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# Fact-Finding Regarding Certain Issues Related to the City's ERP Payroll Implementation Project

## Volume 1 of 2
## Report

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Prepared by:
DEFOREST KOSCELNIK YOKITIS & BERARDINELLI
January 28, 2015

DeForest Koscelnik Yokitis & Berardinelli

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**TO:** Lourdes Sanchez-Ridge, Solicitor, City of Pittsburgh

**FROM:** DeForest Koscelnik Yokitis & Berardinelli

**SUBJECT:** Fact-Finding Regarding Certain Issues Related to the City's ERP Payroll Implementation Project

**DATE:** January 28, 2015

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**The following report is prepared in response to the request of the Solicitor of the City of Pittsburgh to conduct a fact-finding for the purpose of aiding the Solicitor in making certain legal decisions in connection with the above subject matter and is to be considered legal advice.**

## I. Overview

This report concerns the payroll portion of a larger ERP system implementation that was conducted pursuant to the Intergovernmental Cooperation Agreement (IGA) between the City of Pittsburgh (City) and Allegheny County (County) dated June 14, 2011.[1] Beginning in late June/early July 2012, Denovo, LLC (Denovo) was retained as project manager for the City's implementation of the JD Edwards EnterpriseOne Payroll module for the City's payroll functions (hereinafter the Project or Payroll Project). Denovo's initial cost estimate to perform this work was $263,940 and the "go live" date was planned to be January 1, 2013. Ultimately, by March 2014, the implementation was not complete in a manner satisfactory to the City and, through a series of eight change orders, Denovo's cost estimate for the Project had increased to a total of $1,252,584 – nearly five times the original estimate. Over the course of the Project, Denovo was paid $1,120,612.37 for its work on the Project.[2] In March 2014, the City elected to temporarily suspend the Project.

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[1] An Enterprise Resource Planning (ERP) system is generally defined as a system that has the ability to deliver an integrated suite of business applications. ERP tools share a common process and data model, covering broad and deep operational end-to-end processes, such as those found in accounting, payroll, finance, human resources, distribution, manufacturing, service and supply chain. *See* http://www.gartner.com/it-glossary/enterprise-resource-planning-erp.

[2] In total, Denovo has been paid $1,279,498.37 in fees and expense reimbursements for its work on the overall ERP implementation, including the Payroll Project.

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## II. Questions to be Explored

What caused Denovo's initial June 2012 estimate of $263,940 for its payroll implementation services to increase by January 2014 to over $1,250,000?[3]

How were the cost increases on the Project implemented and paid for and what, if any, oversight procedures were in place to monitor these cost increases?

## III. Limitations and Restrictions on Our Fact-Finding and Analysis

It is important to note that the instant fact-finding inquiry was limited and handicapped in several ways. First, we had no subpoena power and, therefore, no ability to compel third parties to cooperate in the fact-finding in the form of witness interviews or the provision of documents. Second, given the change in administration and turnover of personnel at the City, the City was unable to find all requested documents. Third, it was determined in consultation with the City that searches of the City email system, for the purposes of discovering relevant electronic information that did not exist in hard copy form, would not be conducted, with the exception of the emails of Charles (Chuck) Half, because the likely benefit to the inquiry from this additional information was likely outweighed by the cost.

Below are some specific examples of the above limitations:

- Chuck Half (the City's Innovation & Performance Manager during the relevant time period) was the project lead for the City's ERP project and had immediate responsibility for the Project for the City and signed all but one of the eight change orders. Mr. Half, who is no longer with the City, declined to be interviewed by us.

- In email correspondence with us, Mr. Half indicated that the following files should exist: the content of quarterly presentations to the ICA; the Basecamp project team collaboration files; the City Controller's Office County invoices showing both the County's and Denovo's hours/expenses; the project change orders; the CIS emails from Mr. Half related to project recommendations, challenges, tasks, and impacts; and

[3] This fact-finding report does not analyze in any detailed fashion any outstanding technical issues with the Project. We understand that the City has retained a technical consultant to advise it on those issues and a possible future path for the Project.

Mr. Half's computer files, notes, etc. However, with the exception of the change orders and Mr. Half's emails (which did contain some of the above information), the City was unable to locate the above materials, although we were able to obtain certain financial records from the County, City and City Controller's Office concerning Denovo invoices.

- We sought but did not receive Shared Services Board Minutes concerning Denovo, relevant JD Edwards Committee Board minutes, and the materials in a shared Denovo Google documents file that was referenced in documents we reviewed.[4]

- The County Controller's office elected not to make certain employees, including those working in the JD Edwards Service Center, available for interviews and elected not to provide us certain documents to review unless the City agreed to certain conditions. The City, in a decision we were not a part of, was unwilling to agree to these conditions because of concerns that the conditions would politicize the instant fact-finding.

- Denovo refused to provide documents for review and employees for interviews because of an apparent concern about future litigation. However, Denovo did provide certain information to us through outside counsel pursuant to a confidentiality agreement, which imposed limitations on the use of the information. While the information provided by Denovo through counsel was useful, it is not a true substitute for interviews of relevant witnesses or review of actual documents.

Further, given the limited nature of our inquiry, when it was apparent that additional interviews or requests for documents were not likely to further elucidate a given issue in a significant manner, a determination was made with the client to forego such in order to preserve resources.

[4] Mr. Half's emails did have copies of some relevant board minutes.

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## IV. Materials Reviewed and Other Investigative Steps

### A. Documents

As part of our inquiry, we had access to and reviewed, among others, the following materials totaling over 77,000 pages of documents:

- A compilation of materials gathered by Ms. Gwen Moorer from City CIS.
- Emails from Mr. Half's email account.
- The file (or portions thereof) of former City Solicitor Dan Regan concerning the IGA and ERP software negotiations, as well as materials from other City attorneys.
- The file (or portions thereof) of former City Personnel Director Judy Hill Finnegan related to the Project.
- The IGA.
- Act 47 Recovery Plan (June 2009).
- Act 47 Recovery Plan (June 2004).
- Contract between the City and the Intergovernmental Cooperation Authority for Cities of the Second Class (the ICA) dated September 7, 2004.
- City Council resolutions and an ordinance concerning the City's ERP project.
- Denovo's proposal dated June 29, 2012 and all change orders with Denovo.
- The July 2011 contract with DLT Solutions (DLT) and prior drafts of this agreement..

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- Consulting reports from SMART Business Advisory and Consulting and the Government Finance Officers Association concerning the City's ERP project.

- License agreement for JD Edwards software between the County and JD Edwards from 2001.

- Information provided in letters by counsel for the County Controller.

- Materials from counsel for Denovo provided under a confidentiality agreement.

- Materials from the County[5], including,

  - Contract-related documents with Denovo.

  - County change orders related to the Payroll Project.

  - Select accounting records and spreadsheets related to the Project and the City's JD Edwards implementation.

- Invoices and financial information from the City's Office of Management and Budget.

- Invoices and related documents from the City Controller's office.

If you are aware of additional documents or materials that you would like us to review as part of this inquiry (or if you can provide any of the material listed in Section III above), please let us know. We will review it and will provide a supplemental report if appropriate.

[5] These materials were provided to us by Mr. John Fournier, Deputy Chief of Staff of the Mayor.

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B. Interviews/Meetings

As part or our inquiry, we met with or interviewed the following[6]:

- Steve Voytovich (former County employee who worked in the JD Edwards Service Center)[7]
- Gwen Moorer (current City CIS employee)
- Debbie Lestitian (the City's current Chief Administrative Officer)
- Daryl Savage (DLT)
- Yvonne Scholbserg Hilton (current Deputy City Solicitor)
- Jennifer Presutti (the City's Capital Budget Manager)

If there are any additional individuals that you would like us to interview as part of this inquiry, please let us know and we will do so, unless they have informed us or do inform us that they decline to be interviewed.[8] If such interviews are conducted, we will provide a supplemental report if appropriate.

## V. General Historical Background and Overview of the City's ERP Implementation

In the mid-1990s, the City implemented an ERP system designed by and licensed from PeopleSoft. *See* Act 47 Recovery Plan (June 30, 2009) at 128 (hereinafter Act 47 Plan). Although included in the PeopleSoft product suite, the City did not utilize PeopleSoft's payroll or human resources modules. *Id.* Ultimately, beginning in 2002, the City outsourced its payroll processing to a third party vendor, Ceridian, Inc.

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[6] We also had a brief meeting with the County Controller, certain members of her staff and her counsel but the meeting did not involve a detailed discussion of the substance of or constitute an interview for purposes of this inquiry.

[7] The meeting with Mr. Voytovich was part of a larger meeting with City representatives.

[8] We would have preferred to, but were unable to, interview Chuck Half, several employees of the JD Edwards Service Center and/or the County Controller's office, and at least four Denovo employees.

(Ceridian). *Id.* By the mid-2000s, the City's ERP system had become outdated, lacked external support from PeopleSoft (Oracle) and, at bottom, was not functioning as an effective and reliable ERP tool. *Id.* In fact, in 2008, the City's PeopleSoft system suffered a failure that resulted in the City being without the ability to pay vendors for a period of time.

Paralleling the timeframe when the City's ERP system was losing its effectiveness, the City was in financial distress. Ultimately, the City entered into a September 7, 2004 Intergovernmental Cooperation Agreement with the Intergovernmental Cooperation Authority for Cities of the Second Class (the ICA) which, *inter alia*, was intended to provide financial oversight over the City by the ICA.[9] In April 2008, an ICA-funded study conducted by SMART Business Advisory and Consulting (SMART) examined potential cost savings to the City through the potential implementation of a shared service model between the City and other governmental authorities, including Allegheny County. This model included a shared ERP system. SMART provided the City with further materials and information related to this potential shared services model in August and September of 2008, all of which set forth both the risks and benefits of implementing such a model. The SMART report dated April 15, 2008 and additional materials provided to the City are found at Exhibit 1 hereto.

The SMART report and information was an impetus for a dialogue between City and County officials about implementing a shared services model and forming a shared services organization, including utilizing the City's need for a new ERP system as a foundation for such cooperation. *See* Act 47 Plan at 130. This dialogue began in the later part of 2008.[10] Thus, as part of its oversight, in the Act 47 Plan, the ICA directed:

> [T]he City shall continue to work with the County to merge its ERP functions to the County's platform by December 31, 2009. If the City and county cannot complete this merger by that date, the City shall issue an RFP to procure a new system or pursue some other solution, such as an Application Service Provider (ASP).

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[9] Failure of the City to comply with recommendations and directives of the ICA can, *inter alia*, result in the ICA withholding certain funding from the City.

[10] The discussions and negotiations between the City and County regarding the ERP project are discussed herein in general terms given that, other than as background, the specifics and details of these negotiations do not bear upon the Denovo-related issues that are the primary subject of this report. Similarly, the financial efficacy of entering into the IGA with the County in June 2011 is not addressed in detail herein because it has no direct bearing on the issues with Denovo that are the focus of this report.

*Id.* at 131.[11] The Act 47 Plan warned against adopting an ERP system that would require significant customization. *Id.* at 133.

Negotiations between the City and County continued in 2009, 2010 and 2011. The negotiations took an extended period of time for many reasons given the various interests involved.[12] One key factor was that the County already had a functioning ERP system running JD Edwards software pursuant to a 2001 license from JD Edwards. This license was on favorable economic terms and the County, while amenable to assisting the City in implementing a shared ERP system, wanted to avoid incurring additional costs and expenses regarding moving to a new license that would involve the City. *See* Exhibit 4.[13] Likewise, the County wanted to avoid losing any functionality it already had regarding its JD Edwards license. *Id.* The County sent a formal proposal to the City on March 12, 2010 and the City made a counterproposal on March 31, 2010. *See* Exhibits 5 and 6.

As the negotiations continued, the City commissioned the Government Finance Officers Association (GFOA) to evaluate the County's proposal. A copy of the GFOA report, dated March 2010, is attached as Exhibit 7. Among other things, the GFOA report was critical of the costs the City would incur under the proposal including that "[i]t appears that with many costs (especially license costs) the City is underwriting the entire enterprise project." *Id.* at 3.[14] The GFOA report did not, however, discuss the County's existing license and its terms. The GFOA report, in statements that would be a harbinger for the Payroll Project, noted that "[t]he current proposed agreement implies that City find major gaps only after they have made initial payment and as part of the design

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[11] The original Act 47 Plan authored in June 2004, likewise, contained recommendations regarding the City's ERP system under the heading Consolidation of Information Technology Equipment and Services.

[12] In November 2009, the City appeared to execute an agreement with DLT, an Oracle re-seller, for ERP software that would have covered both the City and County. *See* Exhibit 2. However, that contract was ultimately agreed by the parties to be void and invalid. *See* Exhibit 3.

[13] Information provided to us by counsel for the County Controller's office, Ira Weiss, Esq., indicates that the County paid $1,000,000 for the 2001 license and $11,000,000 for configuring the hardware and software. Mr. Weiss also provided an un-executed copy of the 2001 license. *See* Exhibit 4. It appears that the County's annual maintenance/support fees under the prior license were $211,377. *See* Ex. 2 at p. 5.

[14] The GFOA noted that "[t]he license costs that the City will pay both initially and in each year in the form of maintenance and support payments are consistent with GFOA's observed market prices for organizations that are the same size as the City and County combined." *Id.* at 12.

process. With this timeline, identification of issues will most likely be too late and could lead to significant costs to the City" and that the implementation "would most likely require external consultants at additional costs." *Id.* at 4.

Consistent with the GFOA report, in 2010 and 2011, the City expressed some reticence about going through with the joint ERP plan with the County; however, negotiations continued.[15] On December 14, 2010, the City Council passed Resolution 865-2010 authorizing the City to enter into one or more agreements "for the purchase, implementation, on-going hosting and support of a financial Enterprise Resource Planning (ERP) system at a cost not to exceed Ten Million Dollars ($10,000,000)." Following this resolution, and at the urging of the ICA, the City ultimately agreed to terms with the County. In that regard, on March 22, 2011, the City Council passed Ordinance 6-2011 and Resolution 220-2011, which authorized the City to enter into an Intergovernmental Cooperation Agreement (IGA) with the County regarding the ERP system, its implementation and future operation under a JD Edwards Service Center. The IGA between the City and County was executed roughly three months later on June 14, 2011. *See* Exhibit 9. Exhibit A to the IGA is a proposed licensing agreement with DLT for JD Edwards ERP software. Ultimately, the agreement among DLT, the City and the County was executed in July 2011. *See* Exhibit 10. Many of the concerns raised by the GFOA and the City Solicitor's office were not addressed in the final agreements with the County or DLT. The agreements were reviewed by outside counsel for the ICA. *See* Ex. 11.

Consistent with the discussion above about the County being unwilling to take on an added financial burden given its prior license with JD Edwards, the City was responsible under the IGA for paying the one-time licensing fee to DLT of $2,392,000 and is responsible for roughly 70% of the update and support fees under the DLT agreement amounting to $526,240 annually for five years.[16] The County pays the other 30%, $211,377.70 annually.[17] The license with DLT is for approximately 30 different modules within the JD Edwards product suite. The set of modules included in the license was the subject of discussion by City officials during the negotiations among the City, the County and DLT. *See e.g.* Ex. 14. A DLT representative has advised us that this is the typical "bundle" of modules that is licensed under a JD Edwards license, that some of the

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[15] Members of the City Solicitor's office raised concerns about both the agreement with the County and with the DLT license similar to those raised by GFOA. *See* Exhibit 8.

[16] The actual annual fees billed by DLT to the City total $519,833.08, not $526,240. *See* Ex. 12.

[17] The actual annual fees billed by DLT to the County total $222,972.12, not $211,377.70 *See* Ex. 13.

modules are inter-related and that the "bundle" is substantively consistent with the modules that were covered by the County's prior license. DLT advised us that the modules are not typically licensed on an "a la carte" basis and doing so may ultimately result in higher fees.[18] The City currently utilizes only approximately 10 of these modules but pays annual fees related to the total licensed system, which includes all the modules.

The DLT representative explained to us that the overarching initial license fee and the annual support payments related to the "bundle" of modules included in the license are set primarily through the use of an Oracle/DLT metric "Enterprise $ in Operating Budget." In layman's terms, the dollar amount of the budgets of the entities using the system dictates the total cost of the license and annual fees. Typically, a floor is set for that metric and is included in the contract and, while the fees may go up if the dollar amount of the budgets increase, the fees, by contract, do not go below the floor.[19] In the case of the City/County agreement with DLT, the floor was $1.6 billion in operating budget. *See* Ex. 10, Sec. E.[20] This floor figure, with the potential for growth, including if the County and City took separate licenses (based on an $800 million operating budget floor) after the five year license period, was the lowest metric amount that made the deal a workable business arrangement for Oracle/DLT. *See* the emails found at Exhibit 16.[21]

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[18] The DLT representative made an analogy to a car purchase. A car company may offer the same vehicle with different "packages," such as a luxury package. While the luxury package is more expensive than the base model, the car with the luxury package may ultimately cost less than the base model with certain, but not all, of the features in the luxury package added because of the customization required to build the "a la carte" vehicle. For example, a base model car costs $20,000 and the car with the luxury package costs 25,000 and includes 10 options/upgrades not available on the base model; adding 5 of those upgrades to the base model might cost $6,000, making the "a la carte" vehicle more expensive (and with fewer options) than the car with the luxury package.

[19] Another applicable metric is the total number of "Enterprise Employees." Again, a floor figure is set for this metric. In the case of the City/County agreement this floor was 11,000. *See* Ex. 10, Sec. E.

[20] The actual operating budget combined for the City and the County at the time the license was entered into was approximately ($1.23 billion -- $745,100,000 for the County and $475,500,000 for the City), not $1.6 billion. *See* Exhibit 15.

[21] The total dollar figure for annual support (here $742,805.15) is invoiced via an invoice that shows a dollar figure per module but that per module figure is derived by simply dividing the total dollar amount of the overarching fee determined by the "Enterprise $ in Operating Budget" metric (and/or the Enterprise Employee metric) by the number of modules. *See* Exs. 12 and 13. According to DLT, if less modules were licensed, the total figure would be the same or similar with the per module figure being higher. So, although the annual support invoice appears to be premised on a price per licensed module, the DLT representative explained that it is based on the

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## VI. The City's Implementation of JD Edwards

### A. Implementation of Financial Components of JD Edwards

The first phase of implementing JD Edwards for the City involved the "financial" components of JD Edwards – *i.e.*, procurement, controller/accounting and finance related modules. By all accounts, this implementation went relatively smoothly and took approximately four months with the system "going live" in January 2012. We are advised that little customization was required. The process was co-led by Chuck Half representing the City and Steve Voytovich representing the County. Mr. Voytovich was the County's ERP Manager and he has extensive experience implementing JD Edwards products; he was involved in the County's payroll implementation in 2008. He currently owns and operates a company (Independent Catalyst) that conducts JD Edwards and other software implementations for clients. Mr. Voytovich left the County in early June 2012, prior to the start of the Payroll Project.

We are advised by Mr. Voytovich who oversaw the implementation for the County that the relevant City constituents involved in the financial implementation, including employees from the City Controller's Office and the City's Office of Management and Budget, were active and cooperative in the implementation. This contributed to the success of the implementation.

Denovo played a minor role in the financial implementation. Denovo, which had preexisting contracts with the County entered into in February 2011 and January 2012, served as "functional" consultants assisting in training and support. Denovo did not have a "technical" consulting role in the financial implementation. Technical work on the finance implementation was conducted primarily by County CIS representatives under the supervision of and with support from Mr. Voytovich.

### B. The Payroll Project and Denovo

Possibly because of the departure of Mr. Voytovich (although that is unconfirmed due to the inability to interview either Mr. Half or any County employees who

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total pre-determined fee, which is then simply divided to show a per module price. A different organization licensing the same modules but with a different operating budget, would have a different per module fee. As the DLT representative described it, the per module figure on the invoice is based on "a linear, arithmetic formula."

participated in the Project), when the payroll portion of the ERP implementation was slated to begin, the City, through the County, looked for an external consultant to serve as project manager for the payroll implementation. Denovo was the entity retained to serve as project manager. The circumstances of that retention deserve additional discussion.

The City would ultimately be paying Denovo for its services (although as discussed in greater detail below, the invoices for such services would come to the City via the County), but the County held the actual contract with Denovo. The project manager "contract" with Denovo was not subject to a City RFP or the City's competitive bidding process, although we are advised this was technically not required since the contract was with the County, not the City. The arrangement with Denovo was never expressly approved by City Council or directly put before them, nor, based on the information we have reviewed, were any change orders (which are discussed in detail below).[22] Denovo never actually entered into a contract with the City. Rather, Denovo's services (even though paid for by the City) were provided under an existing contract with the County, were billed by Denovo to the County and then invoiced (as part of larger "shared services" invoices) by the County to the City for payment to the County for remittance to Denovo.

Based on the documents we were able to review, it does not appear that the decision to retain Denovo as project manager involved a significant amount of foresight or planning on the part of the City.[23] The first indication in the documentation that Denovo would have a primary role in the Payroll Project is in late June 2012, just weeks before the Project kick-off meeting on or about July 19, 2012.[24] Following is a listing of some of the relevant email correspondence on this issue:

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[22] Given that Resolution 865-2010 authorized the expenditure of up to $10,000,000 for the ERP system and implementation, it does not appear that approval by City Council was a necessary prerequisite to retaining Denovo or to the change orders, although we are informed that it is unusual to have expenditures of the magnitude at issue without any substantive involvement from City Council.

[23] Again, the fact-finding concerning this issue was handicapped because neither Mr. Half nor relevant County employees were able to be interviewed.

[24] Previously, in late 2010, Mr. Half had requested quotes from several vendors regarding "JDE HR and Payroll" and discussed a forthcoming RFP. *See* Ex. 17. We have not seen any documentation indicating that any of these vendors were contacted in June 2012 and no RFP was issued. At that time, the City was pursuing additional ERP projects with Denovo as a partner. *See e.g.* Ex. 18.

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- On June 21, 2012, Mr. Half emailed Chuck Haggis from Denovo, Tony Cholewinski (County, JDE Service Center) and a Kronos representative, informing them that the "City wants to 'go live' using JDE Payroll module . . . by January 1, 2013." *See* Ex. 19. Mr. Cholewinski responded, in part, that "we [should] at least get a few quotes for project management." *Id.* However, no quotes were obtained from anyone other than Denovo.

- On June 22, 2012, Mr. Half emailed former Mayor Ravenstahl, Controller Lamb, County Executive Fitzgerald and County Controller Wagner (with several cc's) advising them that the City would be moving forward with the payroll implementation and that the Project completion date was anticipated to be January 1, 2013 – roughly five months later. The email referred to "Denovo's experience implementing JDE ERP modules at the County and City." *See* Exhibit 20.

- On June 25, 2012, Mr. Half emailed Nick Lyons, Douglas Anderson and Judy Hill (Finnegan) (with cc's to several others including Controller Lamb). The email discussed advising City Council of the Project. Specifically, Mr. Half stated, "I do not know if we 'need' to go to City Council, but I would like us to inform them. Will we be asking for $$$, or just contract approvals? Two major components, but Denovo is the prime contractor for implementation ensuring management responsibility that Kronos hardware/ software purchased by the City works as a single payroll System." As to Denovo's role, the email indicates "Configuring/programing/going-live, one-time, with our already owned JDE ERP software ($300,000 to Denovo) by expanding a County contract with Denovo. The County has been invoicing the City directly, when appropriate, for Denovo services separate from our shared JDE ERP SSOperations agreement . . . What do we need to do to contract with Denovo and Kronos by July 3rd at the latest?" The email attached a draft letter from Mayor Ravenstahl to City Council, a draft Council resolution and a draft Summary of Proposed Legislation. *See* Exhibit 21. This email prompted Doug Anderson (Deputy Controller) to request a meeting with Mr. Half. *See* Ex. 22. Nothing we have seen indicates the substance of this meeting but, based on our review, the draft materials were never sent to City Council.

- On June 27, 2012, Mr. Half emailed Tony Cholewinski (cc'd to several others). Mr. Cholewinski works in the JD Edwards Service Center. The email informed Mr. Cholewinski that "[a]s part of the City's new JDE ERP financial system project, the City wants to expand/accelerate the use of Denovo consultants already under contract to the County" and that "[t]he City expects to

be invoiced approximately $300,000 by the County as a direct time and materials pass through for all Denovo City payroll services[.]" The email indicates that it attached a 29-page proposal from Denovo. *See* Exhibit 23. In a related email dated June 28, Amy Griser from the County questioned Mr. Half whether "Denovo should run with [the Project]." *See* Ex. 24.

- On June 27, 2012, Mr. Half sent an email, under the heading, "Urgent Request_Requisition Entry Items for JDE Payroll Project," to Sheri Rolewski asking her to issue a purchase order to Immix for the Kronos software that was to be part of the implementation. This email was then forwarded by Mr. Half to several City employees. Mr. Duane Ashley questioned "this type of no-bid action." A meeting was then set for June 28, 2012 to discuss the issues raised by this email string. *See* Exhibit 25.[25]

- On June 28, 2012 at 1:27 p.m., Mr. Half emailed Chuck Haggis of Denovo informing him that "[t]he City has decided to move ahead with only with [sic] JDE ERP Payroll to achieve a successful, lower-risk, and affordable transition from Ceridian by January 1, 2013. Please revise the Denovo proposal. We are ready to begin this project as soon as possible. Integration with Kronos front-end equipment may be an option during 2013." *See* Exhibit 27; *see also* Exhibit 28. Thus, it appears that at the 11:30 meeting referenced in Exhibit 20, a decision was made not to utilize the Kronos software but to, nonetheless, proceed with the Project using Denovo.

Denovo provided a Proposal to the City dated June 29, 2012. *See* Exhibit 29. The Proposal was "to Provide Implementation Services for JD Edwards EnterpriseOne 9.0.2 Payroll" and indicated Denovo would serve as "Project management – Denovo agrees to assume overall responsibility for management and coordination of both [sic] initial phase of the City's EnterpriseOne Payroll implementation." The completion date listed in the Proposal was January 1, 2013. Under the heading "Project Cost" Denovo indicated, "[w]e estimate that the total cost to the City of Pittsburgh for Denovo project management, functional consultants and technical services will not exceed **$263,940** inclusive of consultant travel and expenses." *Id.* (emphasis in original). However, the "fine print" of the Proposal, on page 27 of 28, lists a number of "reservations, conditions and constraints as related to estimated [sic] and statements regarding this project" including that "[w]ork performed by Denovo consultants will be invoiced on an hourly basis as per the rates

[25] The substance of this meeting is not reflected in any emails or other documents that we were provided. An email dated June 29, 2012 from Mr. Half to Mayor Ravenstahl and Yarone Zober, however, lobbied for a more robust implementation project. *See* Ex. 26.

included in our cost estimates" and "[a]dditional Denovo consulting services will be invoiced at the hourly rate included in our pricing table above." *Id.* The Proposal also indicated that "[t]he City will ensure requested participation of stakeholders occurs on a timely basis and at the levels requested." *Id.*

The County's contract with Denovo was formally modified in late August 2012 to increase the amount by $300,000 "to add the cost of the City of Pittsburgh Payroll Implementation Project." *See* Exhibit 30. A contract between the City and Denovo was never entered, nor, based on our review, was the arrangement with Denovo ever presented to the City Council or reviewed by the City Solicitor's office. The "kick-off" meeting for the Project occurred on or about July 19, 2012.

Perhaps because of the success of the finance implementation, it appears all involved, including Denovo, underestimated the complexities that would be involved in implementing JD Edwards payroll modules for the City and the substantial differences between the City payroll requirements and practices and the County's requirements and practices, particularly given the number of union contracts involved with City employment and the differing criteria under them.[26] While the initial Denovo estimate that resulted in Denovo's retention for the Project was for $263,940, an industry consultant we spoke with indicated that a proper estimate for the Project "from scratch" could be as much as $100,000 per month and that such a project could take at least a year (resulting in a total rough estimate of $1,200,000 for the Project). Denovo has advised that its original bid was premised on the belief that the County's payroll setup could be used for the City, but this ended up being incorrect resulting in significant additional design, analysis, resources and training time.

The Project was not completed by January 1, 2013 and has yet to "go live" after being halted by Mayor Peduto in March 2014. The last "parallel" run between the JD Edwards system and Ceridian revealed inconsistencies that the City's current Chief Administrative Officer believes are the result of errors in calculation by the JD Edwards system.[27]

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[26] However, the County also has substantial union employment, although arguably less than the City, and successfully implemented JD Edwards payroll modules in 2008 without much difficulty.

[27] During the course of the Project, it was apparently discovered that Ceridian had been improperly calculating certain collective bargaining agreement compensation rules resulting in overpayments by the City. We are advised that this error has been rectified and it is our understanding that this issue is the subject of a separate inquiry being conducted by Gleason & Associates, PC.

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Between March 2013 and January 2014, the work with Denovo was the subject of eight different change orders with a total value of over $988,000 – increasing the total estimated cost by Denovo to $1,252,584.[28] These change orders were for the following amounts and on the following dates:

- March 21, 2013 for $481,000. The version of the change order provided to us is unsigned. *See* Exhibit 31.
- May 1, 2013 for $1,650 signed by Chuck Half. *See* Exhibit 32.[29]
- May 1, 2013 for $14,950 signed by Chuck Half. *See* Exhibit 33.
- May 1, 2013 for $23,400 signed by Chuck Half. *See* Exhibit 34.
- June 19, 2013 for $80,246 signed by Chuck Half (electronic signature). *See* Exhibit 35.
- August 14, 2013 for $296,484 signed by Chuck Half (electronic signature). *See* Exhibit 36.
- November 11, 2013 for $61,391 signed by Chuck Half (electronic signature). *See* Exhibit 37.
- January 13, 2014 for $29,568 signed by Judy Hill Finnegan. *See* Exhibit 38.

Other than the general City Council resolution authorizing $10,000,000 for the ERP project, we have not seen any documentation that discusses expressly or otherwise the authority of the above individuals to enter into these change orders on behalf of the City that increased the Denovo budget for the Project by nearly a million dollars.

The reasons for the change orders are varied. Some of these change orders appear to be the result of changes in Project scope, others due to a lack of full cooperation from

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[28] The County also executed change orders that corresponded to the City change orders but with the obvious understanding that City funds were at issue in the change orders.

[29] This change order and several others appear to be for costs incurred prior to the date of the change order.

the relevant constituents at the City in assisting with the implementation, and others due to the complexity of the Project compared to initial estimates and assessments.[30] For example, one reason for the $481,000 March 21, 2013 change order was that it was "[a]ssumed that the County payroll processes and JDE setup could be used as a basis for the City JDE setup and processes. This assumption has been disproven requiring significantly more detailed analysis and design." Exhibit 31. Another reason was an apparent change in scope: "Included payroll processing for three additional entities – Police, Fireman's, and Municipal Pensions."[31] *Id.* Additionally, because Denovo was being paid hourly rates for its consultants rather than a flat fee, as the Project time frame and scope expanded, the costs, likewise, expanded. Many of the change orders indicate customization of the type that was warned against by the Act 47 Plan, as well as the SMART and GFOA reports.[32] According to Denovo, the Project also suffered from turnover and retirements within the City payroll office.

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[30] Email correspondence we have reviewed, as well as information provided by Denovo, indicates that the City stakeholders in the Project were often unable to dedicate sufficient resources to the Project. *See* example emails and documents found at Exhibit 39; please note that one such document is a July 19, 2013 internal memorandum by Mr. Cholewinski but the version provided to us is incomplete and the County Controller was unwilling to provide a complete version (*see supra* p. 3). A full version, however, was located through a detailed search of Mr. Half's emails and is found at Exhibit 40; it is very critical of the City's roll in the Project. The relationship between Mr. Half and Ms. Hill-Finnegan also appears to be strained based on the emails we have reviewed. It appears some individuals at the City expected something close to an "out of the box" solution, which we are advised is not feasible in an ERP implementation like the Payroll Project; rather, cooperation and input of the relevant stakeholders is vital to a successful project particularly at the design and training stages. This takes a significant commitment of time and human capital. Although it has a self-interest in doing so, Denovo has made clear that it believes a lack of complete cooperation from the City constituents involved in the Project was a significant factor in the increases in Project time, scope and costs. According to Denovo, all or part of the March 21 change order for $481,000, the May 13 change order for $14,950, the June 19 change order for $80,246, the August 14 change order for $296,484, and the November 11 change order for $61,391 were the result of a lack of full participation or knowledge from City stakeholders, including tasks that were initially to be completed by City personnel being completed by Denovo personnel because City personnel were not available to complete the work.

[31] We are advised that the payroll processing for these three pensions is operative. The first email that we have reviewed that substantively discusses the pension work is dated August 16, 2012. *See* Ex. 41.

[32] Ironically, while the Act 47 Plan warned against taking a path that would result in customization, the ICA urged the City to enter into the joint ERP relationship with the County, which appears to be the root of some of the customization requirements.

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Even with the change orders, the Project (and the overall ERP project) remain under the $10,000,000 approved by City Council for the ERP project as a whole. That said, none of the change orders appear to have been submitted to City Council, nor have we seen any evidence that they were provided to the City Controller.[33] It appears that, because the $10,000,000 was authorized in a resolution with general language concerning the overall ERP project, the need to seek City Council approval for change orders was obviated even though some of the change orders were for several hundreds of thousands of dollars. Thus, a typical check and balance in terms of cost monitoring was not applied to the Denovo relationship.

Based on records received from the County, confirmed to a large extent by the City's information, in total, for the ERP project as a whole, Denovo was paid $1,279,498 by the City (via payments to the County). *See* Exhibit 44. During the time frame of the Payroll Project (using Denovo's invoice for $17,376.38 for the time period ending on July 28, 2012 as the starting point in time and their invoice for $7,434.94 for the time period ending February 15, 2014 as the ending point), it appears that Denovo was paid $1,120,612.37 by the City via the County. *See* Exhibit 45.

How were these escalating costs paid and who approved them? We have seen no evidence of written authorization for the City to incur and pay these expenses from either City personnel or the City Controller's Office, other than the change orders executed by Mr. Half (and one by Ms. Hill-Finnegan). We have not seen any documentation indicating that, with regard to the change orders, Mr. Half was directly supervised with regard to the Project by more senior officials at the City.[34] While we are advised that Mr. Half, in other instances, had sought the input of the City Law Department with regard to contract amendments, we have not seen any evidence indicating that the Law Department was consulted regarding the Denovo change orders. Given that the Denovo contract was not with the City, some of the typical checks and balances that would come with administering a City contract, including the involvement of the Law Department in amendments/change orders, appear not to have been applied to the Denovo arrangement. As noted above, the overarching $10,000,000 resolution contributed to this lack of typical checks and balances.

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[33] In the summer of 2013, at least one member of City Council complained to Mr. Half about not being advised on a regular basis about the ERP implementation. *See* Ex. 42. A Power Point presented to City Council in September 2013 did not discuss the change orders or the substantially increased budget for the Project. *See* Ex. 43.

[34] However, other City administrators were copied on an email about the November 11, 2013 change order (Nick Lyons, Judy Hill-Finnegan and Duane Ashley) and an email about the August 14, 2013 change order (Nick Lyons and Judy Hill-Finnegan). *See* Ex. 46.

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Additionally, it appears the processing chain for these payments may also have played a role in the lack of oversight over the Project costs. Because Denovo was not a direct contractor to the City, its invoices went to the County who then invoiced the City.[35] And, even though the change orders were for lump sums that in some instances were for several hundred thousand dollars, payments to Denovo were not made in that fashion. Rather, on a periodic basis (often bi-weekly), Denovo would submit an invoice to the County – and, rather than being for large six-figure sums, these invoices were typically for less than $20,000 with the largest one being $71,061.47 for work in October 2013 (paid in January 2014). *See id.* As part of a larger "shared services" invoice, the County would then invoice the City for the same amount; the City would pay the County for the larger invoice including the Denovo charges; and the County would pay Denovo.[36] We are advised (and documents confirm) that Mr. Half would approve the invoices from the County and recommend that payment be made by the City.[37] Thus, given this routine invoicing, the invoices (and related DIs) being sent to and paid by the City Controller's Office did not correspond to the large numbers in the change orders; rather, the Denovo charges were smaller invoices the cumulative effect of which could only be evaluated by reviewing the entire series of invoices issued between July 2012 and February 2014. This is particularly true because the Denovo charges were only part of the larger "shared services" invoices sent by the County and, based on the documents provided by the City Controller's Office, in some instances, it does not appear that the actual Denovo invoices were sent to the Controller; rather, only a DI and the County's "shared services" invoice were sent.[38]

Based on the information we have reviewed, other than as indicated in footnote 34, before 2014, it does not appear that any City officials besides Mr. Half were approving the change orders. We have not seen any evidence of any discussion among senior City officials of the disparity between Denovo's initial estimate ($263,940) and the

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[35] Denovo's invoices were submitted to the County electronically and Mr. Half was copied on the emails. *See e.g.* Ex. 47.

[36] An example invoice is attached as Exhibit 48.

[37] The Departmental Invoices ("DIs") related to the Project sent to the City Controller's Office are typically "certified as correct" by Sheri Rolewski and signed as "approved" by Nick Lyons. Some of the later DI's are "approved" by Debbie Lestitian.

[38] An example DI and invoice provided by the City Controller's Office is attached as Exhibit 49. The DIs and invoices provided by the City Controller's Office do not appear to be a full set as they were for only the following dates as indicated on the County invoice: January 19, 2012, December 19, 2012, May 16, 2013, August 29, 2013, March 25, 2014, November 21, 2014 and December 18, 2014.

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ultimate costs as reflected in the eight change orders ($1,252,584). Without the ability to interview Mr. Half, however, it is difficult to assign specific blame for any apparent oversight failure.

DEFOREST KOSCELNIK YOKITIS & BERARDINELLI:

By: _____
David J. Berardinelli