For Purchasing Use Only:
RFP/Contract #3212

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract Between the State of Nevada
Acting by and Through Its

Business and Industry
Division of Industrial Relations/Workers' Compensation Section
1301 N. Green Valley Pkwy, Ste 200
Henderson, NV 89074
Contact: Jan Rosenberg, DIR Deputy Administrator
Phone: (702) 486-9159 Fax: (702) 486-9170
Email: jrosenberg@business.nv.gov

and

CapTech Ventures, Inc.
7100 Forest Avenue, Second Floor
Richmond, VA 23266
Contact: Adam Hofheimer, Managing Director
Phone: (804) 545-3384 Fax: (804) 355-4220
Email: ahofheimer@captechconsulting.com

WHEREAS, NRS 333.700 authorizes elective officers, heads of departments, boards, commissions or institutions to engage, subject to the approval of the Board of Examiners (BOE), services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

2. **DEFINITIONS.**

   A. "State" – means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.

   B. "Independent Contractor" – means a person or entity that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.

   C. "Fiscal Year" – is defined as the period beginning July 1st and ending June 30th of the following year.

   D. "Current State Employee" – means a person who is an employee of an agency of the State.

   E." Former State Employee" – means a person who was an employee of any agency of the State at any time within the preceding 24 months.

   F."Warranty Period" – means defect resolution/bug fixes for twelve (12) months after production launch.

3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 10, Contract Termination.* Contract is subject to Board of Examiners' approval (anticipated to be March 8, 2016).

Effective from:	Upon BOE approval anticipated to be April 12, 2016	To:	June 30, 2017

4. **NOTICE.** Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of termination for default, or notice of termination without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, posted prepaid on the date posted, and addressed to the other party at the address specified above.

5. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	NEGOTIATED ITEMS
ATTACHMENT BB:	DELIVERABLE SCHEDULE
ATTACHMENT CC:	STATE SOLICITATION OR RFP #:3212 and AMENDMENT # 1
ATTACHMENT DD:	INSURANCE SCHEDULE
ATTACHMENT EE:	CONTRACTORS RESPONSE

A Contractor's attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in *Section 5, Incorporated Documents* at a cost as noted below:

Payment will be made per Attachment BB Deliverable Schedule and Attachment EE Contractors Response with a total contract amount not to exceed $2,335,000.00

The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. **BILLING SUBMISSION: TIMELINESS.** The parties agree that timeliness of billing is of the essence to the Contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Contractor to an administrative fee not to exceed one hundred dollars ($100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the state of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Contractor.

9. **INSPECTION & AUDIT.**

   A. Books and Records. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.

   B. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant

State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this Section.

C. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is schedule or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. **CONTRACT TERMINATION.**

A. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause.

B. State Termination for Non-Appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the state Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages except with regard to payment for work performed up to the date of written notice of termination, effective immediately upon receipt of such written notice (or any date specified therein) if for any reason for the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

C. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

1) If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

2) If any State, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

3) If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

4) If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or

5) If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

6) If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

D. Time to Correct. Termination upon declared default or breach may be exercised only after service of formal written notice as specified in *Section 4, Notice*, and the subsequent failure of the defaulting party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

E. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:

1) The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

2) Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;

3) Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;

4) Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with *Section 21, State Ownership of Proprietary Information.*

11. **REMEDIES.** Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars ($125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that the Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

12. **LIMITED LIABILITY.** The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed one hundred and fifty percent (150%) of the Contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

13. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

14. **INDEMNIFICATION.** To the fullest extent permitted by law Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.

15. **INDEPENDENT CONTRACTOR.** Contractor is associated with the state only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the state whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the state; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State and Contractor shall evaluate the nature of services and the term of the Contract negotiated in order to determine "independent contractor" status, and shall monitor the work, relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

	QUESTION	CONTRACTOR'S INITIALS	
		YES	NO
1.	Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?		KSM
2.	Will the Contracting Agency be providing training to the independent contractor?		KSM
3.	Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?	KSM	KSM
4.	Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?		KSM
5.	Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?		KSM
6.	Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?		KSM
7.	Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?		KSM

16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor, as an independent contractor and not an employee of the state, must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in *Attachment DD*, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Contractor shall not commence work before:

1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and
2) The State has approved the insurance policies provided by the Contractor.

Prior to approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

A. Insurance Coverage. The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in *Attachment DD*, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until:

1) Final acceptance by the State of the completion of this Contract; or
2) Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall promptly notify the State and promptly replace such insurance or bond with an insurer meeting the requirements.

B. General Requirements.

1) Additional Insured: By endorsement to the general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.

2) Waiver of Subrogation: Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Contractor.

3) Cross Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

4) Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars ($50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.

5) Policy Cancellation: Except for ten (10) days notice for non-payment of premiums, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this Section shall be sent by certified mail to the address shown on page one (1) of this contract.

6) Approved Insurer: Each insurance policy shall be:

   a) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and

   b) Currently rated by A.M. Best as "A-VII" or better.

C. Evidence of Insurance.

Prior to the start of any work, Contractor must provide the following documents to the contracting State agency:

1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf. The State project/Contract number; description and Contract effective dates shall be noted on the certificate, and upon renewal of the policies listed, Contractor shall furnish the State with replacement certificates as described within *Section 16A, Insurance Coverage.*

   Mail all required insurance documents to the State Contracting Agency identified on Page one of the Contract.

2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 16 B, General Requirements.*

3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the underlying Schedule from the Umbrella or Excess insurance policy may be required.

4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, employees or agents to the State or others, and shall be in additional to and not in lieu of any other remedy available to the State under this Contract or otherwise. The

State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

17. **COMPLIANCE WITH LEGAL OBLIGATIONS.** Contractor shall procure and maintain for the duration of this Contact any State, county, city or federal license, authorization, waiver, permit qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

18. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

19. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

20. **ASSIGNMENT/DELEGATION.** To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.

21. **STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the State and all such materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the State. Notwithstanding the foregoing, the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark, or copyright protection.

22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.

24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:

    A. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt 67, Section 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

    B. Contractor and its subcontracts shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted there under contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

    C. Contractor and it subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall

not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. **LOBBYING**. The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

    A. Any federal, State, county or local agency, legislature, commission, council or board;

    B. Any federal, State, county or local legislator, commission member, council member, board member, or other elected official; or

    C. Any officer or employee of any federal, State, county or local agency; legislature, commission, council or board.

26. **WARRANTIES.**

    A. General Warranty. For the duration of the Warranty period, Contractor warrants that all services, deliverables, and/or work products under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry, shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

    B. System Compliance. For the duration of the Warranty period, Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State.

27. **PROPER AUTHORITY**. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

28. **NOTIFICATION OF UTILIZATION OF CURRENT OR FORMER STATE EMPLOYEES.** Contractor has disclosed to the State all persons that the Contractor will utilize to perform services under this Contract who are Current State Employees or Former State Employees. Contractor will not utilize any of its employees who are Current State Employees or Former State Employees to perform services under this Contract without first notifying the Contracting Agency of the identity of such persons and the services that each such person will perform, and receiving from the Contracting Agency approval for the use of such persons.

29. **ASSIGNMENT OF ANTITRUST CLAIMS.** Contractor irrevocably assigns to the State any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim for relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's obligations under this Contract to irrevocably assign to the State, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Contract, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action.

30. **GOVERNING LAW: JURISDICTION**. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.

31. **ENTIRE CONTRACT AND MODIFICATION**. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing

and signed by the respective parties hereto and approved by the Office of the Attorney General and the State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

	2/24/16	CEO
Independent Contractor's Signature	Date	Independent Contractor's Title
	2-26-16	ADMINISTRATOR, DIR
Signature	Date	Title
	2/29/16	B+I ASO IV
Signature	Date	Title
Signature	Date	Title

Signature – Board of Examiners

APPROVED BY BOARD OF EXAMINERS

On: 4/12/16
Date

Approved as to form by:

Deputy Attorney General for Attorney General

On: 26 Feb 16
Date

Attachment AA – Negotiated Items

RFP 3212 Workers' Compensation Regulatory Software System

Both parties agree to the following:

PART A

Technical Proposal:

1. CapTech to provide the State of Nevada access to the State of Kentucky's Litigation Management System (LMS) for the purpose of designing and developing the Workers' Compensation System.

    a. DIR understands that the EDI issue is significant and that the cost to implement this solution is outside the scope of this project. However, DIR would like to see the system set up so that when the EDI project is undertaken that it can be seamlessly added to the system.

2. RFP Response Section 2 Acronyms/Definition

    Add the following:

    Warranty Period – 12 month period, where vendor resolves software defects in a timely manner. Defects that are discovered, documented and reported to the vendor during the 12 months warranty period, but not adequately resolved during the warranty period, the vendor agrees to continue, in good faith to resolve the defects beyond the 12 month warranty period

3. RFP Section 13.3.4.1; the parties understand and agree that CapTech will primarily work out of Richmond, VA and will travel to Henderson, NV for critical meetings and interactions.

4. RFP Response Section 4.3.2

    Original language:

    The system must have robust security features that meet all state and industry security standards.

    Replace with:

    The system must have robust commercially reasonable security features that meet all applicable state and industry security standards.

5. RFP Response Section 4.4.1.3

    Original language:

    The system shall be compliant with all State of Nevada security policies, statutes and standards.

    Replace with:

    The system shall be compliant with all applicable State of Nevada security policies, statutes and standards.

6. RFP Response Section 4.4.1.9

Original language:

The system shall allow authorized users to search by any data field. (All data entered into the system should be searchable).

Replace with:

The system shall allow authorized users to search by any data field defined as searchable during the requirements phase. (All such identified data entered into the system should be searchable.)

7. RFP Section 5.2; CapTech believes the description of the deliverable review process is too long to allow the project to move at the pace that it needs to proceed in order to be successful. The initial review process by WCS shall be limited to a week and the clarification questions and updates to the deliverable shall take the next week, so that by the end of 2 weeks, the deliverables are approved and baselined. The State may extend the review timeframes on select deliverables if it determines it will need additional time for thorough review and updates. The State will not take an unreasonable amount of time reviewing deliverables. It is understood that if State wishes to extend the review timeframe, there may be an impact on the overall scope that can be completed within the proposed project timeline and cost. Extended the review timeframe may require a change order to reduce scope.

8. RFP Response Section 5.2.3.1E

   Original Language:

   Deliverables determined to be incomplete and/or unacceptable for review will be rejected, not considered delivered and returned to the contractor.

   Replace with:

   Deliverables reasonably determined to be incomplete and/or unacceptable for review will be rejected, not considered delivered and returned to the contractor.

9. RFP Response Section 5.2.3.4

   Original Language:

   If the State considers a deliverable not ready for review, the following will be returned to the contractor

   Replace with:

   If the State reasonably considers a deliverable not ready for review, the following will be returned to the contractor:

10. RFP Response Section 5.15.2.1

    Original Language:

    The vendor will provide immediate corrective action for any system defects.

    Replace with:

    The vendor will provide immediate corrective action for any system defects during the Warranty Period.

11. RFP Response Section 5.15.2.2

Original Language:

The vendor will provide user support during normal business hours.

Replace with:

The vendor will provide user support during normal business hours during the Warranty Period.

12. RFP Response Section 5.15.2.3

Original Language:

The vendor will provide clear release notes for all system upgrades, patches and fixes.

Replace with:

The vendor will provide clear release notes for all system upgrades, patches and fixes performed during the Warranty Period.

13. RFP Response Section 8.1.1

Original Language:

Upon review and acceptance by the State, payments for invoices are normally made within 45 – 60 days of receipt, providing all required information, documents and/or attachments have been received.

Replace with:

Upon review and acceptance by the State, payments for invoices shall be made within 30 – 45 days of receipt, providing provided all required information, documents and/or attachments have been received.

14. RFP Response Section 13.3.3

Original Language:

The awarded vendor shall be responsible for the proper custody and care of any State owned property furnished by the State for use in connection with the performance of the contract and will reimburse the State for any loss or damage.

Replace with:

The awarded vendor shall be responsible for the commercially reasonable custody and care of any State owned property furnished by the State for use in connection with the performance of the contract and will reimburse the State for any loss or damage by vendor, reasonable wear and tear excepted.

15. RFP Response Section 13.3.4.3

Original Language:

The contractor must comply with the State standards for hardware, software and communication lines.

Replace with:

The contractor must comply with applicable State standards for hardware, software and communication lines.

16. RFP Response Section 13.3.5.3

Original Language:

Nothing contained herein shall relieve the contractor of the responsibility for proper installation and maintenance of the work, materials and equipment required under the terms of the contract until all work has been completed and accepted by the State.

Replace with:

Nothing contained herein shall relieve the contractor of the responsibility for proper installation and maintenance of the work, materials and equipment required under the terms of the contract until all work has been completed and accepted by the State or the contract is terminated in accordance with the provisions set forth herein.

17. RFP Response Section 13.3.6

Original Language:

Upon completion of the work, the contractor shall leave the site in a clean and neat condition satisfactory to the State.

Replace with:

Upon completion of the work, the contractor shall leave the site in a clean and neat condition reasonably satisfactory to the State.

18. RFP Response Section 13.3.12

Add new section as follows:

As used herein, "the software" shall mean the software developed and implemented by the contractor for the State hereunder, and "the system" shall mean the system developed by the contractor for the State hereunder, including without limitation the software.

19. RFP Response Section 13.3.15

Original Language:

To the extent of any limited liability expressed in the contract, the contractor agrees to indemnify, defend and hold harmless, not excluding the State's right to participate, the State from any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorney's fees and expenses, arising out of any claims of infringement by the contractor of any United State Patent or trade secret, or any copyright, trademark, service mark, trade name or similar proprietary rights conferred by common law or by any law of the United States or any state said to have occurred because of systems provided or work performed by the contractor, and, the contractor shall do what is necessary to render the subject matter non-infringing in order that the State may continue its use without interruption or otherwise reimburse all consideration paid by the State to the contractor

Replace with:

To the extent of any limited liability expressed in the contract, the contractor agrees to indemnify, defend and hold harmless, not excluding the State's right to participate, the State from any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorney's fees and expenses, arising out of any claims of infringement by the contractor of any United State Patent or trade secret, or any copyright, trademark, service mark, trade name or similar proprietary rights conferred by common law or by any law of the United States or any state said to have occurred because of systems provided or work performed by the contractor hereunder, and, the contractor shall do what is necessary to render the subject matter non-infringing in order that the State may continue its use without interruption or otherwise provide the State a pro- rata refund of the applicable consideration actually paid by the State, prorated for the number of days the State could not use the applicable part of the system. Notwithstanding anything to the contrary in this Section 13.3.15, contractor's indemnity obligations under this Section 13.3.15 shall not apply to an infringement claim if such claim (A) arises out of a modification of the system that was not made by the contractor, (B) arises out of a combination of the system with hardware or software not provided by the contractor, (C) would not have arisen but for the State's failure to use the most current version of the system, or (D) is the direct result of contractor's strict compliance with any written design instructions provided by the State.

20. RFP Response Section 13.3.21

Add the following language to beginning of the section:

During the Warranty Period, contractor represents and warrants

Cost Proposal is revised as follows:

1. Vendor reduces the total cost of services by $100,000.00 for a total proposed amount of $2,335,000.00
2. Vendor agrees to the 10% holdback which will be released upon successful operation of the system for two weeks.

PART B

Assumptions

Per Section 1.2 of the RFP, the parties agree that RFP 3212 shall be interpreted and construed in accordance with the following:

1 **RFP Section: All** ~ The estimated level of effort defined in this proposal depends on the requirements defined in the RFP. Any changes to those requirements will require a change request and may increase the overall price of the application development.

2 **RFP Section: All** ~ Program scope is also limited to the interpretations and limitations of the requirements as defined in our RFP response.

3 **RFP Section: All** ~ Signoff of requirements, business rules, and designs will indicate the client's approval that the documents are accurate and complete and will be a basis to build future project documentation.

4 **RFP Section: 5.6** ~ Requirements defined, documented and agreed upon in the initial requirements and BPR analysis phase of the \project will take precedence over the requirements in the RFP.

5 **RFP Section: All** ~ While onsite at the WCS facility during agreed upon times, CapTech personnel will have access to a workspace, equipment, software, and supporting infrastructure as necessary to accomplish their assigned tasks. This includes network access, internet access for remote connectivity, any necessary office automation software and web access.

6 **RFP Section: All** ~ CapTech will be given access to relevant system and technical documentation at the beginning of the project.

7 **RFP Section: All** ~ CapTech is expecting that the WCS decision maker will be available in the requirements gathering meetings.

8 **RFP Section: All** ~ WCS has 3 days to provide answers to clarifying questions submitted by CapTech regarding requirements and business rules.

9 **RFP Section: All** ~ WCS will be ready at the project start to provide the information regarding the business requirements and workflow rules to enable the high-level design to be completed. Any delays in providing these definitions will extend the timeline and add to the project cost.

10 **RFP Section: All** ~ Once a deliverable has been approved, changes to that deliverable must go through the change control and scope change processes.

11 **RFP Section: All** ~ The solution application system will not be mobile responsive.

12 **RFP Section: All** ~ End user computers will need to have Javascript enabled.

13 **RFP Section: All** ~ WCS will be responsible for accessibility testing.

14 **RFP Section: All** ~ All 508 compliance device testing will be performed by WCS.

15 **RFP Section: All** ~ The application will only implement at most one interface to one data feed.

16 **RFP Section: All** ~ If the project is cancelled for any reason, CapTech will be paid on a prorated basis for all progress made on paid deliverables.

17 **RFP Section: 4.2** ~ All applicable development, test, and production environments will be prepared by WCS and ready for the project team at the commencement of the development sprints designated in the project plan.

18 **RFP Section: 4.2** ~ The environments in CapTech's response will be hosted on State of Nevada servers and maintained by State of Nevada staff.

19 **RFP Section: 4.2** ~ The Development and Test environments are expected to be fully available (e.g., services, databases, networks, accesses, other) throughout the life of the project. Any downtime in these environments that delay the project team due to down time or triaging environment issues will trigger a change request to reflect the cost for an individual or the team's delays.

20 **RFP Section: 4.2** ~ WCS or the State of Nevada will be responsible for establishing and setting up Visual Studio Online for application lifecycle management (version control, automated builds, automated deployment).

21 **RFP Section: 4.2** ~ WCS or the State of Nevada will execute Infrastructure changes within three (3) business days of the submitted request from CapTech.

22 **RFP Section: 4.2** ~ WCS or the State of Nevada will setup servers and give CapTech administrative access to servers that CapTech must configure. WCS will satisfy these requests within 3 business days of the request.

23 **RFP Section: 4.2** ~ Any changes to an interfacing system or data feed, including software, hardware, data, must be reviewed with CapTech to determine whether this will cause a change to the scope, schedule, and/or budget.

24 **RFP Section: 4.4**~ Uploaded documents will be restricted based on file size rather than page numbers.

25 **RFP Section: 4.4**~ The solution will not read or process content of submitted documents.

26 **RFP Section: 4.4**~ Lookup values will be maintained through the use of SQL Scripts.

27 **RFP Section: 4.4**~ CapTech will use Amazon SES (Simple email service) for sending email that is not sent through MailChimp (e.g., notifications/alerts delivered via email).

28 **RFP Section: 4.4**~ Visual design implementation based on Kentucky design, changes limited to styles within the existing CSS classes and image/icon changes.

29 **RFP Section: 4.4**~ No custom visual design for public web site will be required (will look like internal WCS site).

30 **RFP Section: 4.4**~ FTP file processing will be limited to one incoming file format, and validation will be limited to what the application already does.

31 **RFP Section: 4.4**~ The user interface design will be based on the Kentucky application screen designs and format (e.g., menu design, date selection, address entry, etc.). We will work with WCS to modify the visual design (color palette and images), data and business rules on the pages.

32 **RFP Section: 4.4**~ The business processes are assumed to be low complexity with minimal (i.e., 3 or fewer) exception processes outside of the standard case.

33 **RFP Section: 4.4**~ Once the future state business processes are determined and documented, WCS will review and reprioritize the overall scope of the project to allow the delivery to match the WCS goals. This will require a change to the scope, schedule and/or budget to match the new priorities.

34 **RFP Section: 4.4**~ All RFP requirements are limited in scope to include, at most, the explicit examples listed. The requirements will not be unbounded by statements similar to "... will include but not be limited to".

35 **RFP Section: 4.4**~ Of WCS' existing paper forms, CapTech will only implement the following 5 forms—C4, D-17, D-35, D-37, D-38. These forms will be implemented as web forms based on their existing appearance (i.e., form redesign is out of scope for this project).

36 **RFP Section: 4.4**~ The registration process for insurers, self-insurers and TPAs will follow the model that was developed for Kentucky's DWC. All other registrations (e.g., injured workers, lawyers) will not be validated with any WCS data because they will be only submitting forms or making payments vs. reviewing claim information.

37 **RFP Section: 4.4.2**~ Logic for automatic case assignment is restricted to evaluation of fields on the case and can be implemented in workflow design with no external code or input from external sources required.

38 **RFP Section: 4.4.11** ~ Reports will be generated from the operational database instead of from a data mart.

39 **RFP Section: 4.4.11** ~ CapTech will provide up to 15 management reports with standard query parameters (e.g., date range, department, case type).

40 **RFP Section: 4.4.11** ~ The dimensional model for the report table will have the following maximums:

- Up to 30 ETL mappings
- Up to 7 data sources
- Up to 3 subject areas with 2–3 facts and up to 5 dimensions per fact.

41 **RFP Section: 4.4.11** ~ Users will not have the ability to schedule reports.

42 **RFP Section: 4.5** ~ WCS will be responsible for engaging a third-party security assessment firm to perform

vulnerability testing on the application to confirm that the application satisfies all applicable security requirements. As a best practice, CapTech cannot perform this work.

43 **RFP Section: 5.2** ~ WCS will provide feedback of the final version of the deliverables within 5 business days. After CapTech makes the changes to the deliverables as defined by WCS, WCS will approve the updated version of the document within 2 business days. Any changes to the document at that point will go through the change control process and may impact the schedule and/or pricing.

44 **RFP Section: 5.6** ~ WCS will provide CapTech with formal equations for the specific financial calculations that must be implemented as a part of the audit system.

45 **RFP Section: 5.9** ~ CapTech will migrate existing data as is. Any data transformation or cleanup will be performed in advance by WCS.

46 **RFP Section: 5.9** ~ All forms have been keyed into their existing systems and we will not have to migrate any paper-based forms that have not been entered into current systems.

47 **RFP Section: 5.9** ~ CapTech will migrate data from the Versa/Iron Data system (Oracle), the Claims Indexing System (Oracle), and any Access databases that follow a single common data structure (i.e., we will only develop one Access migration program that can be run off of multiple databases that have the same structure).

48 **RFP Section: 5.10** ~ WCS will perform User Acceptance Testing (UAT) in the time specified in the project plan. CapTech must approve the UAT plan before starting UAT. CapTech will assist DWC in creating the UAT plan.

49 **RFP Section: 5.10** ~ WCS is responsible for developing a UAT Plan, creating UAT test cases, and staffing the UAT with full time testers. For each Sprint's UAT, WCS will be ready to test the application with enough staff to allow for continuous testing until that Sprint's UAT is completed.

50 **RFP Section: 5.12** ~ WCS Staff to be trained have proficiency in the current system as well as insight into related inputs and outputs to be able to understand the functions the new system should perform.

51 **RFP Section: 5.12** ~ WCS employees will not experience significant organization structural changes.

52 **RFP Section: 5.12** ~ Key WCS managers will take an active role in supporting the training.

53 **RFP Section: 5.15** ~ The warranty is invalid if WCS makes any changes to the application without the express written consent of CapTech.

54 **RFP Section: 5.15** ~ During the Warranty Period of this effort CapTech will:

a. Provide Tier 3 Technical Escalation support on a 24/7 basis.

b. Respond to support requests initiated by WCS technicians.

c. Resolve issues within SLA's based on three sets of classification:

- **Classification 1: Critical Issue** – This would be considered an issue that results in the entire LMS being down or unusable for any reason – impacting all potential users. In this situation, once DWC makes CapTech aware of the issue, CapTech would acknowledge the issue and provide an initial response within 1 hour during regular business hours. The goal for any issue like this would be to address it within the same business day or before the next business day begins.

- **Classification 2: Medium Issue** – This would be considered an issue that may impact performance of the system (but still usable) affecting all users or possibly a more severe issue that is localized and only impacting a small portion of the user base. For these types of issues, CapTech would

acknowledge the support request from WCS within 4 hours and have an initial response back with a targeted delivery date/time for the fix before the end of the following business day. In most cases, CapTech would aim to resolve these issues within 3-4 business days.

- **Classification 3: Minor Issue** – These issues would cover support requests for things like report updates or modifications and would essentially be minor enhancements that cannot wait for the next full enhancement release. For these types of issues, CapTech would again acknowledge the support request from WCS within 4 hours and have .an initial response back with a targeted delivery date/time for the fix before the end of the 2nd business day. In most cases, CapTech would aim to resolve these issues within 10 business days.

55 **RFP Section: 5.15** ~ During the Warranty Period of this effort, WCS will:

- Assign technical administrators to participate in all required system support training developed and scheduled by CapTech
- Provide Tier 1 Help Desk Support for End Users
- Provide Tier 2 Technical Support for Help Desk reported issues.
- Assign two primary employees available and authorized to escalateTier 3 Technical Escalation support requests.

56 **RFP Section: 5.15** ~ CapTech is not responsible for system outages or increased response times due to systems out of scope/control or infrastructure provided by the WCS.

57 **RFP Section: 6.4** ~ CapTech is expected to staff the key personnel listed in this proposal. If scheduling conflicts arise, CapTech will staff the role with a comparable resource and provide WCS with that person's resume.

58 **RFP Section: 6.4** ~ CapTech has the flexibility to replace non-key personnel with resources having equivalent experience without obtaining prior approval from WCS.

59 **RFP Section: 6.6.6** ~ CapTech will perform the work for this project on-site at WCS's facilities in Henderson, NV or in CapTech's Richmond, Virginia Delivery Center.

60 **RFP Section: 6.7** ~ Any delays in the project schedule not caused by CapTech (e.g., late delivery of dependent tasks from third parties or other external entities) will result in a change request if CapTech resources are required to spend additional time on the project.

61 **RFP Section: 13.1.9** ~ CapTech is providing a custom-built solution, not a commercial off-the-shelf product. As such, we do not have any existing maintenance/service agreements, license agreements, or lease and purchasing agreements. Our proposal includes the terms and conditions contained within the RFP, except where we have made an exception or assumption in our response. We describe our warranty in this proposal at length.

62 **RFP Section: Attachment J; Cost** ~ WCS developers have MSDN subscriptions as part of their Microsoft Enterprise Agreement (this will allow any non-Production environments to be at no cost).

63. **RFP Section: Attachment J; Cost** ~ The State has space on their existing virtual infrastructure; the servers that are retired from the old application will cover and be used for the new one. Therefore, no new hardware is required as part of this project.

64. **RFP Section: Attachment J; Cost** ~ If additional software beyond what was specified in our cost spreadsheet is required as a result of the Business Process Reengineering process, this will require a change order. The software costs included in our fixed priced are based on our current understanding of the project scope and need.

65. **RFP Section: Attachment J; Cost** ~ If additional software beyond what was specified in our cost spreadsheet is required as a result of the Business Process Reengineering process, this will require a change order. The software costs included in our fixed priced are based on our current understanding of the project scope and need. Our cost estimate includes 560 days for the development team to work on the 5 Sprints (4 developers for 28 weeks). If the scope of the project has to be readdressed, we will re-estimate the development work to determine what can be addressed during the 28 weeks for a development team of 4. Given the current requirements and our assumptions, we believe that the following areas will take the number of developer days listed below. This will be adjusted based on the results of the BPR and the reprioritization decisions from WCS.

Area Developer	Days
Insurer/TPA Compliance Unit	120
Ed, Research and Analysis Unit	120
Subsequent Injury Coordinator	40
Claims Data Collection & Industry Requirements	40
Employer Compliance Unit	120
Medical Unit	60
Benefit Penalty Investigations	40
Uninsured Employers Claims Coordinator	20
TOTAL	560

66. **RFP Section: Attachment I; Question 45** ~ Per the answer this this question, CapTech assumes for pricing purposes that an Escrow account will not be required for this project. We have therefore included $0 for this line item.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

	2/24/16	CEO
Independent Contractor's Signature	Date	Independent's Contractor's Title
	2-26-16	ADMINISTRATOR, DIR
Signature- State of Nevada	Date	Title

CONTRACT BETWEEN B & I DIVISION OF INDUSTRIAL RELATIONS/WORKERS' COMP SECTION & CAPTECH ~ ATTACHMENT BB DELIVERABLE PAYMENT SCHEDULE

Deliverable Number	Description of Deliverable	Activity Number	Deliverable Due Date	State's Review Time (Working Days)	State's Contracted Acceptance Date	CapTech Deliverable Price	10 Percent (%) Holdback	Deliverable Payment Amount
	Planning and Administration							
5.4.3.1.1	Detailed Project Plan - Version 1	5.4.2.1		15		$100,000.00	$10,000.00	$90,000.00
5.4.3.1.2	Detailed Project Plan - Version 2 (Scope solution after BPR & Requirements are completed) *	5.4.2.1		15		$100,000.00	$10,000.00	$90,000.00
	BPR and Detailed Requirements							
5.6.3.1	Report of To-Be business process flows with description of underlying technology used to streamline processes.	5.6.2.1		15		$200,000.00	$20,000.00	$180,000.00
5.6.3.2	DIR-WCS detailed system requirements report.	5.6.2.2		15		$250,000.00	$25,000.00	$225,000.00
	System Design/Implementation Configuration							
5.7.3.1	System design documentations (can include prototypes)	5.7.2.1 A-H		15		$125,000.00	$12,500.00	$112,500.00
~~5.7.3.2~~	~~Gap/Fit analysis~~ NA	~~5.7.2.1 I~~		~~15~~		~~$0.00~~	~~$0.00~~	~~$0.00~~
	Build and Implement System							
5.8.3.1.1	(Sprint 1) Demonstrations/pilot/walk-throughs of system components.	5.8.2.1		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.1.2	(Sprint 2) Demonstrations/pilot/walk-throughs of system components.	5.8.2.1		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.1.3	(Sprint 3) Demonstrations/pilot/walk-throughs of system components.	5.8.2.1		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.1.4	(Sprint 4) Demonstrations/pilot/walk-throughs of system components.	5.8.2.1		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.1.5	(Sprint 5) Demonstrations/pilot/walk-throughs of system components.	5.8.2.1		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.2.1	(Sprint 1) Deliver fully functional system that the vendor has fully tested.	5.8.2.2 A-C		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.2.2	(Sprint 2) Deliver fully functional system that the vendor has fully tested.	5.8.2.2 A-C		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.2.3	(Sprint 3) Deliver fully functional system that the vendor has fully tested.	5.8.2.2 A-C		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.2.4	(Sprint 4) Deliver fully functional system that the vendor has fully tested.	5.8.2.2 A-C		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.2.5	(Sprint 5) Deliver fully functional system that the vendor has fully tested.	5.8.2.2 A-C		15		$50,000.00	$5,000.00	$45,000.00
5.8.3.3	Walk-through of entire system prior to UAT.	5.8.2.2 D		5		$50,000.00	$5,000.00	$45,000.00
	Data Migration							
5.9.3.1	Detailed data migration plan.	5.9.2.1		15		$50,000.00	$5,000.00	$45,000.00

CONTRACT BETWEEN B & I DIVISION OF INDUSTRIAL RELATIONS/WORKERS' COMP SECTION & CAPTECH ~ ATTACHMENT BB DELIVERABLE PAYMENT SCHEDULE

Deliverable Number	Description of Deliverable	Activity Number	Deliverable Due Date	State's Review Time (Working Days)	State's Contracted Acceptance Date	CapTech Deliverable Price	10 Percent (%) Holdback	Deliverable Payment Amount
5.9.3.2	Test cases for validating converted data (ensure accuracy of data migration).	5.9.2.2		10		$50,000.00	$5,000.00	$45,000.00
5.9.3.3	Migrate data to test and production environments.	5.9.2.4		15		$75,000.00	$7,500.00	$67,500.00
	User Acceptance Testing							
5.10.3.1.1	(Sprint 1) Test environment and fully functioning system, including test data (vendor to have performed comprehensive system testing).	5.10.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.1.2	(Sprint 2) Test environment and fully functioning system, including test data (vendor to have performed comprehensive system testing).	5.10.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.1.3	(Sprint 3) Test environment and fully functioning system, including test data (vendor to have performed comprehensive system testing).	5.10.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.1.4	(Sprint 4) Test environment and fully functioning system, including test data (vendor to have performed comprehensive system testing).	5.10.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.1.5	(Sprint 5) Test environment and fully functioning system, including test data (vendor to have performed comprehensive system testing).	5.10.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.2.1	(Sprint 1) Vendor training of UAT team so that they understand the system to a level necessary to complete UAT.	5.10.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.2.2	(Sprint 2) Vendor training of UAT team so that they understand the system to a level necessary to complete UAT.	5.10.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.2.3	(Sprint 3) Vendor training of UAT team so that they understand the system to a level necessary to complete UAT.	5.10.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.2.4	(Sprint 4) Vendor training of UAT team so that they understand the system to a level necessary to complete UAT.	5.10.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.2.5	(Sprint 5) Vendor training of UAT team so that they understand the system to a level necessary to complete UAT.	5.10.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.10.3.3	Review of DIR-WCS's UAT plan and cases.	5.10.2.3		10		$50,000.00	$5,000.00	$45,000.00
5.10.3.4.1	(Sprint 1) Technical support and timely remediation of defects, data and system issues throughout the UAT.	5.10.2.4		15		$25,000.00	$2,500.00	$22,500.00
5.10.3.4.2	(Sprint 2) Technical support and timely remediation of defects, data and system issues throughout the UAT.	5.10.2.4		15		$25,000.00	$2,500.00	$22,500.00
5.10.3.4.3	(Sprint 3) Technical support and timely remediation of defects, data and system issues throughout the UAT.	5.10.2.4		15		$25,000.00	$2,500.00	$22,500.00
5.10.3.4.4	(Sprint 4) Technical support and timely remediation of defects, data and system issues throughout the UAT.	5.10.2.4		15		$25,000.00	$2,500.00	$22,500.00
5.10.3.4.5	(Sprint 5) Technical support and timely remediation of defects, data and system issues throughout the UAT.	5.10.2.4		15		$25,000.00	$2,500.00	$22,500.00
	Documentation							
5.11.3.1	User manual.	5.11.2.1		15		$25,000.00	$2,500.00	$22,500.00
5.11.3.2	Online help functionality and content.	5.11.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.11.3.3	System administration/operations guide.	5.11.2.3		10		$25,000.00	$2,500.00	$22,500.00

CONTRACT BETWEEN B & I DIVISION OF INDUSTRIAL RELATIONS/WORKERS' COMP SECTION & CAPTECH ~ ATTACHMENT BB DELIVERABLE PAYMENT SCHEDULE

Deliverable Number	Description of Deliverable	Activity Number	Deliverable Due Date	State's Review Time (Working Days)	State's Contracted Acceptance Date	CapTech Deliverable Price	10 Percent (%) Holdback	Deliverable Payment Amount
5.11.3.4	Technical system design report.	5.11.2.4		10		$0.00	$0.00	$0.00
	Training							
5.12.3.1	Training plan.	5.12.2.1		10		$35,000.00	$3,500.00	$31,500.00
5.12.3.2	Training materials and scenarios.	5.12.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.12.3.3	Fully functional training environment with data.	5.12.2.3		5		$20,000.00	$2,000.00	$18,000.00
5.12.3.4	Training.	5.12.2.4		10		$25,000.00	$2,500.00	$22,500.00
	Transition to Production							
5.13.3.1	Production transition plan.	5.13.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.13.3.2	Final conversion of legacy data to new system.	5.13.2.2		10		$25,000.00	$2,500.00	$22,500.00
5.13.3.3	Technical support after go-live for at least two weeks.	5.13.2.3		10		$25,000.00	$2,500.00	$22,500.00
	Post Implementation Review							
5.14.3.1	Post Implementation Review Plan.	5.14.2.1		10		$25,000.00	$2,500.00	$22,500.00
5.14.3.2	Execute Plan.	5.14.2.2		N/A		$20,000.00	$2,000.00	$18,000.00
5.14.3.3	Resolution of system and vendor operational issues.	5.14.2.3		TBD		$20,000.00	$2,000.00	$18,000.00
	Warranty and Corrective Maintenance Deliverables							
5.15.3.1	Timely corrective action on all system defects.	5.15.2.1		N/A		$90,000.00	$9,000.00	$81,000.00
5.15.3.2	User support.	5.15.2.2		N/A		$0.00	$0.00	$0.00
5.15.3.3	Release notes.	5.15.2.3		5		$0.00	$0.00	$0.00
	Final Payment of Deliverable Holdbacks (10%)							$233,500.00
						$2,335,000.00	**$233,500.00**	**$2,335,000.00**
	Change Orders/Contingency							
*NOTE:	Upon State receipt, review and approval of the detailed project plan an amendment to this delivery schedule to incorporate due dates and review times.							
	Independent Contractor's Signature							
	Signature- State of Nevada							

ATTACHMENT DD
INSURANCE SCHEDULE

INDEMNIFICATION CLAUSE:

Contractor shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State.

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form**
   Policy shall include bodily injury, property damage and broad form contractual liability coverage.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Each Occurrence	$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. **Automobile Liability - can be waived if contract does not involves use of motor vehicle.**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

a. Policy shall contain a waiver of subrogation against the State of Nevada.

b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

4. **Professional Liability (Errors and Omissions Liability) – service contracts over $500 thousand and above.**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	$1,000,000
Annual Aggregate	$2,000,000

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

5. **Fidelity Bond or Crime Insurance**

Bond or Policy Limit	$500,000

a. The bond or policy shall be issued with limits of 50% of the contract value or $50,000 - whichever amount is greater.

b. The bond or policy shall include coverage for all directors, officers, agents and employees of the Contractor.

c. The bond or policy shall include coverage for third party fidelity and name the State of Nevada as loss payee.

d. The bond or policy shall include coverage for extended theft and mysterious disappearance.

e. The bond or policy shall not contain a condition requiring an arrest and conviction.

f. Policies shall be endorsed to provide coverage for computer crime/fraud.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the State of Nevada is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **Business and Industry, Division of Industrial Relations/Workers' Compensation Section, 1301 N. Green Valley Pkwy, Ste 200, Henderson, NV 89074**.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to **Business and Industry, Division of Industrial Relations/Workers' Compensation Section, 1301 N. Green Valley Pkwy, Ste 200, Henderson, NV 89074**. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATES RISK MANAGEMENT DIVISION.**

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Attorney General's Office or the Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

	2/24/16	CEO
Independent Contractor's Signature	Date	Independent's Contractor's Title
	2-26-16	ADMINISTRATOR, DIR
Signature- State of Nevada	Date	Title

RMIns rev 03/08