



THIS CONTRACT is hereby made, entered into, and effective as of **May 01, 2022**, by and between **GUILFORD COUNTY**, a body politic and corporate of the State of North Carolina, hereinafter referred to as the "**COUNTY**," and **Farragut Systems, Inc.**, hereinafter referred to as the "**CONTRACTOR**," and also collectively referred to as the "**Parties**."

W I T N E S S E T H:

WHEREAS, for the purpose and subject to the terms and conditions hereinafter set forth, the **COUNTY** hereby contracts for the items, goods, service or services of the **CONTRACTOR** and the **CONTRACTOR** agrees to provide the items, goods, service or services to the **COUNTY** in accordance with the terms of this Agreement.

WHEREAS, the **COUNTY** is in need of Annual Maintenance for NCPTS B&C and LRC, and

WHEREAS, the **CONTRACTOR** has submitted a proposal to provide such goods and/or services.

NOW, THEREFORE, in consideration of promises mutually exchanged the **Parties** agree as follows:

1. GOODS AND/OR SERVICES. **CONTRACTOR** will provide the goods and/or services as set forth in Attachment A, attached hereto and incorporated herein by reference. All items and/or services shall be provided in a competent, workmanlike and professional manner acceptable to the **COUNTY**. Should there be any discrepancy between the **CONTRACTOR**'s Attachment A and/or the first five (5) pages of this Contract, the first five (5) pages of this Contract shall prevail and control.

2. PAYMENT AND PRICING. As full compensation for the **CONTRACTOR**'S delivery of the goods and/or services, the **COUNTY** agrees to pay the amounts for the goods and/or services as set out herein and in Attachment A, which is attached hereto and incorporated herein by reference. Payment will be made by the **COUNTY** to **CONTRACTOR** within thirty (30) days of receipt of a correct invoice and proper documentation that the goods and/or services have been delivered or provided in accordance with this Contract.

3. MAXIMUM EXPOSURE CONTRACT. The maximum financial exposure to the **COUNTY** under this Contract will not exceed \$604,200.00. Payment will be made only from budgeted funds in accordance with N.C. Gen. Stat. §159.

4. APPROPRIATION. This Contract is subject to annual appropriation of funds by the **GUILFORD COUNTY** Board of Commissioners or other funding source, pursuant to N.C.G.S. Chapter §153A-13.

5. TERM. This Contract shall be in effect for three years, beginning May 01, 2022, and ending April 30, 2025, with the option to extend for five (5) one (1) year renewals at the same pricing and terms and conditions upon mutual written agreement of both **Parties**.

6. AMENDMENTS. The terms of this Agreement may only be modified or revised with a written Contract executed by both Parties.

7. TERMINATION.

TERMINATION WITHOUT CAUSE.

Either Party may terminate this Agreement for any reason without cause and without penalty upon one hundred eighty (180) days written notice to the other Party. All goods and/or services provided and accepted as of the date of termination will be paid for; similarly, amounts paid in advance, if any, for which goods and/or services have not been provided and accepted by the COUNTY will be promptly refunded to the COUNTY by the CONTRACTOR within thirty (30) days of date of termination of this Contract.

TERMINATION FOR CAUSE.

If, through any cause, the CONTRACTOR shall fail to fulfill its obligations under this contract in a timely and proper manner, the COUNTY shall have the right to terminate this Contract by giving written notice to the CONTRACTOR and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the CONTRACTOR under this contract shall, at the option of the COUNTY, become its property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the CONTRACTOR'S breach of this Agreement, and the COUNTY may withhold any payment due the CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the COUNTY from such breach can be determined. In case of default by the CONTRACTOR, without limiting any other remedies for breach available to it, the COUNTY may procure the contracts services from other sources and hold the CONTRACTOR responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the CONTRACTOR shall be an act of default under this Contract.

8. BREACH. If, through any cause, CONTRACTOR or COUNTY ("the breaching party") shall fail to fulfill its obligations under this Contract in a timely and/or proper manner ("breach"), either in whole or in part, and such breach has continued for a period of more than ten (10) days after the other party ("the non-breaching party") has notified the breaching party of such breach, in addition to any termination rights that it may have, the non-breaching party shall have all legal, equitable, and administrative rights available under applicable law. Without limiting other remedies, where COUNTY is the non-breaching party COUNTY may: Withhold any payment due CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due COUNTY from such breach can be reasonably determined (at which time that amount shall be deducted from any payment(s) otherwise due to CONTRACTOR) and/or procure the contracted for services or goods from other sources and hold CONTRACTOR responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by CONTRACTOR shall constitute an act of breach under this Contract.

9. EQUAL EMPLOYMENT OPPORTUNITIES - AFFIRMATIVE ACTION. GUILFORD COUNTY and the awarded Vendor shall comply with Equal Employment Opportunities (EEO) requirements, and to take affirmative action to ensure that all individuals have an equal opportunity for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, or veteran status under the Guilford County EEO Plan, as amended, implemented pursuant to 41 CFR Part 60-2.10(a)(3), 41 CFR §60-741.44(a) and 41 CFR §60-300.44(a), and in accordance with the following laws, as amended: Title VII and Title IX of the Civil Rights Act of 1964; The Equal Pay Act of 1963; Executive Order 11246; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973, as amended (Section 503); the Americans with Disabilities Act of 1990; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA); the Civil Rights Restoration Act of 1988; NC General Statutes Chapters 116 and 126 and Title II of the Genetic Information Nondiscrimination Act of 2008, the North Carolina Equal Employment Opportunity Policy effective June 1, 2015, along with all other applicable federal and state laws governing equal employment opportunities.

10. FEDERAL FUNDING – UNIFORM GUIDANCE. The Parties agree that when utilizing federal funding in the performance of this Agreement, the Parties shall comply with all applicable provisions of 2 C.F.R. §200.326 and 2 C.F.R. Part 200, Appendix II, (Uniform Guidance), including, but not limited to: The Equal Employment Opportunity Clause (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland “Anti-Kickback” Act (40 U.S.C. §3145, as supplemented by Department of Labor (DOL) regulations, 29 C.F.R. Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708, as supplemented by DOL regulations at 29 C.F.R., Part 5. See 2 C.F.R. Part 200, Appendix II(E); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549(1986) and 12689(1989) at 2 C.F.R. Part 180 and the DHS’ regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. Part 200, Appendix II(J) and §200.322); Rights To Inventions by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements (37 C.F.R. Part 401); Record Retention Requirements (2 C.F.R. §200-324); and subsequent amendments, which are incorporated herein by reference.

11. NOTICES. All notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each Party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

Michael Halford, Guilford County Manager
GUILFORD COUNTY
P.O. Box 3427 (zip code 27402)
301 West Market Street
Greensboro, NC 27401

Renee Knight-Tate
Farragut Systems Inc.
Mailing Address: 2810 Meridian Parkway suite 160
City,State,Zip: Durham, NC 27713
renée.knight@farragut.com

12. INDEPENDENT CONTRACTOR/INDEMNIFICATION CONTRACTOR shall operate as an independent contractor for all purposes. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the COUNTY and either the CONTRACTOR or any employee or agent of CONTRACTOR. CONTRACTOR is an independent contractor and not an employee, agent, joint venture or partner of the COUNTY. The Parties agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.

13. ASSUMPTION. If CONTRACTOR should undergo merger, acquisition, bankruptcy or any change in their ownership or their name for any reason, CONTRACTOR must immediately notify GUILFORD COUNTY in writing of these changes and provide the COUNTY with legal documentation supporting these changes, such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, sales contract, merger documents, etc. Further, CONTRACTOR will submit the name and address of the assuming CONTRACTOR’S registered agent for service of process and/or all notices required under this Contract.

14. SEVERABILITY. If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the Parties' intention. All remaining provisions of this Contract shall remain in full force and effect.

15. FORCE MAJEURE. Neither Party shall be liable to the other Party for any failure or delay caused by events beyond such Party's control and not due to its own negligence, provided that such Party uses commercially reasonable efforts to resume performance as soon as reasonably practicable. The non-performing Party shall notify the other Party of the force majeure event within twenty-four (24) hours of the onset thereof. In the event that a force majeure event precludes CONTRACTOR from performing services and/or providing goods for a period of ten (10) consecutive business days, the COUNTY shall have the right to: (a) procure replacement goods and/or services from an alternative source and/or (b) terminate the Contract or portion(s) of Contract upon written notice to CONTRACTOR.

16. HEADINGS/TITLES/WORDING. Inclusion of titles of paragraphs or section headings, capitalization of certain words or phrases and/or bold face typestyle of certain words or phrases in this Contract are for convenience purposes only and shall not be used to interpret or construe the provisions of this Agreement. The terms "Contract" and "Agreement" have the same meaning and may be used interchangeably throughout this document. The terms "Attachment" and "Exhibit" have the same meaning and may be used interchangeably throughout this document.

17. GUILFORD COUNTY LIABILITY INSURANCE REQUIREMENTS.

WORKERS COMPENSATION: CONTRACTOR agrees to maintain coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include employer's liability with limits of at least \$1,000,000.00 for each accident, \$1,000,000.00 for each employee, with at least a \$1,000,000.00 aggregate policy limit.

COMMERCIAL PROFESSIONAL LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per occurrence, per location, single limit for bodily injury liability and property damage liability, with at least a \$2,000,000.00 aggregate limit, per location. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, and a contractual liability endorsement.

BUSINESS AUTO LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per accident combined single limit for bodily injury liability and property damage. This should include owned vehicles, plus hired and non-owned vehicles.

COMMERCIAL GENERAL LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per occurrence, per location, single limit for bodily injury liability and property damage liability, with a \$2,000,000.00 aggregate limit, per location. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, and a contractual liability endorsement.

UNDERWRITING, ADDITIONAL INSURED, AND CANCELLATION NOTICE REQUIREMENTS: All insurance shall be written by companies with an AM Best rating "A" or higher. GUILFORD COUNTY shall be named as an additional insured on CONTRACTOR insurance policies, which shall be primary and not contributory to any other insurance that may be available to the COUNTY. Such certificates shall require that the policies shall not be canceled or reduced in coverage until thirty (30) days written notice of such cancellation or reduction has been received by CONTRACTOR and GUILFORD COUNTY.

MAINTENANCE OF INSURANCE COVERAGE AND RENEWAL DOCUMENTATION: CONTRACTOR original insurance policies or certified copies of policies may be required by COUNTY at any time. Current, valid insurance policies meeting the requirements stated herein shall be maintained for the duration of the Agreement. Renewed policies shall be sent to the COUNTY at the above address thirty (30) days prior to any expiration date.

Upon the COUNTY'S offer of award of this Agreement, CONTRACTOR will provide Certificates of Insurance for meeting the required insurance provisions. The Certificate of Liability shall state, "Guilford County is added as an additional insured as evidenced by the endorsement attached to this Certificate." CONTRACTOR will provide copies of insurance certificate(s) Guilford County Purchasing with their award package.

All insurance documents required under this Contract shall be forwarded to:

GUILFORD COUNTY
Attention: Risk Management
301 West Market Street
Greensboro, NC 27401
Reference: GUILFORD COUNTY CONTRACT NO. **90003935**
With CONTRACTOR'S NAME: Farragut Systems, Inc.

In the event CONTRACTOR fails to maintain and keep in force for the duration of this Contract the insurance required herein, the COUNTY may cancel and terminate this Contract without notice.

18. ENTIRE AGREEMENT. This Contract, including the Exhibits and/or Attachments, if any, sets forth the entire Agreement between the Parties. All prior conversations or writings between the Parties hereto or their representatives are merged within and extinguished. This Contract shall not be modified except by a writing subscribed to by all the Parties.

19. JURISDICTION. The Parties agree that this Contract is subject to the jurisdiction and laws of the State of North Carolina. The CONTRACTOR will comply with bid restrictions, if any, and applicable laws, including N.C.G.S. §143-129(j) regarding E-Verify. Any controversies arising out of this Contract shall be governed by and construed in accordance with the laws of the State of North Carolina.

(The remainder of this page is intentionally left blank.
This Contract continues with signatures on the following page.)

WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

GUILFORD COUNTY

Michael Halford
Guilford County Manager

ATTEST:

Robin B. Keller
Guilford County Clerk to Board

Farragut Systems, Inc.

ATTEST:

Title: _____

Date

Print Name:

Witness

Print Name: _____

Print Name: _____

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Derrick Bennett
Guilford County Finance Director

FARRAGUT™

NCPTS SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT

This Software Maintenance and Support Agreement (this "Agreement") is made and entered into as of May 1, 2022 (the "**Effective Date**") by and between Farragut Systems, Inc., a North Carolina corporation having a place of business at 2810 Meridian Parkway, Suite 160, Durham, North Carolina 27713 ("Farragut") and **GUILFORD COUNTY ("County")**, a North Carolina county with a mailing address of its executive offices at 301 West Market Street, Greensboro, NC, 27401.

In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Background

1.1. County has acquired a license to certain software known as NCPTS from NCACC pursuant to the Property Tax Software License Agreement between NCACC and County (the "**License Agreement**"). The specific software version(s) acquired by County and supported under this Agreement ("Software") is specified in Exhibit A hereto.

1.2. County desires to retain Farragut to provide support and maintenance services for the Software ("**Services**"), and Farragut desires to provide such services to the County, in accordance with the terms of this Agreement.

2. **Definitions.** In addition to the definitions in the License Agreement, Farragut and County agree to the following definitions.

2.1. "**Error**" means a failure of the Software to perform in accordance with its published documentation.

2.2. "**Hot Fix**" means a software patch that resolves a Critical Severity issue and is delivered prior to the normal System Release.

2.3. An "**Issue**" shall mean a reported Error or other request for assistance under this Agreement to be tracked for completion within the scope of this Agreement.

2.4. A "**Severity Level**" shall mean the level of importance for all Issues as reasonably established by the County. The Severity Level designations shall consist of the following:

- (a) "**Critical Severity**" Error means an Error that materially impedes the operation of the entire Software or major portions of the County's business operation, and a workaround is not available;
- (b) "**Major Severity**" Error means an Error that causes a substantial impact on a major business process; however, a workaround is available or the function can be completed on a limited basis;
- (c) "**Minor Severity**" Issue means an Error that causes a minor impact on a business process or a requested enhancement.

2.5. A “**System Release**” shall include Error corrections and may include functional, processing, and/or cosmetic enhancements. System Releases shall be delivered based upon a mutually agreed schedule.

2.6. “**Acknowledgement Time**” is the elapsed time from County’s reporting of an Issue until Farragut’ acknowledgement of receipt of the reported Issue.

2.7. “**Resolution Time**” is the elapsed time from County’s submission of an Issue and delivery of associated information until either (1) Farragut delivers a fix or reasonable workaround for the reported Error or supplies the requested information for Issues not involving Errors, or (2) in the event such delivery is not reasonably feasible, Farragut delivers a plan/schedule for the support.

2.8. “**Release Acceptability**” is a quality measurement for a System Release, defined as the total number of Issues addressed in such System Release without a reported defect within 30 days of delivery, divided by the total number of Issues that are purported to be addressed by such System Release. For example, if 90 Issues are closed without defect (10 defects are reported) out of a total of 100 Issues delivered in a Support Release, the Release Acceptability is $90/100 = 90\%$.

3. **Services.** Farragut shall provide the support and maintenance services specified in Exhibit A hereto.

4. **Fees.**

4.1. The annual support and maintenance fee for the initial term is set out on Exhibit A, which fee shall be due and payable within thirty (30) days of the Effective Date. Fees for renewal terms shall be Farragut’s then current standard annual fee for maintenance of the Software, which fee shall be payable in advance prior to the start of such one-year renewal term; provided that in no event shall the maintenance fee increase by a cumulative amount of more than ten percent (10%) per year (unless the County has acquired additional Software modules or has increased its number of real property parcels into a higher tier, as described in Exhibit A). Annual fees may be invoiced thirty (30) days prior to the expiration of the previous term.

4.2. Where on-site support is requested by County, a travel charge may be made by Farragut.

4.3. County understands that if County terminates this Agreement and then wishes at a later date to resume receiving services under this Agreement, County will be required to pay Farragut the entire maintenance fees for the period of discontinuance plus the maintenance fee for the period then commencing.

4.4. County shall be responsible for payment of all federal, state, local and other taxes (including, but not limited to, sales, use and property taxes) related to this Agreement, excluding any taxes based upon Farragut’ income, unless County is tax exempt and provides a tax certificate of exemptions.

5. **Confidentiality**

5.1. “**Confidential Information**” means any information or data (including without limitation any formula, pattern, compilation, program, device, method, technique, or process) that is disclosed by one party (a disclosing party) to the other party (a receiving party) pursuant to this Agreement that is identified in writing as confidential or that would reasonably be recognized as confidential. Confidential Information does not include information that: (a) is or becomes publicly known or available without breach of this Agreement; (b) is received by a receiving party from a third party

without breach of any obligation of confidentiality; (c) was previously known by the receiving party as shown by its written records; or (d) was independently developed by the receiving party as shown by its written records.

5.2. A receiving party agrees: (a) to hold the disclosing party's Confidential Information in strict confidence; and (b) use the disclosing party's Confidential Information solely in connection with the provision of Services under this Agreement. Notwithstanding the foregoing, a receiving party may disclose Confidential Information of the disclosing party as required by law or court order; in such event, such party shall use its best efforts to inform the other party prior to any such required disclosure.

5.3. Upon the termination or expiration of this Agreement, the receiving party will return to the disclosing party all the Confidential Information delivered or disclosed to the receiving party, together with all copies in existence thereof at any time made by the receiving party. The provisions of this Section 5 shall survive any termination of this Agreement.

6. Term and Termination

6.1. This Agreement shall be in effect for an initial term of three (3) years from the Effective Date unless earlier terminated pursuant to this Section 6. After the end of the initial term, the option to extend for five (5) one (1) year renewals at the pricing, terms and conditions upon mutual written agreement of both Parties. Either party may provide the other party written notice at least one hundred eighty (180) days prior (or, if County does not receive continued appropriation by the applicable County Board of Commissioners or other funding source, at least five (5) days prior) to the end of the then-current term of its intent to terminate this Agreement. Fees for renewal terms are due as set forth in Section 4.1 above. If County does not pay the support fee for a renewal term within thirty (30) days after the date of invoice, then Farragut may in its discretion suspend the delivery of support services or terminate this Agreement.

6.2. Either party may terminate this Agreement or if the other party materially breaches this Agreement and such breach is not cured, or an acceptable plan for resolving the breach is not put in place, within thirty (30) days after written notice identifying specifically the basis for such notice.

6.3. The terms provided in Sections 2, 5, 7, 8.1, 8.3, 9 and 10 of this Agreement shall survive any termination of this Agreement. For the avoidance of doubt, the parties agree that termination of this Agreement shall not result in termination of the License Agreement.

7. Warranty

7.1. Farragut represents that it has the requisite knowledge, expertise and experience necessary to perform Services under this Agreement. County agrees to notify Farragut of any breach of this representation within thirty (30) days after completion of the Services. County's sole remedy for breach of this representation shall be for Farragut to reperform the Services at issue at no charge to County.

7.2. County represents that it has obtained or will obtain prior to Farragut' commencement of the Services all licenses and consents from third party vendors authorizing access to software and/or technical information owned by such vendors and licensed to County, as required in order for Farragut to perform the Services.

7.3. Each party represents that it has received all necessary authority and approvals to enter into this Agreement, and that the negotiation and performance of this Agreement is not in conflict with any other agreement entered into by such party.

7.4. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, Farragut MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING AS A RESULT OF USAGE IN THE TRADE OR BY COURSE OF DEALING. ALL WARRANTIES RELATING TO THE NCPTS

SOFTWARE SHALL BE AS SET FORTH IN THE LICENSE AGREEMENT.

8. Liability and Insurance

8.1. All liability arising under or relating to the subject matter of this Agreement, whether under theory of contract, tort (including negligence), or otherwise, shall be limited to direct damages. Neither party, including its officers, directors, employees, agents, representatives, and subcontractors, shall have any liability to the other party or to any third party for any incidental, punitive, indirect, special or consequential damages, including but not limited to lost profits, loss of data, cost of recreating lost data, interruption of business, or costs of procurement of substitute goods or services, even if advised of the possibility of such damages, whether under theory of warranty, contract, tort (including negligence), strict liability or otherwise. The aggregate liability of Farragut under this Agreement shall not exceed the total fees paid by County to Farragut with respect to the annual term at issue.

8.2. Farragut will carry and maintain throughout the period of this Agreement, at Farragut' sole expense, insurance including specifically general liability, and if applicable, worker's compensation insurance, to cover the obligations of Farragut set forth herein, or the acts of Farragut performed hereunder. Certificates of such insurance shall be furnished by Farragut to County within ten (10) business days after execution of this Agreement. Such certificates shall require the insurer issuing the underlying policy to provide County with a minimum of thirty (30) days notice prior to modification or cancellation of said policy. Farragut agrees that such insurance shall be primary, regardless of any other insurance coverage, which County may procure for its own benefit.

8.3. The allocations of liability in this Section represent the agreed and bargained-for understanding of the parties and Farragut' compensation for the Services reflects such allocations.

9. Dispute Resolution

9.1. The parties agree to attempt to resolve any controversy, claim or dispute ("Dispute") arising out of or relating to this Agreement by means of good faith discussion and negotiation. In the event that a Dispute cannot be resolved at the project level, then designated senior executives of the parties shall meet and enter into further good faith settlement negotiations. If such senior executives cannot resolve the Dispute within thirty (30) days, the parties agree to try in good faith to settle the dispute by mediation administered by a mutually agreed third-party mediator before resorting to litigation. ~~Any legal proceeding arising out of or relating to this Agreement or its alleged breach will be brought solely in the a state or federal court in Durham Country, to the exclusion of any other forum, and the parties hereby expressly agree and submit to the exclusive jurisdiction of such courts.~~ All claims / legal proceedings will be brought in Guilford County.

9.2. This Agreement shall be interpreted, construed, and governed by the laws of the State of North Carolina, without regard to conflict of law provisions.

10. Miscellaneous

10.1. During the term of this Agreement and for a period of one (1) year following the termination or expiration of this Agreement for any reason, neither party shall employ nor offer or seek to employ, either directly or indirectly, any person who, at that time or within the last six (6) months, was either employed or engaged as an independent contractor by the other party.

10.2. The parties are and intend to be independent contractors with respect to the services contemplated hereunder. Farragut agrees that neither it nor its employees or contractors shall be considered as having an employee status with County. All persons employed by Farragut to perform Services shall be subject to the exclusive direction and control of Farragut. No form of joint employer, joint venture, partnership, or similar relationship between the parties is intended or hereby created.

10.3. Neither party shall be liable for any failure or delay in the performance of its obligations due to causes beyond the reasonable control of the party affected, including but not limited to war, sabotage, insurrection, riot or other act of civil disobedience, strikes or other labor shortages, act of any government affecting the terms hereof, accident, fire, explosion, flood, hurricane, severe weather or other act of God. Each party shall promptly notify the other party in the case of an event arising under this Section.

10.4. ~~This Agreement constitutes the entire understanding of the parties with respect to its subject matter and supersedes all prior or contemporaneous written and oral agreements with respect to its subject matter.~~ Except as provided expressly herein, this Agreement shall not be modified, amended, or in any way altered except in a written amendment executed by both of the parties. No waiver of any provision of this Agreement, or of any rights or obligations of any party hereunder, will be effective unless in writing and signed by the party waiving compliance.

10.5. Headings used in this Agreement are for convenience of reference only and shall not be deemed a part of this Agreement.

10.6. Neither party may assign this Agreement or any right hereunder without the prior written consent of the other party; provided however that Farragut may assign this Agreement to the acquirer of all or substantially all of its business, so long as such acquirer agrees in writing to be bound by the terms of this Agreement and notice is provided to County within ten (10) days of such transfer of any new entity, address and/or contact(s). Any attempted assignment not authorized herein shall be null and void.

10.7. All notices required or permitted hereunder shall be in writing, delivered personally; by certified or registered mail, or by overnight delivery by an established national delivery service at the respective addresses first set forth above. Notices to Farragut shall be sent to the attention of Vice President of Local Gov Solutions or to such other person designated by Farragut in a written notice to County. Notices to County shall be sent to the attention of Michael Halford, Guilford County Manager and copied to Peter Purcell, Guilford County Chief Information Officer or to such other person designated by County in a written notice to Farragut. All notices shall be deemed effective upon personal delivery or when received if sent by certified or registered mail or by overnight delivery.

IN WITNESS THEREOF, the parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative.

GUILFORD COUNTY

By: _____

Name: Michael Halford _____

Title: County Manager _____

Date: _____

FARRAGUT SYSTEMS, INC.

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

SUPPORT SERVICES AND FEES

1. **Software.** The Software supported under this Agreement is NCPTS Billing & Collections (B&C) and Land Records & CAMA (LRC).
2. **General Performance Duties of Farragut.** Farragut shall:
 - 2.1. Use diligent efforts to correct Errors and provide reasonable workarounds in the order of priority as specified by the County. As part of this service, Farragut will also correct defects in data that are not caused by user or third-party software error, e.g., those caused by Errors or Farragut batch run or data migration errors.
 - 2.2. Provide reasonable assistance related to maximizing the use or the performance of the Software, including assisting users with the proper use of the Software and with data issues related to queries and report writing.
 - 2.3. Maintain a Customer Response Center ("CRC") Monday through Friday (excluding normal business holidays) from 8:30 AM until 5:00 PM Eastern Time for the reporting, execution, and management of Services.
3. **Staffing Requirements of Farragut.**
 - 3.1. Farragut will provide personnel with adequate skill and training as shall be required to meet its obligations and deliver the Services as described in this Agreement.
4. **Reporting Requirements of Farragut.** Farragut will provide a web-based Issue entry and service status system ("Online Customer Portal", including any successor system thereto). This system will support:
 - 4.1. Submission of Issues
 - 4.2. Tracking of Issue priorities and status (including opened and closed issues)
 - 4.3. Access to Issue resolution database
5. **Meetings Arranged by Farragut.** Farragut will facilitate and provide reports for the following meetings:
 - 5.1. Monthly prioritization meetings by telephone to review and prioritize the County's Issues.
 - 5.2. Periodic planning meetings at Farragut to collectively review and plan how support services are delivered to all support customers for the Software. These meeting will be scheduled on mutually agreeable dates and will include other NC county customers of the Software.
 - 5.3. Such additional meetings as are mutually agreed and scheduled.
6. **System Releases**

6.1. Not less than three System Releases per year will be delivered to all NC county customers.

6.2. System Releases will be delivered using the following approach:

- (a) Issue Cut Off – Cutoff date for reporting Issues to be included in the System Release is five weeks prior to the scheduled Acceptance Testing Release.
- (b) Issue List – A List of Issues to be included in the System Release provided to the County in the Online Release Notes (available in the application) at the time of the Acceptance Testing Release.
- (c) Acceptance Testing Release – System Release is provided to the County for installation and acceptance testing.
- (d) Production Decision – Participating Counties independently make a decision to accept or reject the System Release within four weeks after Acceptance Testing Release is made available.
- (e) Production – Farragut recommends County put System Release into production within two weeks of acceptance.

6.3. Technology Upgrades. Farragut will add support in System Releases for minor new versions of third party database software as soon as commercially practicable.

6.4. System Releases will have a Release Acceptability of 92% or higher.

7. Timing Standards of Performance by Farragut. Farragut shall meet the following timing standards in connection with the Repair and Support Services:

7.1. Resolution Time. Critical Severity Issues will be resolved within one business day, or if software change required, delivered with next weekly Hot Fixes of the Issue being reported; provided that if the Critical Severity Issue is not capable of resolution within that time frame, Farragut shall provide to the County a description of the Hot Fix plan and time frame for resolving the Issue.

7.2. Acknowledgement Time.

- (a) In the event of a Critical Severity Issue Farragut will respond within one business hour.
- (b) In the event of a Major Severity Issue Farragut will response within one business day.
- (c) Farragut shall respond to telephone and e-mail queries about additional Issues, services, and other matters within 2 business days of the receipt of the inquiry from the County.

8. General Performance Duties of the County. In addition to the obligations in the License Agreement, the County shall meet or cause the Users to meet the following obligations in connection with the Services:

8.1. Report Issues in Online Customer Portal.

8.2. Provide timely user acceptance testing for Hot Fixes and System Releases prior to putting them into production.

- 8.3. Put System Releases into production within two weeks of collective acceptance.
- 8.4. Participate in scheduled support review and planning meetings.
- 8.5. Respond to reasonable requests for information and clarification regarding Services to be performed.
- 8.6. Appoint a named Support Coordinator to provide first-level maintenance and support services to the Users and coordinate second-level support with Farragut. First level maintenance and support includes the provision of telephone and e-mail support to Software users and the implementation of documented fixes and workarounds.
- 8.7. Provide system administration services to keep the Software in good working order including monitoring security configuration, managing allocation of user names and passwords, configuring and monitoring automated batch jobs, monitoring disk space and other resource use, and performing backups.
- 8.8. Provide database administration services that provide for data security enforcement, database performance, and backup and recovery
- 8.9. Provide data loading and extraction services related to required data imports or extracts from the Software.
- 8.10. Provide and maintain Farragut access to a current test environment. All such Farragut access shall be consistent with County's security policy, as communicated to Farragut from time to time.

9. **Services Not Included in this Agreement.** The following services can be provided by Farragut at additional cost and are not provided in this Agreement.

- 9.1. First-level maintenance and support services to the Users.
- 9.2. Administration services to keep the Software and related hardware, third-party software and other IT infrastructure in good working order including monitoring security configuration, managing allocation of user names and passwords, configuring and monitoring automated batch jobs, monitoring disk space and other resource use, and performing backups.
- 9.3. Database administration services that provide for data security enforcement, database performance, and backup and recovery.
- 9.4. Data loading and extraction services related to required data imports or extracts from the Software.
- 9.5. Report writing.
- 9.6. Data migration-related issues for situations where Farragut was not responsible for the data migration.
- 9.7. Extended service hours beyond the normal CRC hours.
- 9.8. On-site services (unless determined by Farragut to be necessary for addressing a Critical Severity Issue).
- 9.9. Change requests and enhancements.

9.10. Business and technical consulting.

9.11. Technology upgrades, other than those contained under section 6.3 Technology Upgrades.

10. **Reporting and Approvals.** The Support Coordinator for the County shall be Sherri Biglow. The Support Coordinator for Farragut shall be Brendan Kenny. The delivery and implementation of all Hot Fixes must be approved by both Support Coordinators.

11. Fee Schedule.
 The Services will be provided by Farragut for an annual fee, based upon the Software modules in production and COUNTY's total number of real property parcels as of the Effective Date and subsequently as of each annual renewal date, as follows.

NCPTS Software Modules	Number of Real Property Parcels	Annual Fee
B&C	Tier 1: equal to or greater than 300,000 real property parcels	\$227,370
	Tier 2: greater than 120,000 and less than 300,000 real property parcels	\$100,700
	Tier 3: equal to or less than 120,000 real property parcels	\$58,300
LCR	Tier 1: equal to or greater than 300,000 real property parcels	\$227,370
	Tier 2: greater than 120,000 and less than 300,000 real property parcels	\$100,700
	Tier 3: equal to or less than 120,000 real property parcels	\$58,300

11.1 Payment will be made by the COUNTY to FARRAGUT within thirty (30) days of receipt of a correct invoice and proper documentation that the goods and/or services have been delivered or provided in accordance with this Contract. The financial exposure to the COUNTY is not to exceed **\$604,200** for the three (3) year term of this Contract, as further described below:

NCPTS B&C support pricing is \$100,700 per year.
 NCPTS LRC support pricing is \$100,700 per year.

Farragut will invoice COUNTY for four equal quarterly payments, beginning on the Effective Date. Payment terms are net 30 days.

If, as of the beginning of any renewal term, the applicable number of real property parcels for either B&C or LRC, or both, has changed enough to move into a new tier, then the annual support fee will be changed on a graduated basis to the new tier amount, in that $\frac{1}{2}$ of the change will apply in the renewal term and the remaining $\frac{1}{2}$ of the change will apply in the following renewal term.

COUNTY agrees to provide Farragut with access to COUNTY's systems upon Farragut' request to audit and confirm COUNTY's total number of real property parcels.