PUBWORKS LICENSE AGREEMENT FOR COMPUTER SOFTWARE & SERVICES

Agreement made this 25th day of ~~September~~ November, 2020, between Tracker Software Corporation, Inc., doing business as **PubWorks**, a Colorado Corporation, with a place of business at PO Box 6502, Snowmass Village, CO 81615 ("TSC") and Jackson County ("Customer"), a political subdivision of the State of Missouri.

In consideration of the terms and conditions set forth in this Agreement, the parties agree as follows:

1. Nature of Agreement

The purpose of this Agreement is to specify the terms and conditions under which TSC shall provide a perpetual license for use of its computer software program (**PubWorks**) including installation, data conversion, training, and other services for Customer for the duration of this Agreement.

2. Scope of Services

TSC shall provide its **PubWorks** application software and services for Customer, as outlined in its response to the County's RFP 15-20, dated May 19th, 2020 and incorporated herein by reference.

2.1 Software & Related Services

This agreement includes the following software modules and services listed in the table below. **PubWorks** is sold as a perpetual site license exclusively for the Customer, its divisions, and employees, placing no limit on the number of Customers or PCs on which the software is installed.

Charge Description	Quantity	Rate	Total[1]
Asset Management Core Module (Required)	1	$ 12,500	$ 12,500
Service Requests Module	1	$ 2,500	$ 2,500
Work Orders Module	1	$ 2,500	$ 2,500
Fleet Maintenance Module	1	$ 5,000	$ 5,000
Inspections Module	1	$ 5,000	$ 5,000
GIS MapViewer[1]	1	$ 5,000	$ 5,000
PubWorks Mobile Application	1	$ 5,000	$ 5,000
Departmentalization Add-On	1	$ 5,000	$ 5,000
Onsite Instructor Travel Expenses	1	$ 2,000	$ 2,000
Annual Software Maintenance for months 7-12	1	$ 4,625	$ 4,625
Software Total			**$ 49,125**
Basic Installation and Data Conversion	<=50 Hours	$ 125/Hour	Included
GIS Data Conversion	<=15 Layers	$ 125/Layer	Included
Onsite User Training	4 Days	$ 975/Day	Included
Implementation Services			Included
Total Program Cost			**$ 49,125**

[1]The PubWorks MapViewer has been built using ESRI's ArcEngine. A concurrent ArcGIS license would be necessary for each desktop utilizing the desktop mapping capabilities.

2.2 Services

This agreement includes the following: **(50)** Hours of installation, configuration, set up and data conversion of the County's existing CarteGraph data from 2016 to present, as well as additional listing data provided in Excel format; Conversion of **(15)** Layers of GIS Data Layers; 4 Days of Onsite Training or 24 Hours of Web-based training, based on customer preference and current state and local restrictions related to Covid-19.

Additional data conversion hours exceeding 50 Hours shall be billed at a rate of **$125** per Hour. Additional GIS layers may be invoiced at a rate of **$125** per Layer.

If Onsite Training is conducted, Instructor Travel Costs will be billed additional, and "as actual." Training costs include reasonable and customary airfare, car rental, lodging, and meals. Travel costs will not exceed **$2,000**.

2.3 Software Support

Software support is the correction of any "bug", or program error, which interferes with the correct running of the program. Software support assistance is available by phone, email, or Internet to help your program operator(s) handle those problems/issues for which they need assistance. Software support does not include new programming, restoration of data, additional onsite work, or hardware problems for which there would be a negotiated charge. Software support is available by phone, or via email during regular business hours – Monday through Friday, **(8:00 am-6:00 pm Central Time.)** Customer Support is provided by trained and experienced customer support representatives and/or system engineers.

2.4 Annual Software Maintenance and Support (ASM)

Customer support is free for the first six months (October 2020 through March 2021) and is explicitly itemized in the above pricing table for the second six months (April 2021 through September 2021). Thereafter, ASM will be invoiced annually in October.

Based on the quote above, initial ASM shall be **$9,250 annually**, which includes an annual *PubWorks* Cloud Fee of **$750**.

An active Support and Maintenance agreement entitles you to unlimited customer support, any program updates, new versions, and all enhancements at no additional charge. These annual fees may increase over time to reflect the increased cost of doing business as determined by the US Consumer Price Index. If new modules are purchased during this agreement, ASM will increase by 20% of the cost of the new module.

2.5 *PubWorks* Cloud Option

PubWorks utilizes the Azure cloud from Microsoft, with its inherent security and reliability. Within "*PubWorks* Cloud" (Microsoft Azure) the following two levels of security and access are provided:

1. Cloud access where *PubWorks* will issue user-names and passwords for each of Customer's users.
2. Application user-name and password initially established by *PubWorks,* which, once setup, can be managed by administrative users of the Customer's *PubWorks* system.

In the *PubWorks* Cloud, a Customer database shall exist in four places:

PUBWORKS LICENSE AGREEMENT FOR COMPUTER SOFTWARE & SERVICES

1. Production database resident in the Azure Instance of Microsoft SQL Server.
2. Back automatically created automatically daily in the early morning hours.
3. Manual back up created by PubWorks support team from automatic backups which are copied a secure Drobox site.
4. Back-ups are copied to a USB drive that is stored off site in a fire-proof safe.

TSC offers no warranty against data loss. However, no customer database has been lost since first customer install in 1997, due to solid back-up and security practices employed by TSC and our customers. TSC will maintain these same procedures with Customer.

4. Initial Term and Renewal

This Agreement shall take effect upon its execution by both Parties and shall remain in force with renewals mutually exercised by both parties on the anniversary date of this agreement contingent on the Customer's payment of the Annual Support and Maintenance fee. Non-payment of the Annual Support and Maintenance fees will give TSC the right to terminate its support services. The Customer shall have the right, by providing written notice, to TSC to terminate and cancel this agreement, without cause, upon 30 days written notice. In such event, the Customer shall not be liable to TSC except for work performed or fees earned prior to such notice.

5. Payment Terms

(A) Upon approval to proceed, Customer will be invoiced 50% of the total program costs.
(B) Remaining 50% plus any additional agreed upon expenses, including Instructor Travel Costs (if applicable) shall be invoiced following the completion of training.
(C) Terms shall be Net 15.

6. Miscellaneous

(A) Unless otherwise agreed, the **PubWorks** software provided in this Agreement shall be licensed to the Customer for use at any computer processing unit(s) or within a network system at the Customer offices. Customer shall not reproduce, modify, sell, or transfer any such licensed software without the prior written permission of TSC. TSC warrants that it is the owner or is otherwise duly authorized to license software identified in this Agreement. TSC warrants for the term of this Agreement that any software installed or developed by it pursuant to this Agreement shall be free of any known defects and any such defects identified shall be promptly and corrected.

(B) Additional services may be provided by TSC, provided that the Customer agrees in advance, in writing, to the terms and conditions upon which the services will be provided.

(C) Program modifications, other than changes necessary to make the programs, software and installation operate in accordance with the expectations of the Customer and the representations of TSC, may be provided by TSC and the charges will be at the standard hourly rate. Customer shall not be liable for payment for any such additional services unless the Customer has consented thereto in writing prior to the provision of such service.

(D) TSC shall not assign, transfer, sell, release or otherwise disclose to any third party, or make use of the Customer's data, records or other proprietary information that has been disclosed or made available to TSC in the course of performing its obligations under this agreement during

3

PUBWORKS LICENSE AGREEMENT FOR COMPUTER SOFTWARE & SERVICES

the term of this agreement or at any time thereafter without the prior written consent of the Customer thereto.

7. Governing Law

This Agreement shall be interpreted under Missouri law. The parties agree that any dispute governing the terms hereof may be resolved through mediation or arbitration in accordance with Missouri law, if acceptable to both parties. If any litigation is instituted to resolve any such dispute, it shall be brought only in court with appropriate jurisdiction located in Customer, MO. In any such action, the prevailing party shall be entitled to costs if the mediator, arbitrator or judge determines that there was not a good faith or reasonable basis for the other party's position.

IN WITNESS WHEREOF, the parties have executed this agreement by their duly authorized officers, or agents, on the dates indicated below:

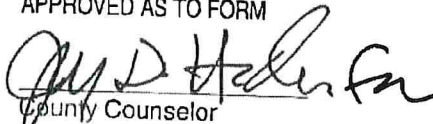**Tracker Software Corporation**

Peter D. Anzalone, President

Dated: 11/18/2020

Jackson County

Name & Title   Director of Finance

Dated: 10-29-2020

APPROVED AS TO FORM

County Counselor

ATTEST:

Mary Jo Spino
Clerk of the Legislature

4

REVENUE CERTIFICATE

I hereby certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet the obligation of $49,125.00 which is hereby authorized.

Funds for future years are subject to appropriation in the then current annual County Budget.

_10-29-2020_
Date

Director of Finance and Purchasing
Account No. 004-1506-56661 $24,563.00
003-1602-56661 $24,562.00