Exhibit 5   **SOFTWARE MAINTENANCE AGREEMENT**

To Contract # _____

1.   Entire Agreement

This Software Maintenance Agreement, as an attachment to the Contract, and all documents referenced herein, constitutes the entire agreement between the Contractor and the County with respect to the Support and Maintenance of the Software licensed pursuant to the Software License Agreement, Exhibit 4 to the Contract and supersedes all proposals, oral and written, between the parties on this subject.

2.   Services

In consideration of the payments to be made to the Contractor, the Contractor agrees to provide the services described in this Software Maintenance Agreement or in any attachment hereto, with respect to the Software.

The services shall be performed as specified in the Contract, including any Exhibits or Attachments.

3.   Service Responsibilities of the Contractor

3.1   Maintenance. The Contractor shall provide Maintenance for the Software. "Maintenance" means enhancements, upgrades and new releases of the Software, which includes only those additions and/or modifications to the Software which 1) enhance functionality and/or performance without fundamentally altering the nature or manner in which the Software operates, and 2) are made generally available without additional or increased charges to other persons entitled to receive maintenance from the Contractor. The Contractor shall maintain the Software so that it operates in conformity with all descriptions and specifications herein, the applicable Software License Agreement, the Contract, and any amendments thereto. The Contractor shall correct all Errors discovered by the County.

3.2   Support. The Contractor shall provide Support for the Software. "Support" means technical assistance and Error Correction (see below for definition) for the Software, including support for questions about functionality and installation, the resolution of all Errors, bug fixes and troubleshooting.

"Error Correction" means, with respect to Software, either 1) a modification to the Software that corrects an Error in all respects or 2) a procedure or routine that, when implemented in the regular operation of that Software, eliminates the adverse effect of the Error in all respects. All Error Corrections shall not introduce a new or separate Error.

Contractor shall cure and completely resolve the Error, and thereby eliminate the Error(s) subject to the terms and conditions herein.

3.3   Errors. Errors will be classified as follows

"Priority One" occurs when the County detects any Error, defect or nonconformity in the Software which the County deems as causing the Software, or any critical functionality of the Software to be entirely out of operation for all or for a critical subset of users.

"Priority Two" occurs when the County detects any Error, defect or nonconformity in the Software which the County deems as causing a portion of the Software functionality to be out of operation or the Software to be entirely out of operation for a non-critical subset of users.

"Priority Three" occurs when the County detects any Error, defect or nonconformity in the Software which the County deems as causing a limited group of users to lose some Software functionality or the Error is intermittent in nature and cannot reliably be reproduced by the Contractor.

3.3   Service Level.

If the specified service levels listed below are not met, then the Contractor is required to issue specified credits, when requested to do so by the County.

3.3.1   Response Time. "Response Time" shall be measured from the time when the Contractor receives the Support request until the time the Contractor has responded to the Support request. "Respond" or "Response" means that the Contractor has engaged on the Support request, is working continuously to diagnose the corresponding Errors, formulate a plan to address any such Errors and execute that plan, and has notified the County that such Support has begun.

Support Request Classification	Response Time
Priority One	2 hours
Priority Two	1 business day
Priority Three	1 business day

3.3.2   Resolution Time. "Resolution Time" shall be measured from the time when the Contractor receives the Support request until the time the County deems that the Contractor has resolved the Support request. "Resolution" means that, as to Errors, the Contractor has provided the County with the corresponding Error Correction and the County has confirmed such Error Correction. The County will work diligently to confirm such Error Correction and will not cause undue delay in its confirmation of whether the Resolution was successful.

Support Request Classification	Resolution Time
Priority One	24 hours
Priority Two	15 Days
Priority Three	60 Days

3.3.3   Service Level Failure. Failure to achieve any of the Support request classifications described herein shall constitute a "Service Level Failure" and the Contractor shall be liable for the Service Level Credits in the amounts set forth below. The Contractor shall not be responsible for any Service Level Failure caused by the County.

3.3.4   Service Level Credits. Upon the occurrence of any Service Level Failure, the Contractor shall issue to the County a credit in the amount set forth in the table below. If

more than one (1) Service Level Failure has occurred in a single payment term, the sum of the corresponding Service Level Credits shall be credited to the County.

Notwithstanding any other available remedies by law or by Contract, the total amount of Service Level Credits that the Contractor will be obligated to pay to the County with respect to Service Level Failure(s) occurring each quarter shall be reflected on an invoice issued in the payment term following the payment term during which the Service Level Failure(s) giving rise to such Service Level Credit(s) occurred.

Support Request Classification	Response Time	Service Level Credits for Response Time
Priority One	2 hours	One Thousand Dollar ($1,000.00) per incident resulting in a Service Level Failure
Priority Two	1 business day	Five Hundred Dollars ($500.00) per incident resulting in a Service Level Failure
Priority Three	1 business day	Two Hundred Fifty Dollars ($250.00) per incident resulting in a Service Level Failure

Support Request Classification	Resolution Time	Service Level Credits for Resolution Time
Priority One	24 hours	Two Thousand Five Hundred Dollars ($2,500.00) per incident resulting in a Service Level Failure
Priority Two	15 Days	Five Hundred Dollars ($500.00) per incident resulting in a Service Level Failure
Priority Three	60 Days	Two Hundred Fifty Dollars ($250.00) per incident resulting in a Service Level Failure

Limitations: The Contractor shall not be responsible for errors caused by hardware limitations or failures, network infrastructure, operating system problems, operator errors or any errors related to processes, County-created interfaces or other software, unless developed, caused, procured, or provided by the Contractor.

This Service Level Credit provision shall not preclude the County from declaring a material breach and seeking all available remedies by law or by Contract.

4. **Notification Process**

4.1 The Contractor shall Provide telephone support daily from 7:00 a.m. to 7:00 p.m. Pacific time. The Contractor shall follow the procedure for the County's staff to contact the Contractor support outside these hours to log requests relating to Priority One and Two incidents in accordance with Exhibit B to this Agreement.

4.2 The County, upon detection of any Error, defect or nonconformity in the Software shall, if requested to do so by the Contractor, submit to the Contractor a listing of output and any such other data which the Contractor reasonably may request in order to reproduce operating conditions similar to those present when the Error occurred or the defect or nonconformity was discovered.

5. **Miscellaneous**

   5.1 The terms and conditions of the Contract shall have precedence and control over any terms and conditions of this Software Maintenance Agreement which may be in conflict with the Contract. To the extent that this Software Maintenance Agreement is silent with respect to terms and conditions in the Contract or uses capitalized terms not defined herein, the terms, conditions and definitions in the Contract shall control.

   5.2 Severability. Any invalidity, in whole or in part, of any provision of this Software Maintenance Agreement shall not affect the validity of any other of its provisions.

   5.3 The Contractor may request to the County remote access to the environment where the defect is detected in order to witness the Error, defect or nonconformity discovered. The Contractor should request access to the County before attempting to access the systems. Any type of changes such as configuration or settings changes on the production environment can only be performed by the Contractor with prior approval of the County. All Contractor access to the County's systems shall be in accordance with Section 10.9 (Background Checks) of the Contract. The County will require the Contractor to periodically sign the County's remote access agreement, which may be modified from time to time without notice.

   5.4 The maintenance and support as described herein shall not degrade the Software or require the County to purchase new or additional hardware to support the maintenance or performance level described in the Contract.

6. **Charges**

   Computation. Charges for all Services provided under this Software Maintenance Agreement shall be included in the annual License and Maintenance Fee as stated in Exhibit 2, Price.

7. **Warranties**

   The warranty provisions of the Contract shall be applicable to this Software Maintenance Agreement.

8. **Termination and Term**

   The termination provisions and term of the Contract shall apply to this Software Maintenance Agreement.

9. **Indemnification, Hold Harmless, Defense and Limitation of Liability**

   The Limitation of Liability and Indemnity provisions of the Contract shall apply to this Software Maintenance Agreement.

IN WITNESS WHEREOF, the parties have caused this Software Maintenance Agreement to be executed and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of execution of this Software Maintenance Agreement duly authorized by all necessary and appropriate corporate action to execute this Software Maintenance Agreement.

CONTRACTOR: KING COUNTY:

By: _____   By: _____

Title: _____   Title: _____

Date: _____   Date: _____

EXHIBIT A

System Requirements

[attached]

EXHIBIT B

Contact Procedures

After hours Support requests shall be made by email to the Contractor's support email address, shown below, or such other email address provided by the Contractor to the County in writing.

{enter email address here}

Between the hours of 7:00 a.m. and 7:00 p.m. Pacific time, Support requests may be made by calling the Contractor's Support phone number, shown below, or such other number provided by the Contractor to the County in writing.

{enter phone number here}

EXHIBIT C

Form of Remote Access Agreement