

Resolution 10-1

Whereas, the Sangamon County Board (County) has determined that a study to review the delivery and cost of overhead services, and to set cost standards for those services, is necessary; and

Whereas, the County desires to hire Fiscal Choice Consulting LLC to conduct such a review; and

Whereas, Fiscal Choice Consulting LLC is proposing a multi-county study, and has submitted a contract proposal to perform the study for a cost not to exceed \$25,013, for Sangamon County's portion of the study; and

Whereas, Sangamon County has been satisfied with the services previously received from Fiscal Choice Consulting LLC; and

Now therefore be it resolved by the members of the Sangamon County Board in session this 14th day of January, 2014, that the proposal by Fiscal Choice Consulting LLC for a study to study the delivery and cost of overhead services and to set cost standards for those services is approved and the payment not to exceed \$25,013 for the performance of such services is approved.

Respectfully Submitted,

Andy Adams
Dee Burch
Cathy Scife
John Fulginiti
John L. Bell
Rose Qujic

Jan O'Leary
Sarah Musgrave
Myra Kell
Greg [Signature]
[Signature]

FILED

DEC 24 2013

Joe Aiello
Sangamon County Clerk

Agreement to Provide Professional Consulting Services

This Agreement is entered into this _____ day of _____, 201__ (Effective Date) by and between Fiscal Choice Consulting, LLC (Consultant), FEIN 46-2932778 and the County of Sangamon, Illinois. In consideration of the mutual promises and covenants herein, the parties agree as follows:

- (1) Scope of Services. Consultant shall perform in a professional manner the Services detailed in Exhibit A, incorporated herein by reference.
- (2) Compensation. County of Sangamon shall pay Consultant a fee for services rendered as set forth in Exhibit B, incorporated herein by reference.
- (3) Participating Counties. The Participating Counties are the County of Sangamon and the other counties that execute the intergovernmental agreement attached hereto as Exhibit C. The Participating Counties, other than Sangamon, are third-party beneficiaries to this agreement, and will receive the findings of the project in the form of the respective reports and presentations described in the Scope of Services.

All Participating Counties will receive database updates for two years following completion of the project at no additional charge.

- (4) Term. This Agreement shall commence on the Effective Date stated above, but Services will not begin until there are at least three Participating Counties. This Agreement shall remain in effect until (a) six (6) months from the Effective Date, (b) completion of, and payment in full for, the Services specified in Exhibit A, or (c) termination in accordance with Section 5, whichever occurs first. Should the Services not be completed at the conclusion of the six-month term, and this Agreement has not been terminated pursuant to Section 5, the parties may agree to extend the agreement for a specified period of time pursuant to an amendment signed by both parties.
- (5) Termination.
 - a) Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have 30 days (or such longer period as the parties may mutually agree upon) from the date of receipt of the notice to cure any such default prior to the effective date of termination. Any notice of default shall be delivered by certified mail or overnight courier.

- b) Withdrawals of Participating Counties and Termination of Agreement due to Reduced Participation.
 - i. In the event that a Participating County withdraws from the intergovernmental agreement (Exhibit C), County of Sangamon shall provide prompt notice to Consultant of that county's withdrawal from the project. County of Sangamon agrees to pay Consultant in full for all goods and/or services related to the withdrawing county as of the date of Consultant's receipt of the notice of withdrawal.
 - ii. The parties agree that a withdrawing county shall not be provided with the findings of the project nor any updates to the database.
 - c) Termination for Convenience. Sangamon County may terminate this Agreement without cause upon 60 days prior written notice to the Consultant. In the event the Agreement is so terminated by County of Sangamon, County of Sangamon shall reimburse Consultant for services and reasonable expenses incurred by Consultants of the date of receipt by Consultant of notice of termination.
 - d) Rights Upon Termination. Upon terminations a matter of convenience, County of Sangamon agrees to pay Consultant for all goods and/or services provided under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.
- (6) Services and Materials to be Furnished by County of Sangamon. Consultant shall provide guidance to the County of Sangamon in determining the data required. The County of Sangamon acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data provided by the County of Sangamon to perform the Services. The County of Sangamon shall provide all such data in a timely manner sufficient to allow Consultant to provide the Services. Consultant shall have no liability to the County of Sangamon whatsoever if the County of Sangamon provides incomplete or inaccurate data or provides data in an untimely manner. Data provided by the Participating Counties shall be deemed to be data provided by the County of Sangamon.
- (7) Consultant's Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for 6 years after the completion of the Services. During such period, County of Sangamon shall have the right to examine and audit the records and to make transcripts therefrom. County of Sangamon shall provide 30 days written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during Consultant's normal business hours and no more than once every six months. Any employee, consultant, subcontractor, or agent of County of Sangamon granted access to such records shall execute a non-disclosure agreement prior to being granted such access.
- (8) Copyright for Consultant's Proprietary Software. To the extent that the Services provided by Consultant are generated by Consultant's proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide

such software to County of Sangamon. County of Sangamon agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Consultant's software. Nothing in this Agreement shall be construed to grant County of Sangamon any rights to Consultant's materials created prior to the execution of this Agreement. All of the deliverables prepared by Consultant for County of Sangamon included in the Services are specifically set out in Exhibit A.

- (9) Insurance. Consultant shall maintain appropriate general liability insurance, automobile insurance, and professional liability insurance.
- (10) Indemnification. To the extent allowed by law, each party shall defend, indemnify, and hold harmless the other party from and against any and all third party claims and resulting proven direct damages, liabilities, and costs (including reasonable attorney fees) to the extent proximately caused by the negligent actions or willful misconduct of the indemnifying party, its employees, or agents. The indemnifying party shall not be responsible for any damages, liabilities, or costs resulting from the negligence or willful misconduct of the indemnified party, its employees, consultants, or agents or any third party.
- (11) Limitation of Liability. County of Sangamon agrees that Consultant's total liability to County of Sangamon for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but limited to negligence, errors, omissions, strict liability, breach of contract, or breach of warranty shall not, in the aggregate, exceed two times the amount actually paid to Consultant under this Agreement.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential, or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

Any claim by County of Sangamon against Consultant relating to this Agreement must be made in writing and presented to Consultant within one year after the date on which Consultant completes performance of the services specified in this Agreement.

Limitations of liability found in this Paragraph 11 shall not apply on matters of indemnification as provided for by Paragraph 10 of this Agreement.

- (12) Consultant Liability if Audited. The County of Sangamon represents that all financial and statistical information provided to Consultant by County of Sangamon, its employees, and/or agents is accurate and complete to the best of County of Sangamon's knowledge. Consultant shall, upon notice of audit, make work papers and other records available to the auditors. Consultant's sole responsibility under an audit shall be to provide reasonable assistance to the County of Sangamon through the audit and to make those changes to the work product as required as a result of the

audit. Consultant shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.

- (13) Notices. Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties in the United States mail, postage paid, to the address noted below:

Fiscal Choice Consulting, LLC
Bruce Cowans
Fiscal Choice Consulting, LLC
790 West Frontage Rd., Ste. 110
Northfield, IL 60093

County of Sangamon, Illinois
Brian McFadden
Sangamon County Administrator
200 South 9th Street
Room 201
Springfield, IL 62701

- (14) Changes. The terms of this Agreement may be changed only by written agreement signed by both parties.

- (15) Miscellaneous.

- a) The parties intend that Consultant, in performing the Services specified in this Agreement, shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and Consultant's or participating Counties' employees are not to be considered agents or employees of County of Sangamon for any purpose.
- b) In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision. The validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.
- c) The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.
- d) This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.
- e) Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.

Agreement between the County of Sangamon, Illinois and Fiscal Choice Consulting, LLC

- f) Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.

- g) Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.

Consultant:
Fiscal Choice Consulting, LLC

County of Sangamon:

By _____

By _____

Printed name Bruce Cowans

Printed name _____

Title Member and Manager

Title _____

Date _____

Date _____

Exhibit A
Scope of Services

Consultant represents that it has, or will secure at its own expense, all personnel required in the performance of Services under this Agreement. All of the Services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified to perform the services described herein.

Consultant shall provide the Services stated in this Exhibit A in a professional and workmanlike manner consistent with the typical standards of the industry. Consultant specifically disclaims all other warranties, express or implied, including but not limited to warranties of merchantability and fitness for a particular purpose.

Consultant reserves the right to subcontract for Services hereunder. Consultant agrees to notify County of Sangamon in writing of any such subcontracts.

Description of Services:

To render a set of comparative findings within and across Participating Counties as described in the Proposal to Set Standards for Overhead Cost and Staffing dated October 29, 2013, attached hereto and incorporated herein. Identical proposals were sent to the Counties of Sangamon, Champaign, Jackson, McHenry, and Peoria.

Exhibit B Compensation

For Services provided as set forth in Exhibit A, County of Sangamon agrees to pay Consultant a firm fixed price of \$25,013 for each Participating County, inclusive of all professional services and expenses required to complete the work in Exhibit A relating to that Participating County.

Additional site visits beyond the work plan are available at the rate of \$230/hr. plus expenses, subject to written change order.

Consultant shall invoice County of Sangamon on the following milestones for each Participating County:

- 40% upon delivery of the county's first draft report
- 35% upon delivery of the county's second draft report
- 25% upon delivery of the county's final report.

In the event that a county does not respond to a draft report within three weeks to request changes or provide comments, Consultant may reissue the report as the next draft or as the final report, as the case may be; and if the report is reissued as the final report, work shall be considered complete.

Consultant will render to County of Sangamon invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

Change Orders

The services and associated compensation covered under this Agreement may be modified through a written amendment, approved and executed by both parties.