



## Travis County Commissioners Court Agenda Request

**Meeting Date:** April 30, 2013

**Prepared By/Phone Number:** Scott Wilson, 854-1182

**Elected/Appointed Official/Dept. Head:** Cyd Grimes

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** Approve Contract Award for the Purchase of Professional Services, Contract No. 4400001439, to Medicalistics, LLC.

- **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes. This Agreement provides software maintenance and related professional services for the Electronic Medical Records (EMR) System.

In August 2009 the County contracted with Simplicity Healthcare Systems for a turnkey EMR (NextGen Healthcare) System based on a competitive bid process. However, the vendor was not able to complete the project according to their contract terms and the contract was terminated for convenience in October 2010. Since then the Sheriff's Office has been without maintenance and support.

At this time the Sheriff's Office recommends awarding a contract to Medicalistics, LLC, the only NextGen Healthcare authorized vendor allowed and capable of the service required to bring the EMR System up to date and complete the project, as well as, provide ongoing maintenance and support. The cost for software, interfaces, installation services and training is \$100,398. Maintenance for year one is \$53,740. Thereafter, there is a 3% cap on the annual maintenance cost.

The contract states: Pursuant to TEX. LOC. GOV'T. CODE ANN. § 262 et seq., the Travis County Commissioners Court hereby orders that this Agreement is exempt from the requirements of the County Purchasing Act because it is an Agreement for the purchase of personal or professional services.

➤ **Contract-Related Information:**

Award Amount: \$154,138

Contract Type: Professional Services Agreement

Contract Period: Upon Commissioner's Court Approval with successive one (1) year terms

➤ **Funding Information:**

☐ SAP Shopping Cart #:

☐ Funding Account(s):

☐ Comments:



## PROFESSIONAL SERVICES AGREEMENT “PSA”

Medicalistics, LLC 3400 College Blvd. Suite 140, Kansas 66211 a Kansas LLC (“Medicalistics”) and Travis County, a political subdivision of the State of Texas, (“the Client” or “County” or “Travis County”) (each a “Party” or collectively, the “Parties”) agree that the terms and conditions set forth in this Professional Services Agreement (this “Agreement”) and the Service Schedule(s) (each a “Service Schedule” and collectively, the “Service Schedules”) executed from time to time hereunder will apply to any order accepted by Medicalistics for the sale of Services to, and the purchase of Services by, the Client. Pursuant to TEX. LOC. GOV’T. CODE ANN. § 262 et seq., the Travis County Commissioners Court hereby orders that this Agreement is exempt from the requirements of the County Purchasing Act because it is an Agreement for the purchase of personal or professional services.

### TERMS AND CONDITIONS

#### 1. TERM

This Agreement provides the terms and conditions for the purchase of software maintenance and related professional services by the Client from Medicalistics, as described in this Agreement and its attachments. This Agreement will be effective after execution of this Agreement by Medicalistics and upon approval of the Travis County Commissioners Court and will continue in full force and effect for successive one-year periods. This Agreement will automatically renew each year unless otherwise terminated under the provisions of this Agreement. The word “Agreement” as used herein shall be defined as this Professional Services Agreement, together with any executed Services Schedule(s) (“Schedule”) or other incorporated exhibits, attachments or addenda.

#### 2. LICENSED SOFTWARE

2.1 Medicalistics licenses to Client, and Client accepts, the electronic medical records software listed in **Exhibit “A”** (the “List of Software Currently Licensed to Client” or the “Licensed Software”) subject to the terms and conditions set forth in **Exhibit “B”** (the “Medicalistics Master License Agreement”) and in this Agreement.

#### 3. SCHEDULES

When the Client desires to purchase Services from Medicalistics, the Client will submit a completed Services Schedule. Each Services Schedule shall refer to and shall be incorporated by reference to this Agreement. Once Medicalistics accepts a Schedule in writing, subject to the terms and conditions of this Agreement, Medicalistics agrees to provide and perform the Services described in each Services Schedule for the Client as set forth therein.

#### 4. SERVICES

4.1 Medicalistics will perform the professional services set forth in the Statement of Work attached as **Exhibit “C”** to this Agreement.

4.2 Medicalistics will also perform the specific software maintenance and related professional services listed below (the “Services”):

(i) all Medicalistics Software Maintenance Services described in this Agreement and in **Exhibit “D”** to this Agreement;

(ii) any reinstallation, integration and implementation services as needed to ensure the Licensed Software functions in accordance with the Statement of Work and the Performance Criteria (as defined in Section 7, below);

(iii) any additional professional services required by the Client and offered by Medicalistics that are listed in **Schedule “A”**, attached to this Agreement, which services will be invoiced in accordance with the hourly rates set forth in **Schedule “A”**;

(iv) any services not described in the foregoing paragraphs that are described in each Services Schedule executed from time to time under this Agreement.

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4.2 To the extent practicable, and in order to facilitate Medicalistics' performance of the Services, the Client will endeavor to provide Medicalistics with access to a telephones and telecopier, and reasonable working space, including, as applicable, heat, light, electric current and outlets for the use by Medicalistics' personnel. Medicalistics will be provided with access to the Client's computer systems on which the latest current version of the Licensed Software resides. The Client will provide to Medicalistics needed security access (RS Tokens, security software, other security measures) as needed.

4.3 Implied Services. If any services, functions, or responsibilities not specifically described in the Statement of Work or Performance Criteria of this Agreement are required for the proper performance of the Services and provision of products as stated in the Statement of Work or Performance Criteria of this Agreement, they will be deemed to be implied by and included within the scope of the Services stated therein to the same extent and in the same manner as if specifically described in such Statement of Work or Performance Criteria of this Agreement. Except as otherwise expressly specified as a responsibility of County in this Agreement, Medicalistics shall be responsible for providing the personnel and other resources as necessary to provide the Services under the Statement of Work or Performance Criteria of this Agreement.

## 5. PAYMENT

5.1 Payments will be made by check or warrant by County upon satisfactory performance of the services associated with the payment milestones listed in the attached "Payment Milestone Schedule" (**Schedule "B"**) and submission of an invoice to: Travis County Auditor, P.O. Box 1748, Austin, TX 78767.

5.2 All payments shall be made by the Client to Medicalistics at the address indicated on Medicalistics' invoice or at such other address as may be designated in writing to the Client by Medicalistics.

5.3 Medicalistics shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Agreement funds are payable.

5.4 As a minimum, invoices must include: (i) name, address, and telephone number of Medicalistics and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Agreement; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Agreement. Travis County will not pay invoices that are in excess of the amount authorized by the Purchase Order.

5.5 Payment will be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to execution of this Agreement.

5.6 Accrual and payment of interest on overdue payments shall be governed by TEX. GOV'T CODE ANN., ch. 2251.

5.7 Notwithstanding anything to the contrary in this Agreement, if Medicalistics is delinquent in the payment of property taxes in Travis County at the time of invoicing, Medicalistics hereby assigns any payment(s) to be made for products and services covered by this Agreement to the Travis County Tax Assessor-Collector for the payment of such delinquent taxes.

5.8 Travis County is a political subdivision organized under the laws of the State of Texas and is exempt from sales and use taxes under TEX. TAX CODE ANN. § 151.309, as amended. An exemption certificate will be provided to Medicalistics upon written request. Medicalistics is responsible for all taxable matters associated with providing

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products and services under this Agreement, including all compensation paid to Medicalistics for such products and services.

5.9 **Persons With Outstanding Debts to Governmental Bodies:** If notice of indebtedness has been filed with the County Auditor or County Treasurer, evidencing the indebtedness of a person to the state, Travis County, or a salary fund, a warrant may not be drawn on a county fund in favor of a person, or the agent or assignee(s) of a person, until the person owing the debt is notified in writing that the debt is outstanding and the debt is paid.

- (i) “Debt” includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the County.
- (ii) Medicalistics is hereby notified that County may apply any funds the County owes Medicalistics under this Agreement to offset or reduce any outstanding balances Medicalistics owes the State of Texas, Travis County, or a salary fund.
- (iii) This Agreement shall be interpreted and construed in accordance with Section 154.045 of the Texas Local Government Code, as enacted or as amended.

## 6. COMPENSATION

6.1 As compensation for Medicalistics’ provision of the Services under this Agreement, the Client will pay Medicalistics the sum indicated in **Exhibit “E”**. Medicalistics shall submit to the Travis County Auditor an invoice detailing the Services performed.

6.2 Medicalistics is an independent contractor and Travis County shall not pay Medicalistics any customary Travis County employment benefits, including, but not limited to taxes, worker's compensation, health or retirement benefits, sick leave or vacation and holiday.

6.3 Medicalistics is responsible for reporting all federal, state, and city tax liabilities, social security obligations, and any other taxable matters associated with the Services and compensation rendered under this Agreement and shall be solely obligated to pay any and all taxes related to income paid to Medicalistics.

## 7. WARRANTIES

7.1 Performance Criteria. Medicalistics warrants and represents that the Licensed Software will perform substantially in accordance with the performance capabilities, functionality requirements, and technical specifications (the “Performance Criteria”) set forth: (i) in **Exhibit “C”**, (ii) elsewhere in this Agreement, and (iii) in any Services Schedules executed from time to time. Medicalistics will perform the Services under this Agreement in such a manner to ensure that the Licensed Software continues to meet or exceed these Performance Criteria.

7.2 Services Warranty. The Services to be furnished by Medicalistics hereunder are professional services. Medicalistics warrants that the services provided under this Agreement shall be performed in a good and workmanlike manner and in accordance with the highest standards in the industry for an experienced and competent company performing the same or similar services.

7.3 **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY SPECIFICALLY DISCLAIMED.** Any alteration to the Services delivered hereunder by the Client or any third party without the written consent of Medicalistics shall void any warranty provided hereunder.

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7.4 Personnel. Medicalistics warrants and represents that its personnel and subcontractors have the knowledge, ability, expertise and experience to furnish and maintain the Licensed Software in accordance with this Agreement and its exhibits, attachments and appendices. Any replacement personnel and any subcontractor(s) shall have equal or greater qualifications when compared to the original person or subcontractor.

7.5 Conflicting Agreements. Medicalistics warrants that it is not a party to any other existing agreement that would prevent it from entering into this Agreement or which would adversely affect this Agreement.

## 8. DATA RIGHTS

8.1 Software developed by Medicalistics for Client under this Agreement or under any Services Schedule shall be owned by Medicalistics and the Parties will execute the appropriate license or other authorized use agreement so that the Client may use such developed software for Client's own internal use. Any modifications, enhancements derivation, or revisions to any software developed for Client under this Agreement and owned by Medicalistics shall remain the sole and exclusive property of Medicalistics, and Medicalistics retains all right, title and interest in such enhancements, modifications, derivation, and revisions, unless otherwise agreed to in writing by Medicalistics and the Client.

## 9. CONFIDENTIAL INFORMATION

9.1 The Parties acknowledge and agree that each Party may provide to the other certain information that is considered confidential, proprietary and/or otherwise not subject to disclosure to third parties (the "Confidential Information"). The Parties shall clearly designate "Confidential" all such Confidential Information. Each Party agrees to hold such Confidential Information in strict confidence using the same standard of care as it uses to protect its own Confidential Information but not less than a reasonable standard of care, and shall not disclose such Confidential Information for any purpose except as necessary to fulfill its obligations under this Agreement, or except as required by law. Each Party shall further limit access to such Confidential information to such of its employees, agents and contractors who need such access to fulfill its obligations under this Agreement, and shall require its employees, agents and contractors who have access to such Confidential Information to abide by the confidentiality provisions of this Agreement.

9.2 Texas Public Information Act. Notwithstanding the foregoing, disclosure of any information obtained by either Party or any of its officials, employees, agents or representatives in connection with this Agreement shall be subject to the provisions of the Texas Public Information Act and all legal authorities relating thereto, including but not limited to opinions, decisions and letter rulings issued by the State Attorney General's Office.

## 10. LIMITATION OF DAMAGES AND REMEDIES

10.1 Medicalistics' ENTIRE LIABILITY AND THE CLIENT'S EXCLUSIVE REMEDIES AGAINST Medicalistics FOR DAMAGES FROM ANY CLAIM OR CONTROVERSY WHATSOEVER REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE IN ACCORDANCE WITH THE FOLLOWING:

(i) FOR PERSONAL INJURY (INCLUDING DEATH) TO THE EXTENT CAUSED BY Medicalistics, THE CLIENT SHALL BE ENTITLED TO RECOVER FROM Medicalistics ACTUAL, DIRECT DAMAGES;

(ii) FOR CLAIMS OTHER THAN THOSE SET FORTH IN (i) ABOVE, Medicalistics' LIABILITY SHALL BE LIMITED TO ACTUAL, DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO Medicalistics FOR THE AFFECTED SERVICES;

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(iii) IN NO EVENT SHALL Medicalistics, INCLUDING ITS OFFICERS, DIRECTORS AND EMPLOYEES, BE LIABLE FOR LOSS OF PROFITS, LOSS OF USE OF EQUIPMENT OR SYSTEMS, OR ANY OTHER INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGE, WHETHER OR NOT Medicalistics HAS BEEN ADVISED TO THE POSSIBILITY OF SUCH DAMAGES.

## 11. TRAVEL

11.1 Only those travel expenses of Medicalistics personnel that are approved in advance and in writing by Travis County will be reimbursed by the Client. Reimbursement will be made in accordance with the Client's "Travel Policy" provisions of the Travis County Budget Rules, a copy of which will be provided to Medicalistics upon request.

## 12. FUNDING OUT

12.1 Despite anything to the contrary in this Agreement, if, during budget planning and adoption, the Travis County Commissioners Court fails to provide funding for this Agreement for the following fiscal year of Travis County, County may terminate this Agreement without penalty after giving Medicalistics thirty (30) calendar days written notice that this Agreement is terminated due to the failure to fund it.

## 13. TERMINATION FOR DEFAULT; CONVENIENCE

13.1 Termination for Default. Failure by either County or Medicalistics in performing any provisions of this Agreement will constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days will constitute a default. The defaulting party will be given a twenty (20) calendar day period within which to show cause why this Agreement should not be terminated for default. The Travis County Commissioner's Court may take whatever action as its interest may appear, resulting from such notice. All notices for corrective action, breach, default or show cause, will be issued by the Travis County Purchasing Agent or the Travis County Attorney's Office only and all replies shall be made in writing to the Purchasing Agent at the address provided herein. Notices issued by or to anyone other than the Purchasing Agent or County Attorney will be null and void, and will be considered as not having been issued or received. The Client reserves the right to enforce the performance of this Agreement in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to Medicalistics. In the event of Termination for Default, neither Client nor its agents or representatives will be liable for loss of any profits anticipated to be made under this Agreement.

13.2 Termination for Convenience. The Client reserves the right to terminate this Agreement upon thirty (30) calendar days written notice for any reason deemed by the Travis County Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. In the event of such termination, the Client will pay Medicalistics those costs directly attributable to work done or supplies obtained in preparation for completion or compliance with this Agreement prior to termination; provided, however, that no costs will be paid that are recoverable in the normal course of doing business in which Medicalistics is engaged. In addition, no costs that can be mitigated through the sale of supplies or inventories will be paid. If the Client pays for the cost of supplies or materials obtained for use under this Agreement, those supplies or materials will become the property of the Client and must be delivered to the FOB point shown in this Agreement, or as designated by the Purchasing Agent. The Client will not be liable for loss of any profits anticipated to be made under this Agreement.

## 14. SECURITY REQUIREMENTS

14.1 The Licensed Software and any Services or other products provided by Medicalistics under this Agreement must be secure, comply with all Travis County Information Security Requirements, and provide appropriate levels

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of confidentiality, integrity and availability of information in the system. The Services and products must also meet or exceed all federal, state, and local government laws and regulations governing the creation, use, storage, access, accessibility, maintenance, processing and transmission of information assets. This paragraph applies to Medicalistics' activities in accessing the County's system to provide the Services and products under this Agreement.

## 15. MISCELLANEOUS

15.1 Notice. Any and all notices required under this Agreement shall be effective upon "receipt" and shall be in writing and personally delivered or in lieu of such personal service deposited in the U.S. Main, Certified Mail, return receipt requested, or to the following addresses:

Travis County:                      Cyd V. Grimes, C.P.M., CPPO  
County Purchasing Agent  
P.O. Box 1748  
Austin, TX 78767

With copies to:                      Travis County Sheriff's Office  
Attn: Lt. Robin Osborn  
3614 Bill Price Road  
Austin, Texas 78617

Medicalistics:                      3400 College Blvd.  
Suite 140  
Leawood, KS 66211

The parties may change their respective addresses for notice by delivery of a notice complying with the requirements of this section.

15.2 Venue. The obligations and undertakings of the Parties to this Agreement are performable in Travis County, Texas, and this Agreement is and will be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate court of Travis County, Texas.

15.3 Assignment. The Parties may not assign any of the rights or obligations under this Agreement without the prior written consent of the other Party. NO OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF TRAVIS COUNTY HAS THE AUTHORITY TO APPROVE ANY ASSIGNMENT UNDER THIS AGREEMENT UNLESS THAT SPECIFIC AUTHORITY IS EXPRESSLY GRANTED BY THE TRAVIS COUNTY COMMISSIONERS COURT. The terms, provisions, covenants, obligations and conditions of this Agreement are binding upon and inure to the benefit of the successors in interest and the assigns of the Parties hereto if the assignment or transfer is made in compliance with the provisions of this Agreement.

15.4 Forfeiture of Contract. If Medicalistics has done business with a Key Contracting Person, listed in Attachment 1 to the Ethics Affidavit attached hereto as **Exhibit "F"** and made a part hereof for all purposes, during the 365-day period immediately prior to the date of execution of this Agreement by Medicalistics or does business with any such Key Contracting Person at any time after the date of execution of this Agreement by Medicalistics and prior to full performance of this Agreement, Medicalistics shall forfeit all benefits of this Agreement, and County shall retain all benefits of and performance under this Agreement and recover all consideration, or the value of all consideration, paid to Medicalistics pursuant to this Agreement.

"Has done business" and "does business" mean:



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(i) paying or receiving in any calendar year any money or valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for the purchase of any property or property interest, either real or personal, either legal or equitable; or,

(ii) loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;

but does not include

(iii) any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the public,

(iv) any financial services product sold to a Key Contracting Person for personal, family or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by Medicalistics in the ordinary course of its business; and

(v) a transaction for a financial service or insurance coverage made on behalf of Medicalistics if Medicalistics is a national or multinational corporation by an agent, employee or other representative of Medicalistics who does not know and is not in a position that he or she should have known about this Agreement.

#### 15.5 Indemnification.

15.5.1 Intellectual Property Indemnification. Medicalistics represents and warrants that (i) all applicable copyrights, patents, trade secrets, licenses and other proprietary and intellectual property rights that may exist on materials used in this Agreement have been adhered to and (ii) the Client will not be liable for any infringement of those rights and any rights granted to Travis County will apply for the duration of this Agreement. Medicalistics SHALL INDEMNIFY TRAVIS COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION AND LIABILITY OF EVERY KIND INCLUDING EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY FEES FOR DAMAGES TO ANY PERSON OR PROPERTY ARISING IN CONNECTION WITH ANY ALLEGED OR ACTUAL INFRINGEMENT OF EXISTING COPYRIGHTS, PATENTS, TRADE SECRETS, LICENSES AND OTHER PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS APPLICABLE TO MATERIALS USED IN THIS AGREEMENT. IN THE EVENT THAT AN INFRINGEMENT SUIT OR PROCEEDING ARISES, MEDICALISTICS SHALL, AT ITS SOLE COST AND EXPENSE, SECURE COUNTY'S RIGHT TO CONTINUE USING THE PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT OR REPLACE OR MODIFY ALL OR PART OF THE PRODUCT OR SERVICE TO RENDER IT NONINFRINGING.

15.5.2 General Indemnification. MEDICALISTICS SHALL INDEMNIFY TRAVIS COUNTY, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL THIRD PARTY CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND WHETHER MERITORIOUS OR NOT AND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND REASONABLE ATTORNEY'S FEES, ARISING IN CONNECTION WITH THE SERVICES PROVIDED BY MEDICALISTICS UNDER THIS AGREEMENT. IT IS THE EXPRESSED INTENTION OF THE PARTIES TO THIS AGREEMENT, BOTH MEDICALISTICS AND COUNTY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY MEDICALISTICS TO INDEMNIFY AND PROTECT COUNTY FROM THE CONSEQUENCES OF MEDICALISTICS' ACTIONS. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER, WHETHER IN AN ACTION IN NEGLIGENCE, CONTRACT OR TORT OR BASED ON A WARRANTY OR OTHERWISE, FOR LOSS OF PROFITS, REVENUE, OR LOSS OR INACCURACY OF DATA, OR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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15.6 Conflict of Interest Questionnaire. If required under Chapter 176 Texas Local Government Code, Medicalistics shall file a completed Conflict of Interest Questionnaire in accordance with the requirements of that Chapter. Within the applicable, authorized time period prescribed in Chapter 176, Medicalistics shall file the completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751. Medicalistics shall file an updated, completed questionnaire with the Travis County Clerk not later than the seventh (7th) business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. Medicalistics should note that the law requires that the County provide access to a filed Questionnaire on the official Travis County Internet website. However, the law does not require that the County release information which is excepted from disclosure under the Texas Public Information Act. As between County and Medicalistics, Medicalistics shall be solely responsible for the preparation of its Conflict of Interest Questionnaire, the accuracy and completeness of the content contained therein and ensuring compliance with all applicable requirements of Chapter 176, Local Government Code.

15.7 Definitions and Usage. In this Agreement, the term “day” means a calendar day. Words of any gender used in this Agreement will be held and construed to include any other gender, and words in the singular number will be held to include the plural, unless the context otherwise requires. Words that are not specifically defined herein should be given a common usage construction.

15.8 Non-Waiver and Reservation of Rights. No payment, act or omission by either Party may constitute or be construed as a waiver of any breach or default of the other Party which then exists or may subsequently exist. The failure of either Party to exercise any right or privilege granted in this Agreement will not be construed as a waiver of that right or privilege. All rights of either Party under this Agreement are specifically reserved and any payment, act or omission will not impair or prejudice any remedy or right of either Party under it. Any right or remedy stated in this Agreement will not preclude the exercise of any other right or remedy under this Agreement, the law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

15.9 Access to Records. Medicalistics agrees to maintain appropriate accounting records of costs and expenses, together with all supporting documentation, for a period of two years following the completion date of this Agreement. Medicalistics further agrees that duly authorized representatives of Travis County shall have access to and the right to examine in any storage medium, any and all books, documents, accounts, files, reports, papers, records, things or property belonging to or in use by the Medicalistics in obtaining or performing the products and Services under this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. The right of access continues throughout the records retention period set forth herein.

This right of access may be exercised during normal business hours and at reasonable intervals. Where feasible and upon request, Medicalistics shall provide requested information to County audit staff in electronic format. Failure to allow inspection and audit under this Agreement may result in the order of work stoppage until the cause of such work stoppage order is eliminated or in termination of this Agreement by County.

15.10 Severability. If any clause, sentence, provision, paragraph or article of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or ineffective in any respect, the remainder Agreement shall remain valid and binding.

15.11 Mediation. When mediation is acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation will remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code, unless both Parties agree, in writing to waive the confidentiality.

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15.12 Amendment. Only written instruments signed by both Travis County and Medicalistics may amend this Agreement. **IT IS ACKNOWLEDGED BY MEDICALISTICS THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF TRAVIS COUNTY HAS ANY AUTHORITY TO AMEND OR ALTER THE TERMS OF THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE TRAVIS COUNTY COMMISSIONERS COURT.**

15.13 Officials Not to Benefit. If a member of the Travis County Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

15.14 Covenant Against Contingent Fees. Medicalistics warrants that no persons or selling agency has been retained to solicit this Agreement upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by Medicalistics to secure business. For breach or violation of this warranty, County will have the right to terminate this Agreement without liability, or in its discretion to, as applicable, add to or deduct from the Agreement price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

15.15 Monitoring. County reserves the right to perform periodic on-site monitoring of Medicalistics' compliance with the terms of this Agreement, and of the adequacy and timeliness of Medicalistics' performance under this Agreement. After each monitoring visit, County will provide Medicalistics with a written report of the monitor's findings. If the report notes deficiencies in Medicalistics' performances under the terms of this Agreement, it will include requirements and deadlines for the correction of those deficiencies by Medicalistics. Medicalistics shall take action specified in the monitoring report prior to the deadlines specified.

15.16 Gratuities. County may terminate this Agreement if it is found that gratuities of any kind including entertainment, or gifts were offered or given by Medicalistics or any agent or representative of Medicalistics, to any County official or employee with a view toward securing favorable treatment with respect of this Agreement. If this Agreement is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from Medicalistics at least three times the cost incurred by Medicalistics in providing the gratuities.

15.17 Insurance. During the term of this Agreement, Medicalistics shall, at its own expense, maintain, and shall require all of its subcontractors providing products and Services under this Agreement to maintain, standard insurance to cover Medicalistics' obligations under this Agreement, in accordance with applicable generally accepted business standards and in accordance with **Exhibit "G"** ("Insurance Requirements"), attached to this Agreement and made a part of this Agreement for all purposes. With respect to required insurance, Medicalistics shall: (i) name County as an additional insured, as its interests may appear, (ii) provide County a waiver of subrogation, (iii) provide County with a 30 calendar days advance written notice of cancellation or material change to said insurance, (iv) provide the County Purchasing Agent a certificate or certificates of insurance evidencing the required coverages and minimum amounts specified in **Exhibit "G"**, within 10 calendar days after approval of this Agreement by the Commissioners Court or within 10 calendar days of each renewal of the insurance, as applicable, with each certificate containing the contract number indicated on the contract award form issued by County.

15.18 Sovereign Immunity. No provision of the Agreement or any of its exhibits, attachments or addenda is in any way intended to constitute a waiver by Travis County of any immunities from suit or liability that Travis County may have by operation of law, and Travis County hereby retains all of its affirmative defenses.

15.19 Authority to Execute. Medicalistics hereby warrants and agrees that the person executing this Agreement has been duly authorized by Medicalistics to sign this Agreement and to bind Medicalistics validly and legally to all the terms, conditions and provisions of this Agreement. If Medicalistics alleges that said person lacks such authority, County may immediately terminate this Agreement without penalty or liability to Medicalistics.

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15.20 Medicalistics' Certifications. Medicalistics certifies that it is a duly qualified business entity and is capable of performing and meeting all of its obligations under this Agreement, that it is not in receivership or contemplating same, and has not filed for bankruptcy. Medicalistics further certifies that the company is not currently delinquent with respect to payment of property taxes within County.

15.21 Civil Rights/ADA Compliance. Medicalistics shall provide all services and activities required by this Agreement in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans With Disabilities Act of 1990, Public Law 101-336 [S.933] if Medicalistics were an entity bound to comply with these laws. Medicalistics shall not discriminate against any employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition.

15.22 Compliance. Medicalistics must comply with all federal and state laws and regulations, and all city and County ordinances, orders, and regulations, relating in any way to this Agreement. Medicalistics must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations. Medicalistics must pay all taxes and license fees imposed by the federal and the state governments and their agencies and political subdivisions upon the property and business of Medicalistics.

15.23 Security Compliance.

15.23.1 Network, Computer, and Information Security Compliance: The goods and/or services provided under this Agreement must be and remain in compliance with applicable Texas law, as well as with all Travis County network, computer, software, and information security policies, standards, specifications, guidelines, processes and procedures already developed or deployed or subsequently developed or deployed and used by or for the Travis County Department of Information and Telecommunications Services ("ITS") and/or a department, office or division of any elected or appointed Travis County official (collectively, the "Travis County Security Requirements" or the "Security Requirements"). The documents comprising the Security Requirements may be obtained upon request from ITS and upon execution of a Travis County Non-Disclosure and Confidentiality Agreement.

15.23.2 Initial Compliance: Medicalistics' goods and/or services shall comply with the Security Requirements including but not limited to the Travis County Asset Management Policy, Lifecycle Management Standard, Configuration Management Standard, Change Control Standard, and System Development Lifecycle Standard. Contractor's goods and/or services must operate with and be compatible with any and all network security, computer security, software security, and/or information security safeguards, including security hardware, software, appliances deployed by County (the "Security Safeguards").

15.23.3 Certification of Compliance: Medicalistics must perform a self-conducted compliance review of Medicalistics' goods and/or services and provide to the County written certification in the form of a completed, signed, and dated compliance review checklist, attesting that Medicalistics' goods and/or services are compliant with the Security Requirements. An authorized official of Medicalistics' company must sign and date the compliance review checklist.

15.23.4 Ongoing Compliance Upon Execution of Contract: Medicalistics' goods, services, practices, and/or procedures must remain in compliance with the Security Requirements and compatible with the Security Safeguards, including complying with any and all modifications and/or additions to the Security Requirements and/or Security Safeguards that may occur throughout the term of the Agreement.

Medicalistics shall provide the required hardware, software, materials, expertise, and/or labor required to ensure ongoing compliance of Medicalistics-provided goods and/or services with the Security Requirements, including operability and compatibility with the Security Safeguards as a part of ongoing maintenance and support.

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Medicalistics-provided goods, services, practices, and/or procedures must be accredited by the ITS Department Security Manager before being connected into the Travis County Government Network or placed into any County production operation environment. Accreditation is achieved by undergoing a Security Assessment that shows Medicalistics-supplied goods and/or services are compliant with the Security Requirements and Security Safeguards. This security evaluation of the specific solutions covered by the Agreement may reveal aspects of the architecture, implementation, operation, maintenance, and/or other aspect of these solutions that may necessitate incorporating additional solution-specific information security requirements to protect County computers, networks, software, information, and facilities.

15.23.5 Notification of Non-Compliance or Incompatibility: If Medicalistics determines, at any time during the Agreement term, that Medicalistics' goods, services, practices, and procedures do not comply with County's current Security Requirements and/or are not compatible with County's current Security Safeguards, Medicalistics shall notify the ITS Help Desk by no later than the end of the business day following the confirmation by the Medicalistics of the non-compliance or incompatibility.

If County determines at any time during the Agreement term that Medicalistics' goods, services, practices, and procedures do not comply with County's current Security Requirements and/or compatibility with County's current Security Safeguards, County shall notify Medicalistics by no later than the end of the business day following the confirmation by Medicalistics of the non-compliance or incompatibility.

15.23.6 Remedy of Non-Compliance or Incompatibility: In the event that either County or Medicalistics are notified of a non-compliance and/or incompatibility, Medicalistics shall:

- 1.) Determine the effort and cost to bring Medicalistics' goods, services, practices, and procedures into compliance and compatibility;
- 2.) Provide a draft working plan, including schedule, work effort and cost details, to remedy the non-compliance or incompatibility to the County no later than 5 working days after notification of the non-compliance and/or the incompatibility to County has been confirmed.

County, in its sole discretion, shall determine whether Contractor must bring some, all, or none of the non-compliant or incompatible Contractor's goods, services, practices, and procedures into compliance with County's current Security Requirements and/or into compatibility with County's current Security Safeguards. Any instance of non-compliance or compatibility that County does not require to be brought into compliance or compatibility will be noted as an exception. County may choose, in its sole discretion, at any time, to remove the exception and require compliance and/or compatibility.

Medicalistics shall be responsible for all costs associated with bringing Medicalistics-supplied goods, services and/or Medicalistics processes and practices into compliance with the Security Requirements and compatibility with the Security Safeguards.

County may, at its sole discretion, provide some, all or none of the hardware, software, materials, expertise, and labor that may be required from time to time to bring Medicalistics-supplied goods, services, practices, and/or procedures into compliance with the Security Requirements and the Security Safeguards.

15.23.7 Connectivity and Access to County Network, Systems, Software, and/or Information: Medicalistics and Medicalistics personnel who will be providing and/or maintaining goods and/or services, and who may from time to time access County systems, networks, software, and/or information, must be familiar with, and agree to adhere to and comply with the Security Requirements that pertain to and govern access to County computers, networks, software, and information including without limitation the Travis County Government Asset Protection Policy, Access Control Standard, Remote Access Standard, Security Awareness Policy, and Third Party Security Awareness Standard.

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15.24 Obligations that Survive Termination. The Parties recognize and agree that the termination, cancellation or expiration of this Agreement does not excuse the parties from complying with their respective obligations under Sections 5, 7, 9, 10, 13, 15.5, 15.18 and 15.23.

15.25 Attachments. The attachments enumerated and denominated below are made a part of this Agreement, and constitute promised performances by Medicalistics in accordance with all the provisions of this Agreement.

Exhibit "A" – List of Software Currently Licensed to Client  
Exhibit "B" – Medicalistics Master License Agreement  
Exhibit "C" – Statement of Work  
Exhibit "D" – Medicalistics L.L.C. – Software Maintenance Services Agreement  
Exhibit "E" – Medicalistics Pricelist  
Exhibit "F" – Ethics Affidavit including:  
    Exhibit 1 - List of Key Contracting Persons  
    Exhibit 2 – Disclosure  
Exhibit "G" – Insurance Requirements  
Schedule "A" – Hourly Fees for Additional Services  
Schedule "B" – Payment Milestone Schedule

15.26 Entirety of Agreement. This Agreement, together with its exhibits, attachments and addenda, sets forth the sole, entire and integrated Agreement between Travis County and Medicalistics with respect to the subject matter of this Agreement, and supersedes all prior negotiations, representations, or agreements either oral or written.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the later date set forth below (the "Effective Date").

Medicalistics, LLC  
3400 College Blvd. Suite 140  
Leawood, KS 66211

Travis County

BY: \_\_\_\_\_  
Authorized Medicalistics Officer

BY: \_\_\_\_\_  
Samuel T. Biscoe  
Travis County Judge

BY: \_\_\_\_\_  
Typed or Printed Name/Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**APPROVED AS TO FORM:**

\_\_\_\_\_  
County Attorney

**AVAILABILITY OF FUNDS CONFIRMED:**

\_\_\_\_\_  
Nicki Riley, Travis County Auditor

Date: \_\_\_\_\_

**COMPLIANCE WITH LAW AND POLICY CONFIRMED AND APPROVED:**

\_\_\_\_\_  
Cyd V. Grimes, Travis County Purchasing Agent

Date: \_\_\_\_\_

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## Exhibit “A”

### I. List of Software Currently Licensed to Client

<u>Quantity</u>	<u>Description</u>
3	NextGen EPM Provider Licenses
3	NextGen EMR Provider Licenses
6	NextGen EPM Mid-Level Provider Licenses
6	NextGen EMR Mid-Level Provider Licenses
9	NextGen ICS Provider Licenses – included with EMR/EPM/BSP/Express License
2	NextGen ICS Remote Scanning Sites – per Remote Site
9	NextGen Patient Synchronization – per Provider
9	NextGen EMR RTF Monitor – per Provider License – included with EMR/Express License
9	NextGen RTS (Real-Time Transaction) – per Provider – included with EPM/BSP License
1	Practice License Fee for EMR
1	Practice License Fee for EPM
27	Mandatory EMR/EPM eLearning License to be purchased (Annual Fee for each License)

#### NextGen Knowledge Base Modules include:

- 1 – Audiology
- 1 – Behavioral Health
- 1 – Cardiology
- 1 – Cardiology EP
- 1 – Cardiology Vascular
- 1 – Correctional Health
- 1 – Dermatology
- 1 – Ear, Nose & throat (ENT)
- 1 – Family Practice
- 1 – Gastroenterology
- 1 – General Surgery
- 1 – Internal Medicine
- 1 – Neurology
- 1 – Nutrition Services
- 1 – OB/Gyn
- 1 – Oncology
- 1 – Ophthalmology
- 1 – Orthopedics



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- 1 – Pediatrics
  - 1 – Physical Therapy
  - 1 – Pulmonary
  - 1 – Retina
  - 1 – Rheumatology
  - 1 – Urology
  
  - 1 – Bundled ICD9 and CPT4 Codes Loaded (First User License per Year)
  - 49 – Bundled ICD9 and CPT4 Codes Loaded (Add'l User Licenses per Year)
  - 50 – NextGen Edits: includes CCI Edits, ICD9/CPT4 Edits, CPT OCE and other Edits (requires ICD9/CPT4 codes) – Annual per User
  - 9 – First Data Drug Database with Integrated Interaction Module (EMR only) – Annual per Provider
  - 9 – SureScripts ePrescribing (EMR only) – Annual per Provider
  - 1 – Tiburon interface
  - 1 – HL7 Softwriters Pharmacy System interface
  - 1 – TCSO Lab (currently Quest) interface

## **II. Additional User Licenses Purchased under this Agreement:**

<u>No. of Add'l Licenses</u>	<u>Description</u>
4	NextGen EPM Provider Licenses
4	NextGen EMR Provider Licenses
3	NextGen EPM Mid-Level Provider Licenses
4	NextGen EMR Mid-Level Provider Licenses

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**Exhibit “B”**  
**Medicalistics Master License Agreement**

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**Exhibit “C”  
Statement of Work**

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**Exhibit “D”**  
**Medicalistics Software Maintenance Services Agreement**

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**Exhibit “E”  
Medicalistics Pricelist**

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**Exhibit “F”**

**Ethics Affidavit and Key Contracting List**

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## **Exhibit “G”**

### **INSURANCE REQUIREMENTS**

I. General Requirements. All insurance specified in Section II of this document must meet the requirements specified in the Agreement and must meet the following General Requirements.

A. The minimum types and limits of insurance indicated in Section II hereof shall be maintained throughout the duration of the Agreement.

B. Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher.

C. Prior to commencing work under the Agreement, insurance shall be in force as evidenced by a Certificate or Certificates of Insurance issued by the writing agent or carrier.

D. Certificates of Insurance shall include the endorsements outlined in Section II hereof and shall be submitted to the Travis County Purchasing Agent as required in the Agreement. The Certificates shall show the Travis County Contract number and all endorsements by number.

E. Insurance required under the Agreement including this Exhibit which names Travis County as an Additional Insured shall be considered primary for all claims.

F. Insurance limits shown in Section II hereof may be written as Combined Single Limits or structured using primary and excess or umbrella coverage that follows the form of the primary policy.

G. County reserves the right to review insurance requirements during the term of the Agreement and to require that Medicalistics make reasonable adjustments when the scope of services or products provided has been expanded.

H. Medicalistics shall not allow any insurance to be cancelled or lapse during the contract term.

I. Medicalistics shall not permit the minimum limits of coverage to erode or otherwise be reduced.

J. Medicalistics shall be responsible for all premiums, deductibles and self-insured

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retention. All deductibles and self-insured retention shall be shown on the Certificates of Insurance.

K. Insurance coverage specified in Section II hereof is not intended and shall not be interpreted or construed to limit the responsibility or liability of Medicalistics, or its subcontractor(s).

## II. Specific Requirements.

The following requirements II-A - II-D inclusive) apply to Medicalistics and subcontractor(s) performing services or providing products under the Agreement including any amendment thereto. Medicalistics acknowledges and agrees to the following concerning insurance requirements applicable to Medicalistics and its subcontractor(s):

### A. Workers' Compensation and Employers' Liability Insurance

1. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.

2. Employer Liability limits are:  
\$500,000 bodily injury (each accident)  
\$500,000 bodily injury by disease  
\$500,000 policy limit

3. Policies under this Section shall apply to State of Texas and include the following endorsements in favor of Travis County:

- a. Waiver of Subrogation (Form 420304);
- b. Thirty (30) days' Notice of Cancellation (Form 420601).

### B. Commercial General Liability Insurance

1. Minimum limit:  
\$1,000,000 per occurrence for coverage A and B with a \$1,000,000 policy aggregate.

2. The Policy shall contain or be endorsed as follows:

- a. Blanket contractual liability for this Agreement
- b. Independent contractor coverage

3. The Policy shall also include the following endorsements in favor of Travis County:

- a. Waiver of Subrogation (Form CG 2404);
- b. Thirty (30) days' Notice of Cancellation (Form CG 0205)
- c. Travis County named as additional insured (Form CG 2010).

### C. Business Automobile Liability Insurance



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1. If any form of transportation is used in connection with providing products or services under the Agreement, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$500,000 per occurrence.<sup>1</sup>

2. The Policy shall also include the following endorsements in favor of Travis County:

- a. Waiver of Subrogation (Form TE 2046A)
- b. Thirty (30) days' Notice of Cancellation (Form TE 0202A).
- c. Travis County named as an additional insured (Form TE 9901B).

D. Professional Liability and/Errors & Omissions Policy

If coverage is written on a claims made policy, the retroactive date shall be prior to the date services begin under the Agreement or the effective date of the Agreement, whichever comes first. Coverage shall include a three (3) year extended reporting period from the date the Agreement expires, is terminated or is cancelled. The Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting period date.

1. Minimum limit:

\$1,000,000 per occurrence, \$2,000,000 policy aggregate

2. The policy shall include the following endorsements in favor of Travis County:

- a. Thirty (30) days' Notice of Cancellation or change.

3. Additional insured status for Travis County is not required.

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<sup>1</sup> If use of a motor vehicle in connection with the Agreement is strictly limited to travel to and from work or work sites, evidence of personal automobile policy coverage with limits of \$100,000/\$300,000/\$500,000 may be provided in lieu of Business Automobile Liability Insurance.

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## Schedule “A”

Developer or Senior Consultant	160.00 / HR
Trainer	160.00/ HR
Travel Time	40.00/ HR

Minimum 24 Hours onsite engagements per individual Medicalistics personnel.

\*\*Medicalistics’ Usual and Customary hourly rate is \$175.00 per hour. The \$160 .00 per hour rate quoted above is based on our volume discount pricing for exceeding 1000 consulting hours in a year.

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**Schedule “B”**  
**Payment Milestone Schedule**  
**(attach Excel spreadsheet)**

**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

This Master License Agreement ("Agreement") is entered into by and between MEDICALISTICS, L.L.C. ("Licensor" or "Contractor" or "Supplier") and TRAVIS COUNTY, TEXAS, ("Licensee" or "Travis County"), effective on the date approved by the Travis County Commissioners Court and subject to the following terms and conditions as well as specified terms and conditions of the Professional Services Agreement between Travis County and Medicalistics, LLC For Electronic Medical Records and Associated Software for The Travis County Sheriff's Office ("PSA").

**1. DEFINITIONS.**

- 1.1. "Software" means the eMAR and Interface Software created by Medicalistics, L.L.C. and supplied to Travis County by Licensor, in machine-readable object code form, as set forth on the face of Travis County's Purchase Order(s), the software license and this Agreement, including all permitted reproductions, changes, corrections, updates and enhancements and the computer software created by NextGen Healthcare Systems, Inc. ("NextGen") supplied to Travis County by Contractor pursuant to its reseller agreement with NextGen, in machine-readable object code form, designated as NextGen Software and set forth on the face of Travis County's Purchase Order(s), the PSA including Exhibits and Attachments thereto, and any amendment to this Agreement including Exhibits and Attachments thereto, including all permitted reproductions, changes, corrections, updates and enhancements.
- 1.2. "Documentation" means Licensor's and/or NextGen's user manuals, programmer's guides, system guides and related materials which facilitate the use of the Software. Documentation also includes all changes, corrections, updates or enhancements subsequently made to such documents.
- 1.3. "Product" or "Products" means both Software and Documentation.
- 1.4. "Travis County" means Travis County, Texas.
- 1.5. "Subsidiary" shall mean a corporation, company, or other entity: (i) with more than fifty percent (50%) of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority); or (ii) which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated association, but more than fifty percent (50%) of the ownership interest representing the right to make the decisions for such operations, company, or other entity is now or hereinafter, owned or controlled, directly or indirectly, by a party hereto, but such corporation, company, or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists.
- 1.6. "System" means the electronic medical records and pharmacy information managements system for the Travis County Sheriff's Office.
- 1.7. "Mid-Level Provider" means Your nurse practitioners and physician assistants and all

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**MEDICALISTICS MASTER LICENSE AGREEMENT**

other Mid-Level Providers.

- 1.8 "Mid-Level Provider License" means a client-portion of the Software license granted to a Mid-Level Provider. The total number of workstations accessing the EMR Software shall not exceed seven times the number of EMR Mid-Level Provider Licenses purchased by You per Software product.
- 1.9 "Provider" means a person or group of persons who renders health care services directly to a patient or makes clinical decisions regarding a patient, namely and without limitation, physicians, DOs, optometrists, physical therapists. All Provider supporting staff will be included under the Provider License.
- 1.10 "Provider License" means a client-portion of the Software license granted to a Provider. The total number of workstations accessing the Software shall not exceed seven times the number of Provider Licenses purchased by You per Software product.

**2. SOFTWARE LICENSE.**

- 2.1. Licensors grants a non-exclusive, paid-up, perpetual license to Travis County to use the Products solely for Travis County's internal business purposes for the Travis County Sheriff's Office ("TCSO"), not to exceed the number of licenses granted to Travis County. Travis County may grant access and use of the Products to Related Entities and contractors to the extent necessary for Travis County's use of the Products pursuant to this Agreement; provided, however, that Travis County shall require any party having access to the Products to be bound by restrictions on use and nondisclosure obligations to the same extent as Travis County is bound hereunder. Travis County has the right to transfer individual Product licenses internally at no additional charge, provided that the total number of licenses does not exceed the number granted to Travis County. Travis County may copy, in whole or in part, the Software as reasonably necessary for uses permitted under this Agreement. Travis County shall include on any copy, Licensors copyright notice as provided with the Products when delivered to Travis County.
- 2.2. Except as otherwise provided herein, Products may not be assigned, sublicensed or otherwise made available to any third party outside of Travis County without Licensors prior written consent. No title or ownership of the Products or their parts is transferred to Travis County. Travis County acknowledges and agrees that all right, title and interest in and to the Products and all related materials provided by Licensors hereunder, and all patent, trademark, copyright, trade secret and all other intellectual property rights related thereto are the sole and exclusive property of Licensors. All maintenance, support, updates or enhancements of the Software shall remain the property of Licensors as provided in the Professional Services Agreement (or its attachments and exhibits) between the parties.

**3. TERM AND TERMINATION.**

**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

This Agreement and any license granted hereunder are subject to termination for cause by Licensors if (a) Travis County fails to pay any amount due to Licensors within sixty (60) days after Licensors gives Travis County notice of such non-payment; provided, however, that a default in payment under a particular license shall not otherwise affect this Agreement or any other license granted hereunder; (b) Travis County breaches a non-monetary term, condition or provision of this Agreement, which breach is not cured within thirty (30) days after Licensors provides notice to Travis County; or (c) pursuant to Section 9.2. Except as otherwise specifically provided herein, this Section 3 is subject to Section 13 (Termination for Default; Convenience) set forth in the PSA. A license granted hereunder is further subject to termination by Travis County at any time upon sixty (60) days written notice to Licensors. Except as otherwise provided in the preceding sentence, such "Termination for Convenience" is subject to Section 13 of the PSA. Within thirty (30) days after a license is canceled, or as soon thereafter as permitted by applicable records retention statutes or regulations, Travis County will return or destroy, if so directed in writing by Licensors, the original and all reproductions, in whole or in part, in any form, and so acknowledge in writing to Licensors, except that Travis County may retain a copy for archival purposes. Those rights and obligations which by their nature are intended to survive expiration or termination of this Agreement shall survive the termination or expiration of this Agreement, including, without limitation, the rights and obligations in this Section 3 and Sections 4, 6, 8, 9 and 10.

**4. PRICE AND PAYMENT.**

- 4.1. Upon Licensors's written acceptance of a Travis County Purchase Order or SOW pursuant to the PSA, Licensors will promptly deliver to Travis County the Products at the mutually agreed upon prices, locations and payment terms specified in the PSA including Exhibits and Attachments thereto and the Travis County Purchase Order. All Travis County Purchase Orders issued pursuant to the PSA and this Agreement shall be governed by the terms and conditions of the PSA and this Agreement.
- 4.2. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor hereby assigns the portion of the amount owing to it under this contract that is equal to the amount Contractor is delinquent in property tax payments to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.
- 4.3. County is a political subdivision organized under the laws of the State of Texas and is exempt from sales and use taxes under Texas Tax Code Ann., Section 151.309, as amended. An exemption certificate will be provided to Contractor upon written request. In addition, Travis County shall not be responsible for taxes based on Licensors's income or personal property.

**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

- 4.4 All undisputed invoices will be paid in accordance with the payment provisions set forth in the PSA.

**5. ACCEPTANCE.**

The Software shall be delivered, installed, integrated and implemented by Contractor in accordance with the performance criteria defined in the PSA and its exhibits, the Products conformance Documentation, other published specifications and Product representations. Acceptance of the Products shall occur in accordance with Subsection 2.3.6 of the PSA.

**6. WARRANTY.**

The Warranty Provisions set forth in Section 7 of the PSA shall apply to the Medicalistics eMAR Software covered by this Agreement and such provisions are hereby incorporated by reference for all purposes as if fully copied and set forth herein verbatim.

**7. Intentionally Left Blank**

**8. LIMITATION OF LIABILITY.**

Except for Contractor's indemnity obligations set forth in Sections 9 and 11 hereof, neither party's liability hereunder for damages shall exceed the charges paid by Client for the products and services under this Agreement including Exhibits and Attachments hereto and any and all amendments to this Agreement including exhibits and attachments thereto. IN THE EVENT THAT THE EMR SOFTWARE OR ANY REPORT OR INFORMATION GENERATED BY THE EMR SOFTWARE IS USED IN CONNECTION WITH ANY DIAGNOSIS OR TREATMENT BY YOU AND/OR ANY OF YOUR EMPLOYEES, AGENTS, REPRESENTATIVES, AND THE LIKE, YOU AGREE THAT AS BETWEEN COUNTY, CONTRACTOR AND NEXTGEN, CONTRACTOR AND NEXTGEN ARE NOT DIRECTLY RESPONSIBLE TO COUNTY IN CONNECTION THEREWITH, INCLUDING RESPONSIBILITY FOR INJURY, DAMAGE AND/OR LOSS RELATED TO SUCH DIAGNOSIS OR TREATMENT, IRRESPECTIVE OF WHETHER SUCH INJURY, DAMAGE AND/OR LOSS RESULTS FROM YOUR USE OF THE EMR SOFTWARE. THIS LIMITATION OF LIABILITY IS STRICTLY LIMITED TO DIAGNOSIS AND TREATMENT AND THE PARTIES ANTICIPATE THAT PROVIDERS WILL VERIFY DATA IN AN EMR WITH THE PATIENT. FURTHER, THIS LIMITATION OF LIABILITY SHALL NOT BE CONSTRUED TO LIMIT THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTIONS 9 and 11 OF THIS AGREEMENT OR SECTION 7 and 15 OF THE PSA.

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**IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Nothing in this Section 8.0 shall be construed in any way as an agreement by County to indemnify Contractor or any of its subcontractors, affiliates, subsidiaries, or any other entities.**

**9. INTELLECTUAL PROPERTY INDEMNIFICATION.**

- 9.1 Contractor shall, at its sole cost and expense, indemnify, defend and hold harmless the County, its officers, agents and employees from and against any and all claims, losses, damages, causes of action, expense, liability of every kind for damages to any person or property arising in connection with any alleged or actual infringement of existing copyrights, patents, trade secrets, licenses, trademarks, service marks, and other proprietary or intellectual property rights applicable to the System and related documentation provided by Contractor under the PSA, including Exhibits and Attachments thereto, and products provided under this Agreement including any Exhibits and Attachments hereto, and Contractor will pay all damages and costs awarded against Client, including any settlement amount agreed to be paid, and related expenses in such actions that are attributable to such claims, provided Contractor is informed in writing within a reasonable time and furnished a copy of each communication, notice, or other action related to the alleged infringement and is given authority, information, and reasonable assistance at Contractor's expense, necessary to defend or settle such claim. Contractor will not be obligated to indemnify, defend or hold harmless or be liable for costs and damages to the extent that the infringement arises out of or relates to (i) Client's misuse or modification of the System, without Contractor's written consent; (ii) Client's failure to use corrections or enhancements delivered to Client, if such materials would have prevented the infringement; (iii) infringement that results from the combination by Client of the System with any product or technology not owned, developed or provided by Contractor, or not listed or referenced in any Exhibit to the PSA, unless Contractor recommends the product or technology or unless Supplier knowingly contributes to the infringement caused by such combination in providing the System or components thereof to Client for Client's intended use or application; or (iv) Supplier's compliance with information, directions, specifications, or materials provided by Client, provided Supplier informs Client that such compliance may constitute infringement and Client nonetheless requires compliance.**



**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

- 9.2** If the System is, or in Contractor's reasonable opinion, is likely to be held to constitute an infringing product, Contractor shall at its expense, cost and option either (i) procure for Travis County the right to continue using the System or component thereof; (ii) replace the System or component thereof with a non-infringing equivalent; (iii) modify the System or component thereof to make it non-infringing, but functionally the same; or in the event Contractor cannot accomplish any of (i), (ii), or (iii) on a commercially reasonable basis, Contractor may: (iv) terminate this Agreement, give Client a refund equal to the then current value of the System or component, and pay Client's reprourement costs.
- 9.3** The indemnity provisions set forth in this Section shall survive the termination or expiration of this Agreement.

**10. COPYRIGHT PROTECTION.**

- 10.1.** Travis County acknowledges that the System including components thereof is protectable by copyright laws and this Agreement. Travis County may not attempt to decompile or reverse assemble the System or components thereof or reproduce the System or components thereof except as provided herein or as specifically permitted by Licensors under the Professional Services Agreement.
- 10.2.** Travis County acknowledges that Licensors shall have the right to take all reasonable steps to protect the System and components thereof, including but not limited to injunctive relief and any other remedies as may be available at law or in equity in the event Travis County does not fulfill its obligations relating to Subsection 2.2 and this Section 10.

**11. GENERAL INDEMNITY.**

- 11.1** Contractor shall indemnify, defend, and hold harmless County, its officers, agents and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind, (whether meritorious or not) and, including all expenses of litigation, court costs, and reasonable attorneys' fees, arising out of the products and services provided by Contractor under this Agreement, including the Exhibits and Attachments hereto. It is the express intention of the parties to this Agreement, both Contractor and County, that the indemnity provided for in this Paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions. All references herein to the "Contractor" refer to the Contractor, its officers, agents, employees, other personnel and subcontractors in the performance of services and furnishing products hereunder.
- 11.2** Contractor hereby represents that it has, or will have, prior to commencement of work by any individual, valid and sufficient arrangements or agreements with its employees and/or third parties, such that (i) the ownership of any and all inventions made by an employee and/or third party vests in Contractor; and (ii)

**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

they agree to be bound by the confidentiality requirements in the PSA, including Exhibits and Attachments hereto, and subsequent non-disclosure agreement(s) executed by the parties. Further, Supplier warrants that it will not knowingly deliver to Client any Contractor Development which would infringe any duly issued patent or copyright or any trade secret or other intellectual property rights or other proprietary rights of a third party.

**11.3 The indemnity provisions set forth in this Section shall survive the termination or expiration of this Agreement.**

**12 AUDITS.**

12.1 Any audit by Contractor authorized under this Agreement shall be conducted only at Contractor's entire expense with at least 30 days prior written notice from Contractor to County of a pending audit.

12.2 In the course of such audit and after such audit, Contractor shall provide County all reports, information and data arising out of or resulting from such audit.

12.3 In the event an audit by Contractor results in a finding of non-compliance by County with the licensing terms of this Agreement or any amendment hereto, County's sole and entire liability for such non-compliance shall not exceed the total amount of payments made by County under this Agreement and any amendments hereto. In the event an audit results in a finding of unauthorized use of the Software covered by this Agreement or amendments hereto, as an alternative to any liability of County under this Section, County may elect to purchase from Contractor additional licenses to cover any users in excess of the maximum user limit or in excess of the maximum number of concurrent licenses, as applicable. County and Contractor shall mutually agree upon the fee for such licenses, with the payment of such fees made directly by County to Medicalistics, L.L.C., under the PSA between Travis County and Medicalistics.

**13. GENERAL PROVISIONS.** The provisions of the PSA and its exhibits are incorporated by reference into this Master License Agreement and made a part hereof for all purposes.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed on its behalf by its duly authorized representative.

**TRAVIS COUNTY**

**MEDICALISTICS, LLC.**

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

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

Name: Sammuel T. Biscoe

Name: Chris Russell

Title: Travis County Judge

Title: President

**EXHIBIT "B"**  
**MEDICALISTICS MASTER LICENSE AGREEMENT**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit “C”

# Statement of Work

## Travis County Sheriff’s Office: Updates to NextGen System

Updated 1.18.13

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*Travis County Sheriff’s Office (“TCSO”) is currently using the NextGen system as its electronic medical records system for documenting medical and mental health care provided to inmates. TCSO has requested a number of updates to the system at this time, and this statement of work describes these requested changes and the expected level of effort to complete them.*

*The work described below is divided into two phases. Phase I could begin immediately, while Phase II could occur at a later time, to allow time for budgeting. The items prioritized here, and the order in which they are performed, may be adjusted according to the preferences of the TCSO team. If desired by TCSO, different priorities (not yet identified) may be substituted for any of the attached items, allowing allocated hours to be redirected to those priorities.*

## Exhibit “C”

### Summary of Proposed Work

Staff at the Travis County Sheriff’s Office has requested a number of changes with respect to their NextGen system and current implementation.

These requests have been prioritized and are arranged in this document according to their priority groupings.

For each item, test acceptance criteria will be developed so completion of each item can be defined and acknowledged through signature by TCSO and Medicalistics team members.

Note that deliverables for the ezMar (electronic medication administration system for use with NextGen) will be covered in a separate document.

### Travis County Sheriff’s Office NextGen Updates

TCSO NextGen Project			TOTAL
<i>Phase I – Work Issues</i>			
<i>Issue</i>	<i>Priority</i>	<i>Description</i>	<i>Hours</i>
30	1	NextGen Upgrade including Custom Template Gap & Test	72
1	2	EPM/EMR Link to Communicate Appointment Data	4
3	1	Slowdowns at Central Booking	4
13	2	Glucose Monitoring Entered at Intake Not in Document	7
18	4	EMR Dropping DOB, Causing Second Chart To Be Created	8
19	1	Housing Information Not Always Updating (Inmate Interface)	8
20	1	Installation and Configuration of Pharmacy Interface (HL7 Interface to Pharmacy Not Running)	16
24	1	Jail Intake Screening Adjustments	24
40		Pharmacy Orders Appearing on Med Batch Report When Printed	11
<i>Phase I – Training</i>			
<i>Issue</i>	<i>Priority</i>	<i>Description</i>	<i>Hours</i>
	1	NextGen 5.7 Update Training	24
55	4	Medication Updates and Adding New Medications	7
56	3	Training for Prebuilt List in Users Profiles	12
58	4	Training – New Doctor Setup	4
64	2	Customization/Training – Associate Fees for Services	20
<i>Phase I – Travel Expenses</i>			
<i>Issue</i>	<i>Priority</i>	<i>Description</i>	<i>Travel</i>

## Exhibit “C”

	1	NextGen 5.7 Update Training	\$ 1,545
55,56, 58, 64, 65	2; 3; 4	Additional Training Issues	\$ 1,545
<b>Phase I – Project Management</b>			
<b>Phase</b>		<b>Description</b>	<b>Hours</b>
Phase I		Project Management	36
<b>Phase I – Totals</b>			
<b>Phase</b>		<b>Description</b>	<b>Hours/ Travel</b>
Phase I		Work Items, Training Hours, Project Management Hours	257
Phase I		Estimated Travel Expenses	\$ 3,090
<b>Phase II – Work Issues</b>			
<b>Issue</b>	<b>Priority</b>	<b>Description</b>	<b>Hours</b>
4	4	CHM Indicator Becoming Cleared	7
64	2	Customization/Training – Associate Fees for Services (half moved to Phase II)	20
46	4	Booking Number and PPD Date Administered (Phase II)	21
31	3	Medication Orders Not Stopping When Released from Custody (Phase II)	25
23	2	Patients in Booking Housing Do Not Send P Number (Phase II)	16
5	2	Patient Expired Label on BH Home	7
6	4	Chronic Problem List	13
11	3	Diabetic Questionnaire Items Not Appearing in Document	8
12	2	Glucose Monitor Customizations	13
14	2	Glucose Monitor Document	5
17	4	Quest Lab Interface – Labor	45
26	1	Adjustments to Medications by Patient Report	30
36	4	Neuro Check Template	46
37	4	Alerts More Prominent	200
41	4	Documents Require Allergies	30
43	4	Medication Batch Report Filter By Time	16
44	3	Tasks Appearing on Crystal Reports, Not in Task List	36
49	4	BH Master Document Issues	11
50	2	Pregnancy Report	13
52	4	Tasking Categories with Manual Tasks	n/a
57	4	Nurse/Provider Favorites	12
59	4	Cheat Sheet (Urinalysis, DME, Pregnancy) Tasking Workflow	12
66	4	TUHSU – Diagnosis Translation	16
67	2	TUHSU Not Including New Data	25
68	2	TUHSU Document Not Including Meds	9
71	4	Patient Education Not Working	0
73	2	Appointment Status Not Updating	13
<b>Phase II – Training</b>			
<b>Issue</b>	<b>Priority</b>	<b>Description</b>	<b>Hours</b>

## Exhibit “C”

45	4	Reports for Number of ER Visits and Outside Appointments	17
47	4	Report Generator, EMR JID #	7
48	4	Template Editor Training – specific item	9
53	4	Training – Tasking on Communications Template	12
54	3	Training – Tasking	72
65	2	Customization/Training – Kept Status on Appointments, EMR and EPM	16
61	4	Training – Hide Surveys/Forms for Medications	12
62	4	Training – Expungements	12
63	4	Training – Scanning/ICS	8
Phase II – Travel Expenses			
Issue	Priority	Description	Travel
45, 47, 63	4	Reports for ER Visits, Outside Appointments; Report Generator, EMR JID #, Scanning/ICS	\$ 1,545
48, 53, 54	3; 4	Template Editor Training/Customizations; Tasking Configuration; Additional Training as Needed	\$ 1,545
Phase II – Project Management			
Phase	Description		Hours
Phase II	Project Management		128
Phase II – Totals			
Phase	Description		Hours/ Travel
Phase II	Work Items, Training Hours, Project Management Hours		946
Phase II	Estimated Travel Expenses		\$ 3,090

# Exhibit “C”

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# Exhibit “C”

## Phase I

### Work Items

The following items constitute the workload for Phase I for TCSO.

#### **NextGen Upgrade (including Issue # 30: Issues with Medication Quantity)**

The TCSO NextGen system is in need of a software and KBM upgrade. This upgrade will assist in several issues identified, including some issues with the medications module and other issues. We propose upgrading the NextGen application to version 5.7, to take advantage of some functionality on templates with respect to panels and other functionality. The most recent available KBM version in general release is also proposed (KBM 8.1 as of this writing).

#### **Issue # 1: EPM/EMR Link to Communicate Appointment Data**

This issue was described as follows: “The link was intentionally broken between EPM and EMR due to the EMR display always defaulted to the last person who opened the record for the provider. This did not work for our appointments. However, we would like to take advantage of the EPM and EMR applications being able to communicate appointment data between them.”

#### **Issue # 3: Slow Downs at Central Booking**

The system regularly comes to a crawl from about midnight – 2:30 AM. Server and database backup activities and jobs will be examined to determine a possible cause, and adjust timing of these items if possible to reduce the slowdown.

Jeffrey Markham entered this issue.

#### **Issue # 13: Glucose Monitoring Entered at Intake Not in Document**

The Glucose Monitor field does not populate the CHM Glucose Monitor and must be hand entered. FHTs from the “Female History-Jail Intake” now populate the intake document but the “Comments” section in the same Template do not populate.

Laura Kennedy added this item to the list.

#### **Issue # 18: EMR Dropping DOB, Causing Second Chart To Be Created**

Sometimes the EMR is dropping the date of birth for a patient record, causing a second record to be created for the patient, and requiring later merging of these records when the issue is identified. This appears to be a problem with the inmate interface to the Tiburon system.

Elizabeth Minks entered this issue.

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### **Issue # 19: Housing Information Not Always Updating (Inmate Interface)**

The housing information is not always updating correctly through the inmate interface. Sometimes if someone is released and returns to custody, old/previous location information is persisting in the EMR for housing and is not always updated appropriately.

Robin Osborn submitted this issue.

### **Issue # 20: Installation and Configuration of Pharmacy Interface (HL7 Interface to Pharmacy Not Running)**

A number of issues in the TCSO issues list related to problems with the pharmacy interface. These issues will be addressed by the new pharmacy interface. This item is to cover installation and configuration of the new pharmacy interface for TCSO.

### **Issue # 23: Patients in Booking Housing Do Not Send P Number**

If a patient’s housing location is “booking”, the P number is not coming across.

Clarification from Diana Gonzalez: There are two different instances where the pharmacy doesn’t receive the medication orders via NextGen to Frameworks (across the interface).

1. If the housing is “CB Pending” – the inmate has not been booked in and is not in Tiburon yet, but Nursing enters medication orders in NextGen. These orders are in the medication batch but do not come through the HL7 interface into Frameworks.
2. CB BB Housing – These inmates have a P number but their housing is still listed as “Released Released Released” so they don’t come through the NextGen to Frameworks via HL7 interface. Ideally, once an inmate is released, Tiburon should feed this information into NextGen and all medication orders should automatically be discontinued. Currently when these orders come through with released housing the pharmacy staff has to go through the orders and manually discontinue the medication in Frameworks.

### **Issue # 24: Jail Intake Screening Adjustments**

TCSO purchased a custom version of the jail intake, but it does not completely meet their needs, and they request reorganizing the content in SOAP format. This would include more clearly labeling SOAP sections on the template as well as the resulting document, and re-ordering of some items to comply with this structure.

### **Issue # 31: Medication Orders Not Stopping When Released From Custody**

Some of the medication orders are not being stopped by the job that should be taking care of this when the people are released from custody. The job needs to be examined, along with data of some records affected, to address the cause of this issue.

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### **Issue # 40: Pharmacy Orders Appearing on Med Batch Report When Printed**

When a medication order is originally entered, it goes to the pharmacy and is included on the med batch report. If that prescription is later printed by someone, it is added to the medication batch report again, causing some confusion on the pharmacy because the order was already sent and does not need to be sent again.

Diana Gonzalez contributed this issue.

### **Issue # 46: Booking Number and PPD Date Administered**

Currently, the booking number is not coming across the inmate interface into NextGen. As a result, they are having to enter information about PPD placement and reads in the Tiburon system and report from there. The inmate interface needs to be adjusted to ensure booking number is coming across, and the PPD placement and reporting process examined to see if other adjustments are needed for staff to be able to use NextGen for PPD tracking, without needing to refer to Tiburon directly.

Mike Summers entered this issue.

## **Training**

The following training efforts are connected to the work described, and would be best delivered as part of Phase I.

### **NextGen 5.7 Training**

After completing the upgrade, training will be needed for staff on the updated features of the system. We propose to prepare documentation and training related to these upgrade activities.

We would propose that this training would be provided by one person, provided in person, over a three-day period, with traveling the day before and after the training is completed.

### **Issue # 55: Medication Updates and Adding New Medications**

The current database contains an outdated medication update version, and the most recent medication update needs to be applied to the database. This should be done in conjunction with staff that will be responsible for keeping up with this on an ongoing basis, so they will be trained during the upgrade on how to apply future upgrades. Also, adding medications manually to the database can also be covered, in case the medication needed is not part of a medication update for some reason.

### **Issue # 56: Training for Prebuilt List in Users Profiles**

TCSO needs training on how to populate prebuilt lists into users' profiles. Cynthia referred to this as a synchronization.

\*The hours estimates for this item may adjust after further clarification is achieved. This may relate to building or adjusting an automated process to configure new accounts; there may be ways to automate some of this process for easier configuration of new accounts.

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### Issue # 58: Training – New Doctor Setup

Training is needed for the most efficient way to set up a new provider account, if a new provider has replaced a previous provider. TCSO is asking if the name can be replaced (not recommended approach); efficient configuration steps and setup could be discussed.

Changing the name in a provider record is definitely not recommended, because it would affect all records already present in the patient encounters that are connected to that provider. We would propose training on removing licensing links and de-activating provider records that are no longer needed to assist.

### Issue # 64: Training – Associate Fees for Services

TCSO requests training on how to associate fees for services and how to enter fee amount. This will involve identification of the places in the workflow where this integration is needed and customization of templates within NextGen to facilitate this process.

Elizabeth Minks submitted this request.

### Travel Expenses

To support the training described above, Medicalistics anticipates that the following travel expenses will be incurred. As part of this Agreement, County has encumbered funds sufficient to pay the amount shown in the “Est. Total” column, or the sum of \$3,090. County will have no obligation to reimburse Medicalistics for any travel expenses incurred above and beyond this sum unless and until County identifies additional available funding, encumbers the same in accordance with Travis County budgetary and expenditure policies and procedures, and the parties execute a modification to this Agreement in accordance with the amendment procedures set forth in this Agreement.

<b>Training</b>	<b>Est. Airfare</b>	<b>Est. Hotel</b>	<b>Est. Car</b>	<b>Est. Per Diem</b>	<b>Est. Total</b>
NextGen 5.7 Training	\$ 400	\$ 520 (4 nights)	\$ 325	\$ 300	<b>\$ 1,545</b>
Additional Training	\$ 400	\$ 520 (4 nights)	\$ 325	\$ 300	<b>\$ 1,545</b>
<b>TOTALS</b>	<b>\$ 800</b>	<b>\$ 1,040</b>	<b>\$ 650</b>	<b>\$ 600</b>	<b>\$ 3,090</b>

### Project Management

Project management services will enable Medicalistics to appropriately coordinate services and training provided to TCSO, and manage the project on an ongoing basis.

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## Phase II

### Work Items

The following work items are being proposed for inclusion in Phase II. They will be addressed after the system is upgraded and initial enhancements are applied as part of Phase I.

#### Issue # 4: CHM Indicator Becoming Cleared

The issue here is that there are one or more screens in NextGen where the CHM indicator field is shared (hidden), but is not read-only. Because of this, when someone right-clicks on the screen and selects clear, it is clearing out the CHM indicator as well, so the system does not function properly. The fix for this item will be to check all screens, updating any templates where the field is not read-only, to make it read-only to prevent this issue.

Danny Smith submitted this issue.

#### Issue # 5: Patient Expired Label on BH Home

When a person is released from custody, the expired indicator is set, causing a red label to appear on BH Home, obscuring the New/Established patient choice, so a visit type cannot be selected or saved.

Danny Smith submitted this issue.

#### Issue # 6: Chronic Problem List

There are issues and questions about how items get on the chronic condition list, and how items can be removed. They find them on the adult chart summary, home pages, general assessment, and diagnoses included in the meds module.

#### Issue # 11: Diabetic Questionnaire Items Not Appearing in Document

When the intake is completed, questions from the diabetic questionnaire portion of the intake screening do not appear in the generated document.

Laura Kennedy entered this issue.

#### Issue # 12: Glucose Monitor Customizations

This template was changed extensively and TCSO would like to know what changes were applied. The template will be compared with the current KBM version to understand the customizations applied to the TCSO version of the template.

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### Issue # 14: Glucose Monitor Document

The document generated from the custom glucose monitor template prints the results significantly out of date order. Some entries seem to have inappropriately formatted dates as well, which may be contributing to this problem. If “refused” or “no show” are selected, no date/time populate and the entry populates at the bottom of the template. Also, when a Glucose is entered on the Intake document the nurses name/date populate the CHM Glucose Monitor but the date/time is mixed up and this data also populates at the bottom of the template. The actual sugar reading does not come across.

Laura Kennedy contributed this item.

### Issue # 17: Quest Lab Interface

The lab interface with Quest has not yet been established. This may not involve Medicalistics at this time, but be worked directly between TCSO and NextGen.

\*Time estimate here is based on helping to determine status and move this forward if needed.

### Issue # 26: Adjustments to Medications by Patient Report

The pop-up for medications by patient self-report has some requested adjustments, including increasing the text size of some of the fields, and adding more fields to the pop-up for requested needs. See attachment A to this document.

Laura Kennedy knows the most detail about what is required for this item.

### Issue # 36: Neuro Check Template

A neuro check template is needed for nursing staff to complete standard neuro checks for patients. A form has been provided outlining current TCSO documentation requirements for assistance with the development of this item.

### Issue # 37: Alerts More Prominent

The alerts that are entered in the system are important, since TCSO staff do not use this information frequently, but use it for significant alerts. Adjustments are desired on the BH Home and CHM Home pages for more prominent display of alerts if they are present, and also a request that alerts notification be added to the adult chart summary as well.

Mike Summers provided this request.

### Issue # 41: Documents Require Allergies

There are some documents in the system that should include documentation of patient allergies, but currently do not do so. The Consult Note document needs to include allergies and currently does not. Other documents should be

## Exhibit “C”

examined for this problem as well, and addressed where found. It may be that the NextGen KBM upgrade will address these issues, and further changes may not be necessary; analysis of the documents will be necessary following the upgrade to determine the need.

### **Issue # 43: Medication Batch Report Filter By Time**

Currently the medication batch report will filter by date, but not by time within the date entered. TCSO desires a more precise filtering of the report to include time, so orders entered before the daily cut-off to the pharmacy can be more easily identified.

### **Issue # 44: Tasks Appearing on Crystal Reports, Not in Task List**

There are tasks appearing on the task list reports that are not present in the inbox. This is usually caused by a staff member accepting responsibility for the task, but not completing it. A report of tasks accepted but not completed could assist in this process. In addition, a template might be able to be built that would allow for visibility to these tasks, and perhaps assuming ownership of them, in case a staff member is absent or no longer working at TCSO and the tasks need to be addressed.

### **Issue # 49: BH Master Document Issues**

The BH master document is generating including some blank pages in the middle, and too many medications are appearing. Extra blank pages or page break references need to be removed, as well as adjusting the medications summary macros to present only the most recent medication information.

### **Issue # 50: Pregnancy Report**

TCSO requires a report listing all pregnant inmates. This report is required by jail standards.

Elizabeth Minks submitted this issue.

### **Issue # 52: Tasking Categories with Manual Tasks**

When creating a manual task, the task category box needs to be defaulted.

### **Issue # 57: Nurse/Provider Favorites**

TCSO requests the following: “When we add a new nurse or provider, how do we push over the favorite offenses?” It is possible the favorite medication lists were meant here.



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It is possible that this configuration could be automated, in part or in whole. Portions that could be automated would be defined with the TCSO team and set up via SQL jobs, and training would be provided for any remaining actions needed on the part of TCSO staff to complete this configuration.

### **Issue # 59: Cheat Sheet (Urinalysis, DME, Pregnancy)**

A cheat sheet was requested to stop auto-tasking for certain types of orders, including urinalysis, DME, and pregnancy.

This appears to be a request for template customization, adjusting the templates where orders are written to suppress tasking, and also perhaps developing new content to represent the cheat sheet.

Time estimates for this item may adjust based on clarification of the items needed.

### **Issue # 66: TUHSU – Diagnosis Translation**

TUHSU needs diagnosis translation for the codes.

Clarification from Mike Summers: The diagnosis tends to change over time or there may be multiple diagnoses on the mentally ill; the TUHSU that prints captures the first diagnosis made and doesn't release it.

For example, P # 238672: The diagnosis reported on the TUHSU is 296.80 Bipolar Disorder, Unspecified. His current diagnoses are:

- Attention deficit disorder of childhood with hyper (314.01)
- Alcohol Abuse Unspec (305.00)
- Cannabis Abuse (305.20)
- Antisocial Personality Disorder (301.7)

NOTE: A big part of this may be that the original diagnosis was not marked as resolved by the provider; as a result, this might be a training issue.

Also, other physical medical diagnoses are not populating under the area of TUHSU, Paragraph C, Other healthcare problems. For example, P # 280241.

Listed Diagnoses: Under Part B (no codes listed, except for the depression)

- Drug abuse
- Alcoholism
- Hypertension
- Major Depression

Under Part C – he has pancreatic cancer, which is not populated in this section, as well as the diagnostic codes for hypertension, drug abuse, and alcoholism. The TUHSU form in the EMR was intended to be an accurate summary populated from the record; the current TUHSU still requires a lot of editing and checking to ensure accurate data is forwarded to the receiving jurisdiction.

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### **Issue # 67: TUHSU Not Including New Data**

The system is getting old data from the previous TUHSU, not the new one. Updates are needed to resolve the issues.

The TUHSU Data template is populated through the actions of a stored procedure; adjustments to this stored procedure may be necessary to ensure the correct information is being incorporated.

Then a Crystal Report is generated to display the results in the TUHSU format. It may be that adjustments are needed here as well.

Mike Summers entered this issue.

### **Issue # 68: TUHSU Document Not Including Meds**

Some of the TUHSU documents, when generated, do not include the medications the patient is taking. If there is a current order (doctor), sometimes this does not print out either. The TUHSU document needs to be examined and adjusted in the areas of medications and other orders, to ensure the document is complete.

Linda Forbing submitted this issue.

### **Issue # 71: Patient Education Not Working**

The Patient Education function is not working. Accessing File > Patient Education in NextGen EMR is not working properly. Licensing and setup need to be examined to determine the cause of the issue.

When accessing File > Patient Education, the following message appears: “License Message. You are not licensed to run Patient Education.”

We propose assisting TCSO with exploring the licensing needed and assisting with accessing it once licensing issues are resolved.

### **Issue # 73: Appointment Status Not Updating**

After vital signs are taken and entered into the patient’s chart, the patient is not showing up as checked in or in waiting room in the provider’s inbox. The appointment status still says “booked” with an empty space under room. Multiple appointments in one day for an inmate will not let you “arrive” them. We may need to determine the functionality or workflow needed to address this issue.

Jeanette Bettes entered this issue.

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### Training

The following training efforts are connected to the work described, and would be best delivered as part of Phase II.

#### Issue # 45: Reports for Number of ER Visits and Outside Appointments

There is a need to be trained on generating reports to show the number of ER visits and outside appointments for each month. This could be a report configured and memorized in EPM, if these events are all registered there. It appears that the Outside Appointments report could be memorized and configured in EPM, but further investigation will need to be done to determine how ER visits are tracked and documented (the source of the data for this report).

#### Issue # 47: Report Generator, EMR JID #

There was an issue entered about the report generator and the EMR JID number. We expect this item to result in a training session to demonstrate how different fields can be added to the report generator, with a focus on this ID field in particular.

Danny Smith entered this issue.

#### Issue # 48: Template Editor Training

For this issue, training in Template Editor was requested to discuss how to create a table in a template. General template editor training could address this and other questions that may have arisen while working with NextGen and Template Editor.

Danny Smith entered this issue.

#### Issue # 53: Training – Tasking on Communications Template

Need training – where does the communications template get tasks? The picklist is not consistent for groups.

This appears to be a template customization issue, rather than a training issue. Once requirements are determined precisely with the TCSO team, the customizations can be completed. This could be completed as part of a Template Editor training course on various desired customizations, with part of the work being completed after the training if desired or needed.

#### Issue # 54: Training - Tasking

TCSO has requested extensive training on tasking. Training could be provided as needed.

We would expect to spend some time examining the current situation with respect to tasking, and determining the best approach for the adjustments and training needed. The hours estimates for this item include possible customization to develop some management screens to manage tasks over their life cycle. If desired, this could include template(s) and/or reports to assist in determining what the current status of tasks are and what happened to them (for example, who accepted responsibility for them, and so on).

## Exhibit “C”

The hours estimates could be reduced for this item if custom solutions for managing tasks are not needed.

### **Issue # 61: Training – Hide Surveys/Forms for Medications**

Is there a way to hide all surveys/forms for medications? Push vs. individual manipulation.

This sounds like a template customization item. If the surveys/forms are currently available on a template, we can customize them to hide links for these documents if desired. We will work with TCSO staff to define exactly what items should be hidden, and whether they should be hidden for all staff.

Since this was categorized as training, it could be part of a Template Editor training session involving adjustments and customizations such as this.

### **Issue # 62: Training – Expungements**

How are expungements handled?

We would propose merging the patient records for such patients into a dummy patient record in these cases. The demographic information (name, date of birth, social security number, and so on) would be replaced by the dummy identifying information in the dummy record. This is probably the most efficient method to accomplish expungement of existing records requiring this.

Mike Summers contributed this item.

\*Time estimates for this item may adjust based on clarification of the items needed. For example, if only training on the merge process is needed, that would take less time; if TCSO desires we complete the merges of these records, these hours might be required.

### **Issue # 63: Training – Scanning/ICS**

TCSO has requested a quicker and smoother way to administer the scanning process. Batch processing is particularly slow. Workflow could be examined and training provided to optimize this process.

### **Issue # 65: Training – Kept Status on Appointments, EMR and EPM**

How does the “kept” status of an appointment get from EMR to EPM? What are the steps required in EMR to accomplish this? What is the best workflow to keep the appointment status up to date in both EPM and EMR? The current workflow and possible workflow adjustments will be examined and trained.

Kathryn Geiger entered this issue.

## Exhibit “C”

### Travel Expenses

To support the training described above, we believe the following travel expenses would be expected.

<i>Training</i>	<i>Est. Airfare</i>	<i>Est. Hotel</i>	<i>Est. Car</i>	<i>Est. Per Diem</i>	<i>Est. Total</i>
Reports for ER Visits, Outside Appointments, Report Generator, Scanning/ICS	\$ 400	\$ 520 (4 nights)	\$ 325	\$ 300	<b>\$ 1,545</b>
Template Editor Training, Tasking Configuration, Additional Training	\$ 400	\$ 520 (4 nights)	\$ 325	\$ 300	<b>\$ 1,545</b>
<b>TOTALS</b>	<b>\$ 800</b>	<b>\$ 1,040</b>	<b>\$ 650</b>	<b>\$ 600</b>	<b>\$ 3,090</b>

### Project Management

Project management services will enable Medicalistics to appropriately coordinate services and training provided to TCSO, and manage the project on an ongoing basis.



#### ATTACHMENT A MED VERIFICATION/INTAKE

Allergies \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

DOB: \_\_\_\_\_

Date/ Init.	Pharmacy/ Phone #	Med name/ Dosage	Date Filled	Directions /Last Dose	Number Filled	# of Pills in bottle	# of RFs	Rxing MD

**Exhibit “C”**


## **Exhibit "D"**

### **Medicalistics L.L.C. - SOFTWARE MAINTENANCE SERVICES AGREEMENT**

This Agreement is entered into in connection with that certain Professional Services Agreement ("PSA") by and between Travis County, a political subdivision of the State of Texas ("You") and Medicalistics L.L.C. ("Company") of even date herewith. All capitalized terms used but not defined in this Agreement have the meaning ascribed to such terms in the PSA.

1. This Agreement is an integral part of the PSA and, except as modified herein, is subject to its terms and conditions.
2. In the event of a conflict between the PSA, any previously executed Agreement and the terms of this Agreement, the terms of the PSA will govern and control.
3. You elect to purchase annual Software Maintenance Services offered by Company for the NextGen Software listed in Exhibit "A" to the PSA. Any additional NextGen or Medicalistics Software purchased by You during the term of this Agreement shall be automatically added to Your Maintenance Services (unless You have terminated same as set forth below), and will result in an increase in Your Maintenance Services fee, subject to the funding provisions set forth in this Agreement and/or in the PSA.
4. Software Maintenance Services and fees charged for such services begin contemporaneously with the PSA Effective Date. Maintenance Services automatically renew for additional one (1) year periods. However, either party may terminate Software Maintenance Services at any time provided it gives the other party at least 60 days prior written notice of its intention not to renew.
5. The initial fees You will pay for Maintenance Services for the items set forth in Exhibit "A" to the PSA are set forth in the Payment Milestone Schedule, attached as Schedule "B" to the PSA. These fees are due and payable annually, in advance. After the first year, Company may increase the Annual Maintenance Services fee, but in no event will the fee increase more than 3% over the prior year's Annual Maintenance fee. This maximum annual increase applies to each individual NextGen Software item for which You purchase support and maintenance services, and to the total NextGen Software support and maintenance fee for all such items combined.
6. If You terminate this Maintenance Services Agreement and later wish to reinstate such Maintenance Services, Company will reinstate the Maintenance Services and may, in its sole discretion, charge You a reinstatement fee of \$2,000. In addition to the reinstatement fee, You may be separately charged to bring You up to the most current version of the Software (including but not limited to data conversion and other services) and to correct any problems that may have arisen during the non-supported period. No such additional charges will be due or payable by You unless Company has provided You a detailed, itemized quote listing all such applicable charges and You have given Company written permission to proceed.
7. Provided You are current in Your payments required under this Agreement, then Company shall provide You with its Software Maintenance Services, which include:

## Exhibit "D"

### Medicalistics L.L.C. - SOFTWARE MAINTENANCE SERVICES AGREEMENT

(i) **Updates.** At no additional charge, all Updates to the NextGen Software received by Company from NextGen, which shall include keeping the NextGen Software in compliance with federal and state regulated changes that are identified, in writing, by You or of which Company has become aware.

(ii) **Telephone & Internet Support.** Access by You, during Business Hours, to Company's customer support department to resolve issues arising from Your internal use of the NextGen Software. Medicalistics will make available to You a telephone number to call requesting service of the NextGen Software. This telephone number will operate 24 x 7 x 365, and may be used by You to notify Medicalistics of problems associated with the NextGen Software and related documentation. Upon request, and in Company's sole discretion, Company will make the Software Maintenance Services available to You during non-Business Hours. For Software Maintenance Services rendered during non-Business Hours You will be charged at Company's then current hourly rate. Company agrees to advise You prior to commencing any work that would result in such per hour charge. Moreover, You authorize, as part of Company's Wellcare program, Company to monitor, via high-speed secured and protected internet access, Your servers (up to ten) associated with the NextGen Software to collect various data on critical performance metrics (e.g. CPU Utilization, disc free space, security & service packs, Veritas backup success - if this product has been purchased - and SQL server database dump success.)

(iii) **HIPAA Tools & Documents.** Reasonable tools and technology that can assist You in your use of the NextGen Software to: (1) comply with applicable HIPAA privacy and security standards; (2) utilize HIPAA transaction and code set standards and (3) comply or use such future HIPAA regulations and standards as soon as practicable after they are promulgated. Presently, the NextGen® EPM software is (a) capable of using ICD9 and CPT4 codes as well as the following HIPAA transaction and code set standards: 837 claims (supporting professional and institutional billing) and 835 ERA, and (b) is able to capture and store the data required to support the current billing functions of the EPM, format such data in the X12 format, ready such file for Your transmission of such files, which may, however, require additional steps. With Company's optional RTS module, You will be able to use the following HIPAA transaction and code set standards - 270/271 Eligibility and 278 Referral. Moreover, if requested, Company will execute a mutually acceptable Business Associates agreement.

(iv) **Source Code Escrow Program.** The ability to enroll in Company's NextGen Software source code escrow program, which is currently maintained by DSI/Fort Knox ("Escrow Agent"), a nationally recognized, third party technology escrow agency service. To enroll in this program, You would pay the then current escrow enrollment fee and any renewal fees as the same become due and payable, as set by the Escrow Agent, and complete the necessary forms required by the Escrow Agent. Under this program, in the event that Company becomes subject to any bankruptcy, insolvency, liquidation or other similar proceedings, which are not dismissed within ninety (90) days after their commencement, You can obtain a license to use the source code in accordance with Company's then current escrow program, at no additional charge other than Company's then-current enrollment fee. Your access to such source code license shall be through Company's Escrow Agent as appointed, from



## Exhibit "D"

### Medicalistics L.L.C. - SOFTWARE MAINTENANCE SERVICES AGREEMENT

time to time, at Company's discretion, and shall be solely for You to correct errors in and maintain the Software on Your System and to compile such corrected source code into executable code form. The terms of such escrow relationship and Your use of the source code are governed by the escrow agreement with the Escrow Agent; provided, however, Travis County will under no circumstances be obligated to indemnify, save, hold harmless or defend Escrow Agent, Company or any other third party under such escrow agreement or to release such parties from liability, in whole or in part.

**(v) Remedial Support.** At no additional charge, upon receipt by Medicalistics of notice from You of an error, defect, malfunction or nonconformity in the NextGen Software "documentation", Medicalistics shall respond as follows:

Severity 1: Produces an emergency situation in which the NextGen Software is inoperable, produces incorrect results, or fails catastrophically.

Response: Medicalistics will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity 1 problem as soon as reasonably possible, but in any event a response via telephone will be provided within two (2) business hours, and/or within 2 hours of the next regular business day if such issue is reported afterhours or during a non-business day/holiday. Medicalistics will continue to provide best efforts to resolve Severity 1 problems in less than forty-eight (48) hours. The resolution will be delivered to You as a work-around or as an emergency software fix. If Medicalistics delivers an acceptable work-around, the severity classification will drop to a Severity 2.

Severity 2: Produces a detrimental situation in which performance (throughput or response) of the NextGen Software degrades substantially under reasonable loads, such that there is a severe impact on use; the NextGen Software is usable, but materially incomplete; one or more mainline functions or commands is inoperable; or the use is otherwise significantly impacted.

Response: Medicalistics will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity 2 problem as soon as reasonable possible, but in any event a response via telephone will be provided within four (4) hours, and/or within 4 hours of the next regular business day if such issue is reported afterhours or during a non-business day/holiday. Medicalistics will exercise best efforts to resolve Severity 2 problems within five (5) days. The resolution will be delivered to You in the same format as Severity 1 problems. If Medicalistics delivers an acceptable work-around for a Severity 2 problem, the severity classification will drop to a Severity 3.

Severity 3: Produces an inconvenient situation in which the NextGen Software is usable, but does not provide a function in the most convenient or expeditious manner, and the user suffers little or no significant impact.

Response: Medicalistics will exercise best efforts to resolve Severity 3 problems in the next maintenance release.

Severity 4: Produces a noticeable situation in which the use is affected in some way which is reasonably correctable by a documentation change or by a future, regular release from Medicalistics.

Response: Medicalistics will provide, as agreed by the parties, a fix or fixes for Severity 4 problems in future maintenance releases.

## **Exhibit "D"**

### **Medicalistics L.L.C. - SOFTWARE MAINTENANCE SERVICES AGREEMENT**

**(vi) Exclusions.** Software Maintenance Services does not include the following: (a) support or support time due to a cause external to any of the Software provided adversely affecting its operability or serviceability, which shall include but not be limited to water, fire, wind, lightning, other natural calamities, transportation, misuse, abuse or neglect; (b) repair of any of the Software modified in any way other than modifications made by Company, or modifications made by You with Company's prior written consent; (c) support of any other third-party vendors' software not covered by this Agreement, such as operating system software, network software, database managers, word processors, etc., except that Company will provide reasonable assistance and coordination in handling issues that arise with that Third Party Software purchased by You from third parties outside the scope of this Agreement and issues that arise with Third Party Software purchased by you from Company under this Agreement; however, such assistance shall not include any updates to or new versions of the Third Party Software not covered by this Agreement or correction of any program-errors within the third-party software; (d) support services that can be rendered telephonically either by Company or Your personnel (at Company's direction) but at Your request are performed onsite by Company; (e) Maintenance Services on any non-current version of the Software provided, unless otherwise agreed to by Company in its sole discretion; (f) on-site installation of the Updates or additional conversion services; (g) any additional hardware or third party software that may be required to install and use any Updates; or (h) training. All such excluded maintenance services performed by Company at Your request shall be invoiced to You on a time and materials basis, plus reasonable expenses associated therewith.

8. Medicalistics warrants and represents that:

(1) the Maintenance Services will be provided in a manner that ensures the security and integrity of Your existing infrastructure components and in compliance with all Your existing information security requirements and all federal, state and local government laws and regulations governing the creation, use, storage, access, accessibility, maintenance, processing and transmission of information assets. You acknowledge that Medicalistics' ability to comply with the obligations set forth in this paragraph is in part dependent on Your coordination and cooperation with Medicalistics in procuring recommended security solutions and in gathering and evaluating accurate, complete information regarding laws governing information assets.

(2) only individuals who are highly experienced and skilled in providing the types of services to be provided under this Agreement will be assigned to perform the Maintenance Services. Medicalistics acknowledges that You selected Medicalistics in part on the basis of the expertise and experience of such personnel, and that regardless of specific personnel changes, Medicalistics shall maintain the overall level of expertise, experience, and skill in supplying employees to perform the Maintenance Services.

## Exhibit "D"

### Medicalistics L.L.C. - SOFTWARE MAINTENANCE SERVICES AGREEMENT

TRAVIS COUNTY

MEDICALISTICS, LLC.

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

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

Name: Sammuel T. Biscoe

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

Title: Travis County Judge

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

	<b>Medicalistics L.L.C.</b>			
<b>Prepared for: Travis County Sheriff's Office</b>		<b>Proposal Date:</b>		<b>12/18/2012</b>
<b>Item</b>	<b>Description</b>	<b>QTY</b>	<b>Unit Price</b>	<b>Extended Price</b>
	<b>Existing Yearly Maintenance</b>			
	NextGen EPM Provider License(s)	3		
	NextGen EMR Provider License(s)	3		
	NextGen EPM Mid-Level Provider License(s)	6		
	NextGen EMR Mid-Level Provider License(s)	6		
	NextGen ICS Provider License(s) - included with EMR/EPM/BSP/Express Lic.	9		
	NextGen ICS Remote Scanning Sites - Per Remote Site	2		
	NextGen Patient Synchronization - Per Provider	9		
	NextGen Dental Clinical Suite (without XRAY or imaging)	1		
	NextGen EMR Dental Provider Med Module ONLY	1		
	NextGen EMR RTF Monitor - Per Provider License - included with EMR/Express Lic.	9		
	NextGen RTS (Real-Time Transaction) - Per Provider - included with EPM/BSP Lic.	9		
	Practice License Fee for EMR	1		
	Practice License Fee for EPM	1		
	<b>Existing Yearly Maintenance Subtotal:</b>			<b>\$ 37,808</b>
	<b>New Software</b>			
	NextGen EPM Provider License(s)	2	\$ 10,000	\$ 20,000
	NextGen EMR Provider License(s)	2	\$ 10,000	\$ 20,000
	Combined NextGen EMR & EPM Provider License Discount	2	\$ (5,000)	\$ (10,000)
	NextGen EPM Mid-Level Provider License(s)	1	\$ 7,000	\$ 7,000
	NextGen EMR Mid-Level Provider License(s)	1	\$ 7,000	\$ 7,000
	Combined NextGen EMR & EPM Mid-Level Provider License Discount	1	\$ (3,500)	\$ (3,500)
	NextGen ICS Provider License(s) - included with EMR/EPM/BSP/Express Lic.	-	incl.	\$ -

	NextGen ICS Remote Scanning Sites - Per Remote Site	-	\$ 1,000	\$ -
	NextGen Patient Synchronization - Per Provider	-	\$ 1,500	\$ -
	NextGen EMR Dental Provider Med Module ONLY	-	incl.	\$ -
	NextGen EMR RTF Monitor - Per Provider License - included with EMR/Express Lic.	-	incl.	\$ -
	NextGen RTS (Real-Time Transaction) - Per Provider - included with EPM/BSP Lic.	-	incl.	\$ -
	<b>Software Subtotal:</b>			<b>\$ 54,000</b>
	<b>Interfaces</b>			
	Practice Medication Interface - NextGen HL7 Format	1	\$ 12,500	\$ 12,500
	<b>Interface Sub-Total</b>			<b>\$ 12,500</b>
	<b>Third Party Software</b>			
	<b>Software</b>			
	<b><i>Libraries - yearly subscription fee /updated per year / per provider</i></b>			
	Bundled ICD9 and CPT4 Codes Loaded (First User License Per Year)	1	\$ 279	\$ 279
	Bundled ICD9 and CPT4 Codes Loaded (Add'l User Licenses Per Year)	11	\$ 35	\$ 385
	NextGen Edits: includes CCI Edits, ICD9/CPT4 Edits, CPT OCE and other Edits (requires ICD9/CPT4 codes) - Annual per User	-	\$ 20	\$ -
	First Data Drug Database with Integrated Interaction Module (EMR only) - Annual per Provider	11	\$ 139	\$ 1,529
	SureScripts ePrescribing (EMR only) - Annual per Provider	11	incl.	
	<b>Third Party Software Sub-Sub-Total</b>			<b>\$ 2,193</b>
	<b>NextGen eLearning</b>			
	Mandatory EMR/EPM eLearning Lic. to be Purchased (Annual Fee for each Lic.)	5	\$ 199	\$ 995
	<i>eLearning Licenses purchased herein include a one year subscription to the NextGen education via the Internet at your convenience. After the first year, the eLearning License will be renewed at the then prevailing rate, unless expressly communicated to NextGen that you are no longer interested in using the eLearning License. Any Practice or Enterprise Registration Fees are 1-time fees and not subject to annual renewals.</i>			

	<b>Third Party Software Subtotal:</b>			<b>\$ 3,188</b>
	<b>Services</b>			
	<b>Medicalistics Hours for EMR and/or EPM Implementation Services</b>			
	EMR/EPM Implementation Services may include some or all of the following: Project Management or Coordination; Project Implementation Meeting; System Check, Definition Workshop (DWS) Training/Review; Database Review; Database Review; Core Group Training (CGT); Tuning/Testing; Go-Live, Advanced Training, Physician Resource Assistance, and Post Go-Live Audit, as described in Attachment A.	257	\$ 160	\$ 41,120
	Travel expenses relating to training			\$ 3,090
	* Implementation hours based upon Customer using existing NextGen and/or purchased templates with minimum or no modifications made by company. Modifications to existing templates and/or Custom Design may be contracted through Medicalistics, LLC at Medicalistics current hourly rate of \$225.00 /hour. Also, the jail can optionally build their own screens.			
	<b>Summary</b>			
	<b>Software</b>			<b>\$ 54,000</b>
	<b>Interfaces</b>			<b>\$ 12,500</b>
	<b>Hardware</b>			<b>\$ -</b>
	<b>Third Party Software</b>			<b>\$ 3,188</b>
	<b>Total System Price:</b>			<b>\$ 69,688</b>
	<b>Total Discounts for this Proposal are:</b>			<b>\$ 13,500</b>
	<b>Total Discount Percent for this Proposal is:</b>			<b>19.372%</b>
	<b>Total Revised System Price</b>			<b>\$ 56,188</b>
	<b>existing yearly maintenance</b>			<b>\$ 37,808</b>
	<b>new yearly maintenance</b>			<b>\$ 15,932</b>
	<b>Total Annual Software Maintenance Price:</b>			<b>\$ 53,740</b>
	<b>Total Services Price</b>			<b>\$ 44,210.0</b>
	<b>TOTAL SYSTEMS PRICE</b>			<b>\$ 154,138.0</b>

STATE OF TEXAS }  
COUNTY OF TRAVIS }

ETHICS AFFIDAVIT

Date: \_\_\_\_\_  
Name of Affiant: \_\_\_\_\_  
Title of Affiant: \_\_\_\_\_  
Business Name of Proposer: \_\_\_\_\_  
County of Proposer: \_\_\_\_\_

Affiant on oath swears that the following statements are true:

1. Affiant is authorized to make this affidavit for Licensor.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant can read the English language.
4. Licensor has received the list of Key Contracting Persons associated with this Agreement which is attached to this affidavit as Exhibit "1".
5. Affiant has personally read Exhibit "1" to this Affidavit.
6. Affiant has no knowledge of any Key Contracting Person on Exhibit "1" with whom Licensor is doing business or has done business during the 365 day period immediately before the date of this affidavit.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN TO before me by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of notary  
My commission expires: \_\_\_\_\_

**EXHIBIT 1**  
**LIST OF KEY CONTRACTING PERSONS**  
**JANUARY 16, 2013**

**CURRENT**

Position Held	Name of Individual Holding Office/Position	Name of Business Individual is Associated
County Judge .....	Samuel T. Biscoe	
County Judge (Spouse) .....	Donalyn Thompson-Biscoe	
Executive Assistant .....	Cheryl Brown	
Executive Assistant.....	Melissa Velasquez	
Executive Assistant.....	Josie Z. Zavala	
Executive Assistant.....	Vacant	
Commissioner, Precinct 1 .....	Ron Davis	
Commissioner, Precinct 1 (Spouse).....	Annie Davis	Seton Hospital
Executive Assistant.....	Deone Wilhite	
Executive Assistant.....	Felicita Chavez	
Commissioner, Precinct 2 .....	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse) .....	Kurt Sauer	Daffer McDaniel, LLP
Executive Assistant .....	Loretta Farb	
Executive Assistant .....	Joe Hon	
Executive Assistant .....	Peter Einhorn	
Commissioner, Precinct 3 .....	Gerald Daugherty*	
Commissioner, Precinct 3 (Spouse).....	Charyl Daugherty	Consultant
Executive Assistant.....	Bob Moore*	
Executive Assistant.....	Martin Zamzow*	
Executive Assistant.....	Barbara Smith*	
Commissioner, Precinct 4 .....	Margaret Gomez	
Executive Assistant.....	Edith Moreida	
Executive Assistant.....	Norma Guerra	
County Treasurer .....	Dolores Ortega-Carter	
County Auditor .....	Nicki Riley*	
County Executive, Administrative.....	Vacant	
County Executive, Planning & Budget.....	Leslie Browder*	
County Executive, Emergency Services .....	Danny Hobby	
County Executive, Health/Human Services.....	Sherri E. Fleming	
County Executive, TNR .....	Steven M. Manilla, P.E.	
County Executive, Justice & Public Safety .....	Roger Jefferies	
Director, Facilities Management .....	Roger El Khoury, M.S., P.E.	
Interim Chief Information Officer .....	Tanya Acevedo	
Interim Chief Information Officer .....	Rod Brown	
Interim Chief Information Officer .....	Walter Lagrone	
Director, Records Mgmt & Communications .....	Steven Broberg	
Travis County Attorney .....	David Escamilla	
First Assistant County Attorney .....	Steve Capelle	
Executive Assistant, County Attorney .....	James Collins	
Director, Land Use Division .....	Tom Nuckols	
Attorney, Land Use Division .....	Julie Joe	
Attorney, Land Use Division .....	Christopher Gilmore	
Director, Transactions Division .....	John Hille	
Attorney, Transactions Division .....	Daniel Bradford	
Attorney, Transactions Division .....	Elizabeth Winn	
Attorney, Transactions Division .....	Mary Etta Gerhardt	
Attorney, Transactions Division .....	Barbara Wilson	



Attorney, Transactions Division ..... Jim Connolly  
 Attorney, Transactions Division ..... Tenley Aldredge  
 Director, Health Services Division ..... Beth Devery  
 Attorney, Health Services Division ..... Prema Gregerson  
 Purchasing Agent ..... Cyd Grimes, C.P.M., CPPO  
 Assistant Purchasing Agent ..... Marvin Brice, CPPB  
 Assistant Purchasing Agent ..... Bonnie Floyd, CPPO, CPPB, CTPM  
 Purchasing Agent Assistant IV ..... CW Bruner, CTP  
 Purchasing Agent Assistant IV ..... Lee Perry  
 Purchasing Agent Assistant IV ..... Jason Walker  
 Purchasing Agent Assistant IV ..... Richard Villareal  
 Purchasing Agent Assistant IV ..... Patrick Strittmatter  
 Purchasing Agent Assistant IV ..... Lori Clyde, CPPO, CPPB  
 Purchasing Agent Assistant IV ..... Scott Wilson, CPPB  
 Purchasing Agent Assistant IV ..... Jorge Talavera, CPPO, CPPB  
 Purchasing Agent Assistant IV ..... Loren Breland, CPPB  
 Purchasing Agent Assistant IV ..... John E. Pena, CTPM  
 Purchasing Agent Assistant IV ..... Rosalinda Garcia  
 Purchasing Agent Assistant IV ..... Angel Gomez\*  
 Purchasing Agent Assistant III ..... Shannon Pleasant, CTPM  
 Purchasing Agent Assistant III ..... David Walch  
 Purchasing Agent Assistant III ..... Michael Long, CPPB  
 Purchasing Agent Assistant III ..... Nancy Barchus, CPPB  
 Purchasing Agent Assistant III ..... Jesse Herrera, CTP, CTPM, CTCM  
 Purchasing Agent Assistant III ..... Sydney Ceder\*  
 Purchasing Agent Assistant III ..... Vacant  
 Purchasing Agent Assistant II ..... Vacant  
 Purchasing Agent Assistant II ..... L. Wade Laursen\*  
 Purchasing Agent Assistant II ..... Sam Francis\*  
 HUB Coordinator ..... Sylvia Lopez  
 HUB Specialist ..... Betty Chapa  
 HUB Specialist ..... Jerome Guerrero  
 Purchasing Business Analyst ..... Scott Worthington  
 Purchasing Business Analyst ..... Jennifer Francis  
 Travis County Sheriff's Office ..... Robin Osborn  
 Travis County Sheriff's Office ..... Heather Farrell  
 Travis County Sheriff's Office ..... Tiffany Curnutt

#### FORMER EMPLOYEES

Position Held	Name of Individual Holding Office/Position	Date of Expiration
Purchasing Agent Assistant III .....	Elizabeth Corey, C.P.M. ....	03/14/13
Attorney, Transactions Division .....	Tamara Armstrong .....	03/30/13
Executive Assistant.....	Lori Duarte.....	06/15/13
Chief Information Officer. ....	Joe Harlow .....	07/31/13
County Auditor .. ....	Susan Spataro, CPA.....	08/31/13
Purchasing Agent Assistant IV.....	George R. Monnat, C.P.M., A.P.P. ....	09/26/13
Executive Assistant.....	Cheryl Aker.....	10/05/13
Purchasing Agent Assistant II .....	Jayne Rybak, CTP.....	12/14/13
Commissioner, Precinct 3. ....	Karen Huber.....	01/01/14
Executive Assistant.....	Garry Brown .....	01/01/14
Executive Assistant.....	Julie Wheeler .....	01/01/14
Executive Assistant.....	Jacob Cottingham .....	01/01/14

\* - Identifies employees who have been in that position less than a year.

Licensors acknowledge that Licensors are doing business or have done business during the 365 day period immediately before the date of this Affidavit with the following Key Contracting Persons and warrants that these are the only such Key Contracting Persons:

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If no one is listed above, Licensors warrant that Licensors are not doing business and have not done business during the 365 day period immediately before the date of this Affidavit with any Key Contracting Person.

# PAYMENT MILESTONE SCHEDULE

## SCHEDULE "B"

Product and Maintenance			
Milestone 1	Medicalistics Maintenance	\$	53,740
	<u>3rd Party Software (with discount)</u>	\$	2,570
	<b>Sub total</b>	<b>\$</b>	<b>56,310</b>
Milestone 2	<u>Electronic Delivery of Software &amp; Interfaces (with discount)</u>	\$	53,618
	<b>Sub total</b>	<b>\$</b>	<b>53,618</b>

Services Milestone			
Milestone 3	Upgrade with Gap and Test = 72, PM = 12 = Total 84 hrs	\$	13,440
Milestone 4	Interface and Tech – Slowdowns = 4, EMR Dropping DOB = 8, Install Pharmacy IF = 16, Housing Info = 8 = 36 Hours Total + PM = 8	\$	7,040
Milestone 5	Custom Fixes = 66 hrs + 10 hrs PM = 76 hrs	\$	12,160
Milestone 6	Initial Training – 24 hours + PM = 30	\$	4,800
Milestone 7	<u>Training Completion Medication update 7, Training for Prebuilt List In user profile 12, New Doctor 4=23</u>	\$	3,680
	<b>Training Sub Total</b>	<b>\$</b>	<b>41,120</b>

	<u>Travel</u>	\$	3,090
	<b>TOTAL MILESTONE</b>	<b>\$</b>	<b>154,138</b>
	*Travel billed on reimbursement and not to exceed contract amount		
	* Milestone not necessarily consecutive		



**Date:** 04/16/2013  
JAMES N. SYLVESTER  
Chief Deputy

**GREG HAMILTON**  
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**MEMORANDUM**

**To:** Purchasing  
**From:** Robin Osborn, Lieutenant

**Subject:** Electronic Medical Record System

Please accept this memo as request to place the purchase of support and maintenance for the Sheriff's Office NextGen Electronic Medical Record System (EMR) on the next available Commissioners' Court Agenda. Medicalistics will be the third party software vendor to provide the requested services and deal directly with the software provided by NextGen Healthcare.

TCSO initially contracted with Simplicity for the purchase, install, maintenance and training for NextGen and Softwriters (Pharmacy) software based on a competitive bid process. Simplicity was not able to complete the project according to their contract terms (CM110076SW). Oct 26, 2010, this contract was terminated for convenience.

The remaining funds for this project will be used for the pending contract with Medicalistics. Additional funds were reallocated to purchase maintenance/support of the system on April 2, 2013 by Commissioner's Court based on.

TCSO contracted directly with Softwriters for the support and maintenance of that software and it is not a part of the project with Medicalistics.

TCSO has been functioning for the past three years without support or maintenance of the NextGen software and associated interfaces. Medicalistics is the only NextGen Healthcare approved and authorized vendor allowed and capable of the service required to bring the EMR software up to date and complete the project as well as provide ongoing support and maintenance.

Please note that TCSO intends to submit an FY14 budget package to continue the implementation of software upgrades to include software maintenance and support as outlined in Phase II.

Cc: Mark Sawa, Major Support Admin.  
Tiffany Curnutt, Business Analyst I  
Scott Wilson, Purchasing Agent  
Paul Matthews, TCSO Finance Director  
File

RO/tc