists of importing data, sent by the County, in an electronic relational data format. County must have clear ownership of all forms, letters, inspections, checklists, and data sent to Service Provider. Data upload and storage is provided to the County. This includes uploading files up to 3MB and 10GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in **Attachment "A."**

9. County Data. Service Provider data will be stored on AWS GovCloud. Service Provider will use commercially reasonable efforts to backup, store and manage County data.

Service Provider shall perform backups twice per week and offsite backups twice per week. County shall be able to run reports and export data from Service Provider's application(s) at any time. County can pay Service Provider for additional management service(s), onsite backups, application(s) and other service(s) other than what is provided under this Contract through an amendment to this Contract.

10. County Support. County support and training for services provided under this Contract is FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. Service Provider shall provide County unlimited remote training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. Service Provider provides "Service" NOT Software."
11. Records, Reports, and Information. At such times and in such forms as The County may require, the Service Provider shall furnish statements, records, reports, data and information pertaining to matters covered by this Contract. The Service Provider shall maintain its records in accordance with any requirements prescribed by The County. Except as otherwise authorized by The County, Service Provider shall maintain such records for a period of four (4) years after receipt of final payment under this Contract.
12. Independent Contractor: Service Provider is an independent contractor and is free to perform services for other clients. Neither Service Provider nor any agent shall be deemed an agent or employee of The County for any purpose. AS AN INDEPENDENT CONTRACTOR, SERVICE PROVIDER IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE, WORKERS COMPENSATION BENEFITS, HEALTH INSURANCE, OR RETIREMENT BENEFITS THROUGH THE COUNTY AND IS OBLIGATED TO PAY FEDERAL INCOME TAX, STATE, AND LOCAL TAXES WITH RESPECT TO SERVICE PROVIDER AND ITS EMPLOYEES ON ANY MONIES EARNED PURSUANT TO THIS CONTRACTUAL RELATIONSHIP. This Contract does not create a partnership or a joint venture between the parties hereto, nor does it authorize either party to serve as the legal representative or agent of the other. Neither party
13. No Conflict of Interest. Service Provider represents that it is not aware of any transaction, activity, or conduct that would affect the judgment, actions or work of the Service Provider by placing the Service Provider's own interests, or the interests of any party with whom the Service Provider has a contractual arrangement, in conflict with those of The County and agrees that no official, officer or employee of the County has any personal or beneficial interest whatsoever in the services provided by this Contract. Service Provider also agrees not to hire, pay or contract for the services of any official, officer or employee of The County during the term of this Contract.
14. Indemnification. (a) **If any product sold or delivered under this Contract is covered by a patent, trademark, or application, Service Provider shall indemnify, hold harmless, and defend The County from any and all loss, liability, cost, expenses,**

and legal fees incurred on account of any claims, legal actions, or judgment arising out of the manufacture, sale, or use of the subject article in violation or infringement of any such rights; (b) The County shall, in all instances except claims arising from the sole negligent or willful acts or omissions of The County, be indemnified by the Service Provider from and against all claims. The Service Provider shall be responsible for primary loss, investigations, defense, and judgment cost where this indemnification is applicable. In consideration for the award of this Contract, Service Provider agrees to waiver all rights of subrogation against the County, its officials, agents, and employees for losses arising from the work performed by Service Provider for The County.

15. No Assignment and No Third-Party Beneficiaries. Service Provider shall not assign any rights, delegate any duties, or subcontract any part of the performance required by this Contract without the express written consent of The County. This Contract shall inure to the benefit and be binding upon Service Provider and The County only and shall not create any third-party rights or liabilities.
16. No Waiver of Sovereign Immunity or Powers. Nothing in this Contract will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Webb County Commissioners Court, or the Webb County Judge.
17. Termination.
 - (a) Termination for Cause. If Service Provider fails to materially perform to the terms pursuant to the terms of this Agreement, County shall provide written notice to Service Provider specifying the default (“Notice of Default”). If Service Provider does not cure such default within thirty (30) days, County may terminate this Contract, in whole or in part, for cause. If County terminates this Contract for cause, and its later determined the termination for cause was wrongful shall automatically be converted to and treated as a termination for convenience. Upon termination, iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide the County with an electronic copy of County’s data, if requested by the County within 3-5 business days.
 - (b) Upon Termination, the County shall remit final payment to Service Provider in an amount only those services performed in full accordance with the terms and conditions of this Agreement up to the effective date of termination. Service Provider shall submit to County an invoice for service rendered and County shall be for such rendered services within thirty (30) days of receipt of such valid invoice. Further upon Termination, the County may request a copy of all of County’s data for a cost of nor more than Two Thousand Five Hundred Dollars (\$2,500.00).
18. Venue and Choice of Law. Venue of this Contract shall lie in the Federal District Court of the Southern District of Texas-Laredo Division, and the laws of the State of Texas shall govern all terms and conditions of this Contract, without regard to choice of law rules of any jurisdiction. Webb County requires that all software licenses agreed to and signed in

Webb County require a Texas venue and forum.

19. Non-Appropriation. County operates on a year-to year fiscal budget (October-September) as approved by its County’s Commissioners Court. If the County should not appropriate or otherwise make available fund sufficient to pay for the services provided under this Contract, County may unilaterally terminate this Contract upon only upon thirty (30) days written notice to Service Provider. Upon termination, County shall remit payment for all services delivered to County and expenses incurred by Service Provider prior to Service Provider’s receipt of the termination notice.

iWorQ acknowledges that any potential expenditure for this Agreement outside the current fiscal year is contingent upon appropriation, budgeting, and availability of specific funds for such proposed expenditure, and nothing in this Agreement constitutes a debt or direct or indirect multiple year financial obligation of the County. The County cannot purchase or use a similar solution or service for one year after using non-appropriation as a reason termination. Non-appropriation can be used as a reason to negotiate a better price to fit within the reduced budget.

20. Rule of Construction. The County and Service Provider acknowledge that they have had an adequate opportunity to review each and every provision contained in this Contract and to submit same to legal counsel for review and comment, including expressly and without limitations the warranties and indemnities contained in this Contract based on said review and consultation. Based on the foregoing, The County and Service Provider agree that the Rule of Construction that a Contract be construed against the Drafter, if any, shall not be applied in the interpretation and construction of this Contract.

21. Notice. Notices to be provided under this Contract shall be given in writing and deliver by certified mail to the following:

For The County:

Tano E. Tijerina
Webb County Judge
1000 Houston Street
Laredo, Texas 78040

For Service Provider:

Ty Pebley
Vice President of Sales
1125 West 400 North, Suite 102
Logan, Utah 84321

22. Compliance with Laws and Regulations. Service Provider agrees that all work performed under this Contract shall comply with all applicable laws, rules and regulations.

23. Modifications. This Contract may not be modified, amended or otherwise altered, unless mutually agreed upon in a writing executed by both The County and Service Provider. No change or alteration to this Contract that requires payment in excess of The County’s obligation stated in ¶4 shall be effective.

24. Insurance. The financial integrity of Service Provider is of interest to The County therefore, subject to the right of County to maintain reasonable insurance deductibles in such amounts

as are approved by County. The County has reviewed the insurance declaration provided by the Service Provider and deemed sufficient. Any additional insurance or cost required would be added to the yearly cost of the services. If the County will want to be listed as an additional insured on the additional insurance, the cost will be \$2,500 per year. Service Provider shall obtain and maintain in full force and effect for the entire duration of this agreement, and any extension hereof, at Service Provider's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- (VII) or better by A.M. Best Company (Best's Key Insurance Company Rating Guide, current edition and/or as amended) and/or otherwise acceptable to The County/Webb County Risk Manager, the following types and amounts:

Service Provider shall not commence work under this Contract until it has obtained all the insurance required and such insurance has been approved by The County. Service Provider shall procure and shall maintain during the life of his Contract, insurance in the following required amounts.

- (a) Workers Compensation & Employers Liability Insurance. Service Provider shall procure and shall maintain during the life of this Contract Workers' Compensation Insurance at required statutory limits as provided by applicable State law for his/her employees to be engaged in work at the site on the Project under this Contract and, in case work is sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Service Provider's Workers' Compensation Insurance. In the case where any class of employees engaged in work on the project under this Contract and is not protected under the Workers' Compensation Statute, Service Provider shall provide adequate employee liability insurance for the protection of such of his/her employees as not otherwise protected in the following amounts: \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each occurrence /\$1,000,000 by disease aggregate.
- (b) Commercial General Liability Insurance. Service Provider and any of Service Provider's Subcontractors shall maintain Commercial General Liability for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$1,000,000.00) each occurrence, Two Million Dollars (\$2,000,000.00) general aggregate for bodily injury and property damage, and name Webb County as an additional insured.
- (c) Commercial Automobile Liability Insurance. Service Provider and any of Service Provider's Subcontractors shall maintain Automobile Liability Insurance covering hired or any other vehicles owned, and non-owned vehicles used, by the Contractor at a minimum of not less than One Million Dollars (\$1,000,000.00 per occurrence for bodily injury and property damage.

- (d) Professional Liability Insurance: Service Provider shall maintain Professional Liability Insurance (Errors and Omissions) at a minimum amount of not less than Five Million Dollars (\$5,000,000.00).
 - (e) Cyber Liability Insurance. Service Provider shall maintain Cyber Security Liability Coverage, including third party liability, in an amount of not less than Five Million Dollars (\$5,000,000.00).
 - (f) Service Provider shall procure and shall maintain during the life of this Contract, insurance in the amount listed under Paragraph 20(a), (b), (c), (d) & (e).
 - (g) Proof of Carriage of Insurance. Service Provider shall furnish The County with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall also contain substantially the following statement: “The Insurance covered by this certificate will not be cancelled or materially altered, except after ten (10) days written notice has been received by The County. The County shall be named as Insureds or Additional Insureds with respect to all insurances required by be carried by Service Provider. A blanket waiver of subrogation in favor of Webb County, Texas shall be contained in the Workers’ Compensation and all liability policies.
21. Counterparts and Scanned Signatures. This Contract may be executed in counterparts, each of which shall be deemed an original. Scanned signatures of authorized signatories shall be effective for all purposes.
22. Severability. If any provision of this Contract is determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, the remaining provisions of the Contract shall remain in full force and effect.
23. Inconsistent Provision. The terms of this Contract and any related agreements, instruments, or other documents shall be cumulative except to the extent that are specifically inconsistent with each other, in which case the terms of this Contract shall prevail.
24. Attorney’s Fees. In the event either party breaches any of the terms of this Contract whereby the Party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney’s fees incurred by such other party. This includes collection or debt owed as part of the invoicing process.
25. Entire Contract. This Contract and its Attachments shall constitute the complete and exclusive written expression of the intention of the Parties hereto and shall superseded all previous communications, representations, agreements, promises, or statements, either oral or written, by and between the parties.
26. No Rights Created. This Contract is not intended and does not create any rights or interest

in persons not a party to this Contract.

- 27. Headings. The headings used herein are for convenience of reference only and shall not constitute a party of the Contract or affect the construction or interpretation hereof.
- 28. Consequential Damages. Neither Party to this Contract shall be liable to the other for consequential damages, including, with limitation, loss of use or loss profits incurred one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, will-full misconduct, negligent act or omission, or other wrongful act of either of them.
- 29. Terminology and Definitions. All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- 30. Service Provider Terms and Conditions. **Attachment "A"** is incorporated herein by reference and made a part of this Contract as if fully set forth herein.

WITNESS the signatures of all parties to this Contract and made effective this _____ day of October, 2023.

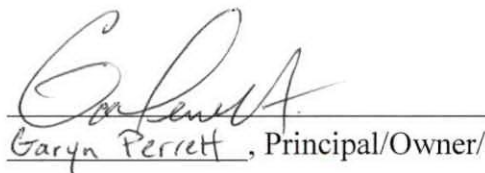
WEBB COUNTY



Tano E. Tijerina
Webb County Judge

Date: 10-23-23

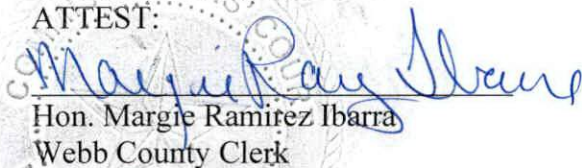
**SERVICE PROVIDER
iWORQ SYSTEMS INC.**



Garyn Perrett, Principal/Owner/CEO

Date: 10/31/2023

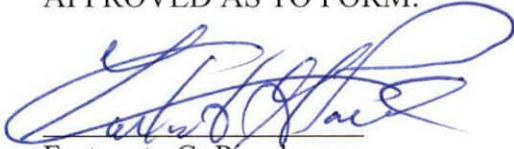
ATTEST:



Hon. Margie Ramirez Ibarra
Webb County Clerk



APPROVED AS TO FORM:



Fortunato G. Paredes

Assistant General Counsel

Webb County Civil Legal Division

*The General Counsel, Civil Legal Division's Office, may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval of their own respective attorney(s).



ATTACHMENT "A"

iWorQ Price Proposal

Webb County	Population- 250,304
1000 Houston Street, Laredo, TX	Prepared by: Ty Pebley

Annual Subscription Fees

Application(s) and Service(s)	Package Price	Billing
<p>Community Development (Enterprise Package) *Permit Management - Building Permits *Code Enforcement *Portal Home *Online credit/debit card processing integrated with iWorQ. (PayRoc)</p> <p>-Configurable portal for ease of applying for permits, tracking current permits, and paying fees online -Allows for submitting code enforcement issues online and viewing code cases -Messaging feature for easy interaction with citizens -Built-in automatic workflow capabilities -iWorQ Notifications included -Inspection and plan review tracking -Track permits and cases with customizable reporting -Includes Premium Data (25MB Uploads, 100GB Total Storage) -3 Scheduled Reports -3 Custom Web Forms for Portal Home -Free forms, letters, and/or permits utilizing iWorQ' template library and up to 3 custom letters -OpenStreetMap tracking abilities with quarterly updates</p> <p>GIS REST Services - iWorQ will publish your agency's WMS layers in iWorQ Community Development applications. iWorQ will update parcel information monthly from the published service. <i>Note: If GIS configurations change (FTP location, name format, field changes, etc.) iWorQ will charge a minimum \$500 fee to accommodate new configuration adjustments (subject to additional hourly charges)</i></p> <p>Plan Review Management - Draw & annotate on plans - Save data in layers on plans - Place watermarks on plans - Must have premium data to use</p>	<p>\$40,000</p>	<p>Annual</p>

<p>Permit Management - Plan Review Management</p> <ul style="list-style-type: none"> - Available on any computer, tablet, or mobile device using Chrome Browser - OpenStreetMap tracking abilities with quarterly updates - Manage appeals, variances, plat applications, conditional use permits, etc. - Option to track contractors and their licensing - Track fees and payments - Inspection and plan review tracking - Configurable Reporting - iWorQ notifications included - Send out mass notifications to surrounding properties - Free forms, letters, and / or permits utilizing iWorQ's template library, and up to 3 custom letters. - Draw & annotate on plans - Save data in layers on plans - Place watermarks on plans - Includes Premium Data (25MB File Upload Size & 100GB Total Storage) 	<p>Included</p>	<p>Annual</p>
<p>Permit Management – Environmental Health (Septic)</p> <ul style="list-style-type: none"> -Available on any computer, tablet, or mobile device using Chrome Browser -Track Permits, inspections, contractors, and their licensing -Track fees and payments -Inspection and plan review tracking -Configurable reporting -Quarterly parcel update -OpenStreetMap tracking abilities -Free forms, letters, and/or permits utilizing iWorQ's template library, and up to 3 custom letters 	<p>Included</p>	<p>Annual</p>
<p>Business License Management – Junkyards</p> <ul style="list-style-type: none"> -Available on any computer, tablet, mobile device using Chrome Browser -Quarterly Parcel Upload -License for Businesses -Renewal and invoicing capabilities for one owner to one property -Unlimited letters utilizing iWorQs template library, and up to 3 custom letters -Reminder letter generation 	<p>Included</p>	<p>Annual</p>

Additional Storage (900GB) Additional Storage. (Total Storage = 1TB) Note: Additional Storage can be purchased as needed: \$250/annually for 100GB	Included	Annual
Additional Web Forms for Online Portal (21) Additional Web forms for Online Permit Applications. (Total Web Forms = 24) Note: Additional Web Forms can be purchased as needed: \$500/annually for 3	Included	Annual
Subscription Fee Total (This amount will be invoiced each year)	\$40,000	Annual

One-Time Setup, GIS integration, and Data Conversion Fees

<u>Service(s)</u>	<u>Full Price Cost</u>	<u>Package Price</u>	<u>Billing</u>
Implementation and Setup cost year 1	\$26,000	\$10,000	Year One
Data Conversion	\$4,900	Included	Year One
One-Time Setup Total (This amount will be added year 1)	\$30,900	\$10,000	Year One
Grand Total Due Year 1	\$70,900	\$50,000	Year One Total