

Pine Technologies, LLC.



PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (this “**Agreement**”), by and between Pine Technologies, LLC., a Utah based company (hereinafter “**Vendor**”), and WEBER COUNTY ATTORNEY’S OFFICE (hereinafter “**COUNTY**”), is made as of the date executed by both Vendor and COUNTY (the “**Effective Date**”).

In consideration for the representations and agreements contained herein, the parties hereby covenant and agree as follows:

1. DEFINITIONS

1.1 **Administrator:** is a designated employee or contractor of COUNTY responsible for managing/requesting tickets from Vendor.

1.2 **Business Intelligence:** any ticket that includes:

1.2.1 SSRS Reports

Formatted reports that pull stats/data from Case Management Software’s (CMS) database

1.2.2 JDA Documents

Documents that are automatically generated from CMS and fill in information from the case/name record

1.2.3 Screens (JWXML)

How data is displayed to the end user while using CMS

1.2.4 Business Rules

Automated workflows, i.e. when an event is marked as “no show” a bench warrant is issued

1.2.5 SQL Scripts

Scripts that are written against the CMS database to alter/pull information

1.3 **Ticket:** a service that is requested from the Vendor by the COUNTY

1.4 **Service Fees:** the fees to be paid by COUNTY for Services, as set forth in the Pricing Proposal attached hereto as Exhibit A for the Services

1.5 **Services:** those services provided by Vendor to COUNTY under Section 4 (“Services”) of this Agreement

2. SERVICE TERM

2.1 August 01, 2022 - December 31, 2024

2.2 Service Term: The Service Term shall commence on August 01, 2022. If Service Fees for the first term of the Service Term have not been received within 30 days after Contract Signing, Vendor will postpone service until payment is received. The Service Term shall continue until December 31, 2024, and shall thereafter automatically renew for successive one-term periods (the “**Service Term**”), unless COUNTY or Vendor elects to not renew the Service Term upon written notice to Vendor or COUNTY given not less than ninety (90) days prior to the end of the then-current Service Term.

3. SERVICE FEES

3.1 Service Fees: COUNTY shall make payment of the Service Fees to Vendor based on the number calculated in accordance with Exhibit A, in advance of each applicable term of the Service Term.

4. SERVICES

4.1 Services: are defined as technical assistance with the COUNTY’s CMS Software, including but not limited to, questions about the functionality of the CMS Software, assistance with the resolution of error messages and consulting with process questions. Services include troubleshooting the CMS Software as needed to resolve issues. Services include technical assistance only; Vendor cannot access or attempt to access the CMS Software by any means other than the interface provided by the CMS Software, circumvent any access or use restrictions put into place to prevent certain uses of the CMS Software, or access or alter the CMS Software in such a way that would violate COUNTY’s user license for the CMS Software.

4.2 Tickets: Vendor agrees to provide Services to COUNTY, as such may be determined from time to time in accordance with the provisions of this Section 4 (“Services”). All Services will be rendered in accordance with the provisions of this Agreement, the applicable Tickets, and any other guidelines agreed upon in writing by Vendor and COUNTY.

4.3 Ticket Requests: If COUNTY requests Services, COUNTY shall submit, via email, phone, or chat, a reasonably detailed Ticket request to Vendor. Vendor shall have the right to request additional details about the proposed Ticket described in the Ticket request. If additional details are deemed necessary, the Administrator will be contacted by Vendor’s service department to complete the Ticket Request.

4.4 Tickets that require new or extreme modifications to Business Intelligence, and/or new workflow requests this consists of any request that the Vendor estimates will take longer than six (6) hours to complete (collectively, “Additional Work”), will require a Sales Order to complete the Additional Work. If a Ticket will require Additional Work, Vendor will notify COUNTY and will provide COUNTY with a Sales Order explaining the estimated cost of the Additional Work. COUNTY will determine whether they want Vendor to perform the Additional Work as set forth in the Sales Order, and will notify Vendor of their decision in writing.

4.5 Vendor’s Employees and Subcontractors; Indemnification Generally: Vendor shall require all of its employees and subcontractors to comply with the terms of this Agreement and any reasonable and lawful employment and security policies and procedures adopted from time to time by COUNTY. Vendor shall procure all business permits necessary to perform under this Agreement and pay all related fees. Subject to Section 7 herein, Vendor and COUNTY shall each indemnify, defend and hold harmless the other and their respective affiliates, officers, directors, employees and agents, from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by the indemnified party, arising out of or resulting from (i) the violation by the indemnifying party or its employees, agents, or contractors of any applicable law, order, ordinance, regulation or code or (ii) the gross negligence or intentional misconduct of the indemnifying party or its employees, agents or contractors.

4.6 The COUNTY must designate one or more Application Administrators, each of whom shall be an employee, vendor, or contractor of the COUNTY. Only a designated Application Administrator may request Support. It is the responsibility of the COUNTY to instruct Users to route Support requests through the Application Administrator. Requests by others are subject to additional fees as described in Section 4.2.

5. WARRANTIES

5.1 Services Warranties: Vendor warrants that the Services rendered to COUNTY pursuant to this Agreement shall be performed in a competent and

professional manner, and that each of Vendor's employees, contractors and agents assigned to perform Services pursuant to this Agreement shall have training, background and skills commensurate with the level of performance reasonably expected for the tasks to which he or she is assigned.

5.2 No Other Warranties: THE WARRANTIES AND REPRESENTATIONS STATED WITHIN THIS AGREEMENT ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WARRANTIES WITH RESPECT TO THE OPERATION OF ANY DELIVERABLE, WORK, OR SERVICE SHALL BE AS SET FORTH IN THE APPLICABLE WORK ORDER.

6. PAYMENT

6.1 COUNTY shall pay Vendor the yearly fee on the first day of each Service Period, as set forth in Exhibit A. Service Fees for Additional Work shall be payable in respect of Services provided by Vendor (including its agents and contractors) to, for, or at the request of COUNTY or those acting on COUNTY's behalf under this Agreement. If such Services are provided pursuant to a Sales Order, all work and all Deliverables related to such Services, and the payment therefore, shall be completed as provided in the Sales Order. Payment for a Sales Order shall become due and payable upon delivery, net thirty (31) days. All sales and similar taxes levied on account of payments to Vendor are the responsibility of the COUNTY.

7. LIMITATIONS ON LIABILITY

7.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF ANTICIPATED PROFITS OR REVENUES IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT. FURTHERMORE, COUNTY'S TOTAL LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAYABLE HEREUNDER TO Vendor. IN NO EVENT SHALL Vendor's TOTAL LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAID HEREUNDER TO Vendor.

8. CONFIDENTIALITY

8.1 County's Responsibilities: COUNTY hereby agrees that (i) all materials received from Vendor under this Agreement are the confidential and proprietary information of Vendor, (ii) COUNTY shall take all necessary steps to protect and ensure the confidentiality of such confidential information, and (iii) except as permitted by a written agreement, none of such materials shall be in any way disclosed by COUNTY to any third party, in whole or in part, without the prior written consent of Vendor, which

may be granted or withheld in its sole discretion. If COUNTY becomes aware of the unauthorized possession of such materials, it shall promptly notify Vendor.

8.2 Vendor's Responsibilities: Vendor hereby agrees that (i) any information related to the official business of COUNTY that Vendor obtains from COUNTY in the course of the performance of this Agreement is the confidential and proprietary information of COUNTY, (ii) Vendor shall take all necessary steps to protect and ensure the confidentiality of such information, and (iii) such information shall not be in any way disclosed by Vendor to any third party, in whole or in part, without the prior written consent of COUNTY, which may be granted or withheld in its sole discretion. If Vendor becomes aware of the unauthorized possession of such information, it shall promptly notify COUNTY. Vendor shall also assist COUNTY with preventing the recurrence of such unauthorized possession and with any litigation against the third parties deemed necessary by COUNTY to protect its proprietary rights. VENDOR shall also work with and receive approval to access and/or store information obtained from Utah's Bureau of Criminal Identification. Vendor shall provide proof of authorization to COUNTY.

8.3 Confidentiality Breach: In the event a party breaches any of its obligations under this Section 8 ("Confidentiality"), the breaching party shall indemnify, defend and hold harmless the non-breaching party from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by the non-breaching party arising out of such breach, subject to the limitations of Section 7 herein. In addition, the non-breaching party will be entitled to obtain injunctive relief against the breaching party.

8.4 Exclusions: The provisions of this Section 8 ("Confidentiality") shall not apply to any information (i) that is in the public domain prior to the disclosure or that becomes part of the public domain other than by way of a breach of this Agreement, (ii) that was in the lawful possession of Vendor or COUNTY, as the case may be, prior to the disclosure without a confidentiality obligation to any person, (iii) that was disclosed to Vendor or COUNTY, as the case may be, by a third party who was in lawful possession of the information without a confidentiality obligation to any person, (iv) that was independently developed by Vendor or COUNTY, as the case may be, outside the scope of this Agreement or (v) that Vendor or COUNTY, as the case may be, is required to disclose by law or legal process.

9. TERM AND TERMINATION

9.1 Term: The term of this Agreement shall commence on August 01, 2022 and shall continue until terminated in accordance with the terms of this Section 9 ("Term and Termination").

9.2 Payment Default: Vendor shall have the right to terminate this Agreement (but reserving cumulatively all other rights and remedies under this Agreement, in law and/or in equity), for any failure of COUNTY to make payments of moneys due when the same are due, and such failure continues for a period of thirty (30) days after written notice thereof by Vendor to COUNTY.

9.3 Other COUNTY Defaults: Vendor may terminate this Agreement (but reserving cumulatively all other rights and remedies under this Agreement, in law and/or in equity), for any other material breach by COUNTY which violation or breach continues for a period of thirty (30) days after written notice thereof by Vendor to COUNTY.

9.4 Termination by COUNTY: COUNTY shall have the right to terminate this Agreement (reserving cumulatively all other rights and remedies under this Agreement, in law and/or in equity) without further obligation or liability to Vendor if Vendor commits any material breach of this Agreement and fails to remedy such breach within thirty (30) days after written notice by COUNTY to Vendor of such breach. COUNTY shall have the right to terminate this Agreement effective immediately and without prior notice if Vendor goes into liquidation or files for bankruptcy.

9.5 Effect of Termination: Termination of this Agreement shall not affect any rights and/or obligations of the parties which arose prior to any such termination and such rights and/or obligations shall survive any such termination. Within thirty (30) days after the effective date of any such termination, COUNTY shall pay Vendor's fees and expenses for this Agreement up to the effective date of termination, including, without limitation, all work in process. The confidentiality obligations of the parties in Section 8 ("Confidentiality") shall survive the termination of this Agreement.

10. GENERAL

10.1 Waiver, Amendment or Modification: The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder shall not be effective unless made in writing and signed by both parties. No failure or delay by either party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as a waiver thereof.

10.2 Notice: All notices under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person, by commercial overnight courier or by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Vendor: PINE TECHNOLOGIES, LLC.
PO Box 778
Millville, UT 84326
Attention: Ben Stocks

To COUNTY: WEBER COUNTY ATTORNEY'S OFFICE
2380 Washington Blvd Suite #230
Ogden, UT 84401
Attention: Jamie Pitt

10.3 No Third-Party Beneficiaries: This Agreement is not intended to create any right in or for the public, or any member of the public, any subcontractor, supplier or any other third party, or to authorize anyone not a party to this Agreement to maintain a suit to enforce or take advantage of its terms.

10.4 Successors and Assigns: Neither party may assign this Agreement in whole or part without the prior written consent of the other party. Any attempt to assign this Agreement without the prior written consent of the other party is void and without legal effect, and such an attempt constitutes a material breach and grounds for termination by the other party. Subject to the foregoing, all of the terms, conditions, covenants and agreements contained herein shall insure to the benefit of, and be binding upon, any successor and any permitted assignees of the respective parties hereto. It is further understood and agreed that consent by either party to such assignment in one instance shall not constitute consent by the party to any other assignment. A transfer of corporate control, merger, sale of substantially all of a party's assets and the like, even though including this Agreement as an assigned asset or contract, shall not be considered an assignment for these purposes.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution: Any dispute arising under or related to this Agreement shall be resolved exclusively as follows:

11.2 Initial Resolution by Meeting: The parties shall first attempt to resolve amicably the dispute by meeting with each other, by telephone or in person at a mutually convenient time and location, within thirty (30) days after written notice of a dispute is delivered from one party to the other. Subsequent meetings may be held upon mutual agreement of the parties.

11.3 Mediation: If the dispute is not resolved within sixty (60) days of the first meeting, the parties shall submit the dispute to mediation by an organization or company specializing in providing neutral, third-party mediators. COUNTY shall be entitled to select either (i) the location of the mediation or (ii) the organization or company, and Vendor shall select the other. The mediation shall be conducted within sixty (60) days of the date the dispute is submitted to mediation, unless the parties mutually agree on a later date.

12. MISCELLANEOUS

12.1 Force Majeure: In no event shall Vendor be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Vendor shall use reasonable efforts which are consistent with accepted practices in the industry to resume performance as soon as practicable under the circumstances.

12.2 Control of Defense: All indemnification obligations under this Agreement are subject to Section 7 herein, and are conditioned upon (i) written notice by the indemnified party to the indemnifying party within thirty (30) days of the indemnified party's receipt of any claim for which indemnification is sought, (ii) tender of control over the defense and settlement to the indemnifying party; however, the County may elect to provide its own defense at the sole discretion of the County and (iii) such reasonable cooperation by the indemnified party in the defense as the indemnifying party may request; provided, however, the indemnifying party shall not, without the prior written consent of the indemnified party, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened claim unless the settlement, compromise or consent provides for and includes an express, unconditional release of such claim against the indemnified party.

12.3 Governing Law: The validity, construction and performance of this Agreement and the legal relations among the parties to this Agreement shall be governed by and construed in accordance with the laws of the State of Utah without giving effect to its conflict of law principles.

12.4 Independent Contractor: Vendor, in performance of this Agreement, is acting as an independent contractor. Personnel supplied by Vendor (including personnel supplied by subcontractors) hereunder are not COUNTY's personnel or agents, and Vendor assumes full responsibility for their acts. Vendor shall be solely responsible for the payment of compensation of Vendor employees and contractors assigned to perform services hereunder, and such employees and contractors shall be informed that they are not entitled to the provision of any COUNTY employee benefits. COUNTY shall not be responsible for payment of worker's compensation, disability or other similar benefits, unemployment or other similar insurance or for withholding income or other similar taxes or social security for any Vendor employee, and such responsibility shall solely be that of Vendor.

12.5 Severability: In the event any one or more of the provisions of the Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a provision, which, being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

12.6 Counterparts: This Agreement may be executed in counterparts and by the exchange of signatures by facsimile or PDF.

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IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed as of the date last written below.

PINE TECHNOLOGIES, LLC.:

By: _____ Date: _____

Printed Name and Title: Ben Stocks, CEO

WEBER COUNTY ATTORNEY'S OFFICE:

By: _____ Date: _____

Printed Name and Title: _____

Exhibit A
Cost Proposal

Service Term	Service Fees
Term 1: August 1, 2022 – December 31, 2022	\$26,250
Term 1: Discount	-8,750
Term 1: Total to be invoiced	17,500
Term 2: January 1, 2023 – December 31, 2023	63,000
Term 2: Discount	-21,000
Term 2: Total to be invoiced	42,000
Term 3: January 1, 2024 – December 31, 2024	63,000
Term 3: Discount	-21,000
Term 3: Total to be invoiced	42,000
Total Discount Over Three Terms	50,750
Total	\$101,500

Notes

The Service Term shall commence on August 1, 2022. Invoice for the first term of the Service Term will be sent upon contract signing, payment is due 30 days after the start of the Service Term.

To provide the best service Vendor requires VPN/remote access to the COUNTY's database server, SSRS server, and Web Server.

The service fees include an unlimited amount of ticket submission. Vendor will work on tickets until they are accepted as complete by COUNTY. If COUNTY requests a new workflow, new business intelligence items, or extreme modifications to existing business intelligence items, Vendor will review the request to determine if a sales order will be needed. A sales order will only be needed if work requested will take more than six (6) hours as estimated by Vendor. If a sales order is required, Vendor's service department will reach out to the COUNTY and communicate a sales order is required. The COUNTY will determine if the sales order is needed and let Vendor know how they want to proceed.