

## SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT

This **SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT** (this “**Agreement**”) is made effective as of September 1, 2025 (the “**Effective Date**”), by and between Dakota County, a political subdivision of the State of Minnesota (the “**County**”), having offices at 1509 Highway 55, Hastings, MN 55033, and WEST CENTRAL INDEXING, L.L.C. a Minnesota limited liability company, (“**West Central**”), having offices at 405 22<sup>nd</sup> Avenue W, Alexandria, MN 56308 (each, a “**Party**” and collectively, the “**Parties**”).

### RECITALS

**WHEREAS**, the County selected West Central’s RecordEASE, RecordEASE Web and RecordEASE EDR products for a Property Records Management System (the “**Licensed Software**”); and

**WHEREAS**, the Parties have entered into a license agreement (the “**License Agreement**”) with respect to the Licensed Software; and

**WHEREAS**, the Parties previously entered into a Maintenance and Support Agreement relating to the Licensed Software with an effective date of September 1, 2020, which initial term has expired; and

**WHEREAS**, the Parties wish to enter into this Maintenance and Support Agreement and to replace the September 1, 2020 Maintenance and Support Agreement, in order to set forth the terms and conditions pursuant to which West Central shall provide software maintenance and support services to the County, with respect to the Licensed Software.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

The recitals set forth in the whereas clauses above are incorporated by reference as if set forth herein.

#### 1. **Definitions.**

- 1.1. “**Correction**” means the repair or replacement of source or object or executable code versions of the Licensed Software to remedy an Error. A Correction may be in the form of a patch to the Licensed Software.
- 1.2. “**Enhancement**” means technical or functional additions to the Licensed Software to improve software functionality or operations.

- 1.3. **“Error”** means a malfunction in the Software which degrades the use of the Licensed Software.
- 1.4. **“Licensed Software”** means the West Central’s RecordEASE, RecordEASE Web and RecordEASE EDR products licensed by West Central under the License Agreement, plus all customizations thereof provided by West Central under the Software Development and Implementation Services section of the **License Agreement** and this Agreement.
- 1.5. **“Ticketing System”** means the Salesforce Ticketing System used by West Central to manage customer telephone calls and e-mails regarding the Licensed Software.
- 1.6. **“Priority Level High”** means that the County’s Property Records Management System is down and unable to function.
- 1.7. **“Priority Level Medium”** means that the County’s Property Records Management System is operational but with limitations, for which Corrections or Workarounds are required.
- 1.8. **“Priority Level Low”** means that the County’s Property Records Management System is operational and functional, but assistance is needed.
- 1.9. **“Update”** means all published revisions to the documentation and new releases of the Licensed Software which are not designated by West Central as new products for which West Central charges separately.
- 1.10. **“User Group”** means a group of West Central customers using all or some of the Licensed Software formed to share knowledge and experiences regarding the Licensed Software.
- 1.11. **“Workaround”** means a change in the procedures followed or data supplied to avoid an Error without significantly impairing performance of the Licensed Software.

2. **Software Maintenance.** The following technical and functional improvements will be provided by West Central to maintain and improve Licensed Software operations:

- (a) Updates; and
- (b) Error Corrections contained in Updates;
- (c) Enhancements contained in Updates.

All Updates, Corrections, Enhancements and Workarounds provided to the County and owned by West Central and shall remain the property of West Central and shall become part of the Licensed Software and be subject to the terms and conditions of the License Agreement,

including without limitation the provisions thereof regarding ownership and confidentiality. Subject to the terms of the License Agreement, West Central shall have the right to use all or any part of each such Update, Correction, Enhancement and Workaround for any work or services done for, or provided to, any other customer of West Central.

**3. Software Support.**

3.1. User Support. West Central will provide user support services for the Licensed Software as follows:

- (a) Telephone support available from 7:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, on regular County business days (i.e., excluding weekends and County holidays); and
- (b) Email support for technical issues available from 7:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, on regular County business days (i.e., excluding weekends and County holidays).

3.2. System Support. West Central will provide system support services for the Licensed Software as follows:

- (a) Corrections to Errors which would not otherwise be addressed by scheduled Updates; and
- (b) Enhancements to the Licensed Software requested by the County to the extent such Enhancements are (i) agreed upon by the West Central User Group and (ii) included within the scope of Updates as determined by West Central.

3.3. Customer Support for Licensed Software. West Central will provide telephone support to customers for RecordEASE EDR submissions, from 7:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, on regular County business days (i.e., excluding weekends and County holidays).

**4. Priority Levels.** West Central shall respond in accordance with the following protocols in accordance with the Severity Levels, as follows:

- 4.1. Priority Level High. West Central will return the call from the County in 30 minutes or less, with a Correction or Workaround provided as soon as possible and assigned first priority at West Central. In the Salesforce system, the trouble ticket will be assigned Priority Level High.
- 4.2. Priority Level Medium. West Central will return the call from the County in 30 minutes or less, and will provide a Correction or Workaround as soon as possible. In the Sales Force system, the trouble ticket will be assigned Priority Level Medium.

- 4.3. Priority Level Low. West Central will return the call from the County in four hours or less, and will provide a Correction or Workaround, or other appropriate response and resolution, within eight hours. In the Salesforce system, the trouble ticket will be assigned Priority Level Low.

**5. Maintenance and Support Fee.**

- 5.1. Fee for Maintenance and Support Services. The fee for maintenance and support services for the first 60 months of such services shall be \$68,970.00 per year or \$5,747.50 per month; thereafter, in the event the County elects to continue to receive maintenance and support services, the County shall pay West Central the annual maintenance and support fee then being charged by West Central to its customers generally for the Licensed Software. Pricing includes all applicable sales tax.
- 5.2. Payment Terms. Any payments due to West Central from the County hereunder will be invoiced by West Central and will be payable 35 days after the County's receipt of such invoice. Past due payments bear interest from the due date at the rate of the lesser of 1-1/2% per month or the highest rate permitted by applicable law. Each such invoice delivered to the County will provide details of the charges to the County, applicable rates and hours of West Central personnel providing services to the County and will be supported by proper invoices and vouchers in respect of all expenses for which reimbursement is claimed.

**6. Term and Termination.**

- 6.1. Term. Maintenance and support services shall be provided for an initial period of 60 months beginning upon the Effective Date, and shall thereafter be extended for consecutive periods of 12 months each, unless terminated by either Party as provided in Section 6.2 of this Agreement. The prior Maintenance and Support Agreement, dated September 1, 2020, is hereby terminated as of the Effective Date of this Maintenance and Support Agreement.
- 6.2. Termination by County. The County may terminate the maintenance and support services under this Agreement at the end of the original term or at the end of any renewal term by giving West Central written notice of such termination at least 90 days prior to the scheduled expiration of such original term or renewal term. In addition to terminating or suspending this agreement, such termination shall also have the effect of terminating the License Agreement. This Agreement shall also terminate upon any expiration or termination of the License Agreement.
- 6.3. Suspension or Termination for Cause. In the event that the County fails to make payment pursuant to Section 5 (Maintenance and Support Fees) and such failure has not been cured within 30 days of the County's receipt of written notice of such failure, West Central may suspend or terminate the maintenance and support services under this Agreement. The County may suspend or terminate this

Agreement if West Central violates any of the terms or conditions of this Agreement and such violation has not been cured by West Central within 30 days of West Central's receipt of written notice of such violation. In addition to terminating or suspending this agreement, such suspension or termination shall also have the effect of suspending or terminating the License Agreement.

- 6.4. Preservation of Rights. Termination of this Agreement shall not prejudice any rights of either Party which have arisen on or before the date of termination.

## **7. Assistance by the County.**

The County shall provide reasonable assistance to West Central in the performance of its services under this Agreement by making available equipment, software, documentation, information and personnel required for the execution of this Agreement on a timely basis. The County shall also ensure that those of its personnel who are assigned to assist West Central are familiar with the County's requirements and have the expertise and capabilities necessary to permit West Central to undertake and complete the services under this Agreement.

## **8. Records and Examinations.**

- (a) West Central will maintain records which reflect all revenues, costs incurred and services provided by West Central in performance of this Agreement.
- (b) The County, the State Auditor or legislative authority, or any of their duly authorized representatives, at any time during normal business hours and as often as they reasonably deem necessary, for a minimum of six years from the end of the Term, pursuant to Minnesota Statute 16C.05, shall have access to and the right to examine the books, records, documents, and accounting procedures and practices of West Central which are relevant to West Central's performance and determination of the agreed upon payments under this Agreement. Such examinations shall be conducted at the location where West Central normally maintains such records. The County shall provide West Central with reasonable prior written notice of each such examination. To the extent permitted by law, the information revealed by an examination shall be treated as trade secret information of West Central under Minnesota Statutes Section 13.37 subd. 1(b).

## **9. Standards.**

West Central shall comply with all applicable Federal and State Statutes and regulations as well as local ordinances now in effect or hereafter adopted.

## **10. Data Privacy.**

All data collected, created, received, maintained or disseminated, or used for any purposes in the course of West Central's performance of this Agreement, is governed by the Minnesota Government Data Practices Act, Minnesota Statutes 1984, Section 1301 et seq. (the "**Act**") or any other applicable state statutes and state rules adopted to implement the Act, as well as state

statutes and federal regulations on data privacy. West Central agrees to abide by these statutes, rules and regulations as they may be amended.

## **11. Nondiscrimination.**

West Central shall comply with and abide by the obligations and requirements set forth in Minnesota Statutes Section 181.59 and general County policy, that every contract contain provisions by which West Central agrees to freedom from discrimination in employment.

## **12. Limitation of Liability.**

- 12.1. **WEST CENTRAL'S LIABILITY AND THAT OF ITS AGENTS, REPRESENTATIVES, AND EMPLOYEES TO THE COUNTY FOR DAMAGES WITH RESPECT TO THIS AGREEMENT, OR ANY MAINTENANCE AND SUPPORT SERVICES PROVIDED BY WEST CENTRAL HEREUNDER (INCLUDING WITHOUT LIMITATION ANY CORRECTION, ENHANCEMENT, WORKAROUND OR UPDATE), SHALL NOT EXCEED THE AGGREGATE AMOUNT OF FEES PAID TO WEST CENTRAL BY THE COUNTY FOR SUCH MAINTENANCE OR SUPPORT SERVICES, AS THE CASE MAY BE. DAMAGES AS LIMITED BY THIS SECTION 12.1 SHALL BE THE COUNTY'S SOLE AND EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT THAT ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT FAILS ITS ESSENTIAL PURPOSE.**
- 12.2. **IRRESPECTIVE OF ANY FAULT OR NEGLIGENCE, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SALES, LOST SAVINGS, LOST PROFITS (ANTICIPATED OR ACTUAL), LOSS OF USE, DOWNTIME, INJURY TO PERSONS OR DAMAGE TO PROPERTY AND CLAIMS OF THIRD PARTIES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY OR TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE OF ANY KIND, WHETHER ACTIVE OR PASSIVE), OR ANY OTHER LEGAL OR EQUITABLE THEORY, ALL WHETHER OR NOT SUCH PARTY HAS BEEN APPRISED OR NOTIFIED THAT ANY SUCH DAMAGES OR LOSSES ARE POSSIBLE OR LIKELY, AND WHETHER OR NOT ANY PERMITTED REMEDY HAS FAILED ITS ESSENTIAL PURPOSE.**

## **13. General.**

### **13.1 Independent Contractor.**

- (a) It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the Parties hereto or as constituting West Central as the agent, representative, or employee of the County for any purpose of in any manner whatsoever. West Central is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement.

- (b) West Central represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of West Central or other persons, while engaged in the performance of any work or services required by West Central under this Agreement, shall have no contractual relationship with the County and shall not be considered employees of the County.
- (c) Neither West Central nor its employees will at any time be construed to be employees of the County. West Central is responsible for its employees' compensation, fringe benefits and all insurance coverage.

13.2 Subcontracting and Assignment.

West Central shall not subcontract the services to be performed under this Agreement, whether in whole or in part, without the prior written consent of the County. If West Central subcontracts its obligations under this Agreement, West Central shall be responsible for the performance of all obligations by the subcontractors. Any contract between West Central and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. Minn. Stat. West Central shall comply with § 471.425 in making payments to any subcontractor under this Agreement.

13.3 Modifications. Any material alteration, modification or variation of this Agreement shall be reduced to writing as an amendment and signed by Parties. Any alteration, modification, or variation deemed not to be material by agreement of the County and West Central shall not require written approval.

13.4 Merger. It is understood and agreed that the entire contract of the Parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the Parties relating to this subject matter. All items referred to in this Agreement are incorporated or attached and deemed to be a part of this Agreement.

13.5 Governing Law. The construction, interpretation, and performance of this Agreement shall be governed by the substantive laws of the State of Minnesota without giving effect to its choice of law rules.

13.6 Assertion of Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a legal entity and any liability relating thereto shall be enforceable only against the assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director or manager of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section and shall be entitled to enforce the provisions of this Section.

- 13.7 Severability. If any provision of this Agreement is held invalid or unenforceable by a court having jurisdiction over the Parties, the Parties agree that the invalid or unenforceable provision shall be replaced with a valid provision which most closely approximates the intent and economic effect of the original provision.
- 13.8 Waivers. Any failure by either Party to enforce or exercise any provision of the Agreement or related right shall not constitute a waiver of that right or provision.
- 13.9 Third-Party Beneficiaries. The Parties agree that, except as provided in Section 13.6, there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement.
- 13.10 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth in the preamble above or to such other address as either Party may, from time to time, designate by notice to the other Party.
- 13.11 Publicity. West Central may issue a press release or public announcement concerning this Agreement and the transactions which are the subject hereof, with the County's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the County hereby acknowledges that after an initial press release West Central, and its affiliates, may reference its customer relationship with the County in any and all documents distributed in connection with any financing transactions and any marketing documents. Notwithstanding anything to the contrary in this Agreement, West Central may not use the County's brand names, logos, taglines, slogans, or other trademarks without the prior written consent from the County, which consent may be granted or withheld in the County's sole discretion.
- 13.12 Force Majeure. Neither Party shall be held liable to the other party for failure of performance where such failure is caused by supervening conditions beyond that Party's control, including, without limitation natural disasters, acts of God, terrorism, vandalism, civil disturbance, any governmental action, strikes, or labor disputes, or any similar or dissimilar cause.
- 13.13 Counterparts. This Agreement may be executed by the Parties in multiples counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.
- 13.14 Debarment. West Central certifies that it is not prohibited from doing business with either the federal government or the State of Minnesota as a result of any debarment or suspension proceedings. West Central's certification is a material representation upon which the County's approval of this Agreement is based.



West Central shall provide immediate written notice to the County if at any time West Central learns that this certification is erroneous or becomes erroneous due to changed circumstances.

[The following page is the signature page.]

**IN WITNESS WHEREOF**, the Parties hereto have executed this Software Maintenance and Support Agreement as of the Effective Date.

**WEST CENTRAL INDEXING, L.L.C.**

**DAKOTA COUNTY**

By:\_\_\_\_\_

By:\_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title:\_\_\_\_\_

Title: \_\_\_\_\_