

## AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND NORTHROP GRUMMAN PUBLIC SAFETY, INC.

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and NORTHROP GRUMMAN PUBLIC SAFETY, INC., hereinafter called "Contractor";

### WITNESSETH:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing all hardware, software, and related services and materials to implement the System as set forth in the Statement of Work attached hereto as Exhibit "B" and incorporated herein by this reference (the "Statement of Work") all upon the terms, conditions, and provisions of this Agreement. The County hereby agrees to purchase the hardware, software, and related services and materials identified in the Statement of Work.

### **NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:**

#### **1. Exhibits**

1.1. The following exhibits are attached hereto and incorporated by reference herein:

1.1.1. Exhibit A – Additional Terms and Conditions

1.1.2. Exhibit B - Statement of Work

1.1.3. Exhibit C - Price, Contract Amount, and Payment Schedule

1.1.4. Attachment I – §504 Compliance

## **2. Services to be Performed by Contractor**

2.1. In consideration of the payments set forth herein and in Exhibit "C", Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in the Statement of Work.

## **3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in the Statement of Work, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "C". The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is not in accordance with this Agreement. Total specified obligation to Contractor under this Agreement is Five Hundred Thirty-Nine Thousand Eight Hundred and Thirty-Six Dollars (\$539,836), as set forth in the Payment Schedule in Exhibit C. Additionally, County holds in reserve for contingencies the amount of Fifty-Four Thousand Dollars (\$54,000), which may be used at County's sole discretion for unanticipated changes in products or services as may be required in the course of this Agreement. In no event shall County's total fiscal obligation under this Agreement exceed Five Hundred Ninety-Three Thousand, Eight Hundred and Thirty-Six Dollars (\$593,836). In no event shall the County's total fiscal obligation under this Agreement exceed \$593,836.

## **4. Term and Termination**

4.1 The maximum term of this Agreement shall be from Date of Execution by both parties until November 30, 2005. This Agreement may be terminated by Contractor, the Sheriff of San Mateo County, or his/her designee, at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

4.2 In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Nothing herein shall be construed as granting any intellectual property rights in the intellectual property or software of Contractor or any of its suppliers. Upon termination, Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services performed prior to termination of the Agreement upon submission of reasonable evidence to County of such work. Such payment shall be that portion of the full payment that is determined by comparing the work/services performed to the work/services required by the Agreement.

## **5. Availability of Funds**

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

## **6. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

## **7. Hold Harmless**

7.1. Contractor shall indemnify, defend and hold harmless County, its officers, agents, employees, and servants from any and all claims, demands, suits, mechanics liens, results of legal proceedings, judgments, sanctions, incurred liabilities, financial losses, physical injuries or death, property damages, fines, penalties, extraordinary expenses or actions brought against County or its staff as defined above, which in any way arise out of or result from wrongful, negligent, incompetent, or willfully intentional acts, errors or significant omissions of Contractor or its officers, employees, agents, subcontractors or consultants, in the performance of services required and/or payments made pursuant to this Agreement.

7.2. Contractor shall not be liable for, and County shall hold Contractor harmless from financial responsibility for any and all actions, suits, judgments, penalties or other third party damages, which may arise solely out of or result from wrongful, negligent, incompetent, or willfully intentional acts, errors, or significant omissions by the County or its officers, employees, agents, and servants, in the performance of actions and services required to support Contractor's successful performance of duties as outlined under this agreement, except any action which arises solely and exclusively out of the negligent or intentional acts of Contractor.

7.3. If an action arises out of the concurrent negligence of Contractor and County, then liability for any damage in that action shall be apportioned between Contractor and County in accordance with the California statutes and case law regarding comparative negligence.

- 7.4. The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

## **8. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right automatically and immediately to terminate this Agreement.

## **9. Insurance**

- 9.1. Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

### **9.1.1. Worker's Compensation and Employer's Liability Insurance.**

Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and will comply with such provisions before commencing the performance of the work of this Agreement.

- 9.1.2. **Liability Insurance.** Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims

for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

9.1.3. Such insurance shall include:

(a) Comprehensive General Liability ..... \$1,000,000

(b) Motor Vehicle Liability Insurance ..... \$1,000,000

(c) Professional Liability ..... \$1,000,000

9.2. County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

9.3. In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

**10. Compliance with Laws; Payment of Permits/Licenses**

10.1. All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "T", which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to,

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appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

- 10.2. In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.
- 10.3. Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**11. Non-Discrimination**

**11.1. Section 504.** Section 504 applies only to contractors who are providing services to members of the public. Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.

**11.2. General Non-Discrimination.** No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

**11.3. Equal Employment Opportunity.** Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.

**11.4. Violation of Non-Discrimination Provisions.** Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Contractor to penalties, to be determined by the County Manager, including but not limited to:

11.4.1. Termination of this Agreement;

11.4.2. Disqualification of Contractor from bidding on or being awarded a County contract for a period of up to 3 years;

11.4.3. Liquidated damages of \$2,500 per violation; and,

11.5. To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Agreement or any other Agreement between Contractor and County.

11.6. Contractor shall report to the County Manager the filing by any person in San Mateo County Superior Court of any complaint of discrimination or the filing by any person of any and all charges with the San Mateo County Equal Employment Opportunity Commission, the San Mateo County Fair Employment and Housing Commission or any other San Mateo County entity charged with the investigation of allegations within thirty (30) days of such filing, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

11.7. Compliance with Equal Benefits Ordinance. With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance that prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

11.8. Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

## **12. Retention of Records**

Contractor shall maintain all required records for three (3) years after County makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of County, a Federal grantor agency, and the State of California.

### **13. Merger Clause**

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

### **14. Controlling Law**

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

### **15. Notices**

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

#### **In the case of County, to:**

San Mateo County  
Attention: Dennis Ryan  
400 County Center  
Third Floor  
Redwood City, CA 94063

#### **In the case of Contractor, to:**

NORTHROP GRUMMAN PUBLIC SAFETY, INC.  
12005 Sunrise Valley Drive  
Mail Stop #  
Reston, VA 20191  
Attn: Mr. John Kouri



IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,  
have affixed their hands.

COUNTY OF SAN MATEO

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

President, Board of Supervisors, San Mateo County

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

ATTEST:

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

Clerk of Said Board

NORTHROP GRUMMAN PUBLIC SAFETY, INC.

\_\_\_\_\_  
Contractor's Signature

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

## EXHIBIT A

### Additional Terms and Conditions

#### 1. Exhibits

In the event of any conflict or inconsistency among documents related to this Agreement, said conflict or inconsistency shall be resolved by giving precedence to this Agreement.

#### 2. Services to be Performed by Contractor

2.1. All hardware and software specified in the Statement of Work shall be delivered by Contractor in time to comply with the requirements of the project schedule. The risk of loss to the hardware specified in the Statement of Work shall remain with Contractor until delivered to County at County's installation site.

2.2. Equipment specified as provided by Contractor must be furnished as new, still in production, and in a condition that enables manufacturer warranties to be valid.

#### 3. Definitions

3.1. "Agreement" shall mean this Agreement between Contractor and County and its exhibits, as the same may from time to time be amended in accordance with the terms hereof.

3.2. "Documentation" shall mean, with respect to any software application listed in the Statement of Work, those printed instructions, manuals, and diagrams pertaining to and furnished with such software application.

3.3. "System" shall mean the hardware, software, and related materials in the Statement of Work.

#### 4. Confidential Information

4.1. **County Confidential Information.** All County Confidential Information (as defined below) shall be held in strict confidence by Contractor, and Contractor shall not, without County's prior written consent, (i) disclose such information to any person or entity other than to the Contractor's employees or consultants legally bound to abide by the terms hereof and having a need to know such information in connection with Contractor's performance of its obligations hereunder, or (ii) use such information other than in connection with the

performance of its obligations hereunder. The term "County Confidential Information" shall include all County data and other written information of a confidential nature clearly labeled by County as being confidential. Contractor understands and agrees that the unauthorized use or disclosure of County Confidential Information may irreparably damage County. In the event of Contractor's breach or threatened breach of any of the provisions in this Section 5.a, County shall be entitled to an injunction obtained from any court having appropriate jurisdiction restraining Contractor from any unauthorized use or disclosure of any County Confidential Information.

**4.2. Contractor Confidential Information.** All Contractor Confidential Information (as defined below) shall be held in strict confidence by County, and County shall not, without Contractor's prior written consent, (i) disclose such information to any person or entity other than to County's employees or consultants legally bound to abide by the terms hereof and having a need to know such information in connection with County's performance of its obligations hereunder, or (ii) use such information other than in connection with the performance of its obligations hereunder. The term Contractor Confidential Information shall include the all software applications developed by Contractor, whether or not licensed to County, as well as any written information disclosed by Contractor to County under this Agreement, including, but not limited to, any trade secrets, confidential knowledge, data, information relating to Contractor's products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers, and information regarding the skills and compensation of Contractor's employees or other consultants. County understands and agrees that the Contractor Confidential Information constitutes a valuable business asset of Contractor, the unauthorized use or disclosure of which may irreparably damage Contractor. In the event of County's breach or threatened breach of any of the provisions in this Section 5.b, Contractor shall be entitled to an injunction obtained from any court having appropriate jurisdiction restraining County from any unauthorized use or disclosure of any Contractor Confidential Information.

**4.3. Exclusions.** Notwithstanding Section 4.1. or Section 4.2. hereof, neither County Confidential Information nor Contractor Confidential Information shall include information which the recipient can demonstrate by competent written proof:

**4.3.1.** Is now, or hereafter becomes, through no act or failure to act on the part of the recipient, generally known or available or otherwise part of the public domain;

**4.3.2.** Is rightfully known by the recipient without restriction on use prior to its first receipt of such information from the disclosing party as evidenced by its records;

4.3.3. Is hereafter furnished to the recipient by a third party authorized to furnish the information to the recipient, as a matter of right and without restriction on disclosure; or

4.3.4. Is the subject of a written permission by the disclosing party to disclose.

4.4. **Exceptions.** Notwithstanding Section 4.1. or Section 4.2. hereof, disclosure of County Confidential Information or Contractor Confidential Information shall not be precluded if:

4.4.1. Such disclosure is in response to a valid order of a court or other governmental body of the United States or any political subdivision thereof; provided, however, that the recipient of such confidential information shall first have given notice to the other party and shall have made a reasonable effort to obtain a protective order requiring that the information to be disclosed be used only for the purposes for which the order was issued;

4.4.2. Such disclosure is necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary for such purpose;

4.4.3. The recipient of such confidential information received the prior written consent to such disclosure from the disclosing party, but only to the extent permitted in such consent; or

4.4.4. Such disclosure is in response to a request for information under the Federal Freedom of Information Act or the California Public Records Act (Gov't. Code Sec. 6250 et seq.), but only to the extent that such disclosure is required under such acts.

4.5. **Survival.** The obligations hereunder with respect to each item of County Confidential Information and Contractor Confidential Information shall survive the termination of this Agreement.

## 5. **Warranty**

5.1. **Warranties.** For a period commencing on the date of successful completion of the System Reliability Test, or acceptance by beneficial use of each respective System, whichever occurs first, and concluding one year thereafter, Contractor warrants that:

5.1.1. The software provided by it under this Agreement (both individually and as an entire system) shall perform in accordance with the Functional Specification Document (FSD) as applicable; and

5.1.2. The services performed by it under this Agreement shall be performed in accordance with the ordinary skill and care that would reasonably be executed by those who are knowledgeable, trained, and experienced in rendering the services required at the time such services are performed. The warranty for all base station equipment provided by Contractor under this Agreement shall be in effect for one (1) year from date of installation. The base station equipment includes the following Cisco Wireless Communication Infrastructure Hardware; Cisco Aironet® 350 Wireless 802.11B/G AP) at the Substations throughout San Mateo County, the Radius Servers and Cisco 1760 VPN Router. The warranty for all mobile equipment provided by Contractor under this Agreement shall be in effect for one year from the date of installation according to Contractor's installation schedule.

**5.1.3. THESE WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE OF PROFESSIONAL SERVICES, AND ANY WARRANTY WHICH MAY ARISE BY REASON OF USAGE OF TRADE OR CUSTOM OR COURSE OF DEALINGS.**

## **5.2. Remedies**

5.2.1. If, during the warranty period specified in Section 5.1., above, County (a) discovers that the equipment provided by Contractor under this Agreement is not in accordance with the express warranty set forth in Section 6.a., and notifies Contractor in writing, of such, then Contractor shall, without charge to County and on behalf of County, be responsible for the enforcement of, or will perform without charge, the applicable obligations which the supplier of such equipment may have with respect to repairing or replacing such equipment to the extent necessary to correct such defects.

5.2.2. If, during the warranty period specified in Section 5.1., above, County (a) discovers defects in the software provided by Contractor under this Agreement, such that the software will not perform in accordance with the express warranty set forth in Section a., and (b) notifies Contractor, in writing, of such defects, then Contractor shall, without charge to County, correct such defects.

5.2.3. If, during the warranty period specified in Section 5.1., County (a) discovers that the services performed by Contractor under this Agreement had not been performed in accordance with the express warranty set forth in Section 5.a., and (b) notifies Contractor in writing of such faulty services, then Contractor shall, without charge to County, re-perform such services to the extent necessary to correct the fault therein.

5.2.4. Every claim that Contractor's goods or services are faulty shall be deemed waived unless such claim is made in writing during the warranty period specified in a. above.

**5.2.5. THE REMEDIES SET FORTH IN THIS SECTION 5.2. ARE IN LIEU OF AND EXCLUDE ALL OTHER REMEDIES AVAILABLE TO COUNTY RELATING TO WARRANTIES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.**

## **6. Limitation of Liability**

In no event shall either party hereto be liable for special, indirect, or consequential damages of any nature.

## **7. Installation Dependencies and Delays**

**7.1. County Responsibilities.** County agrees to provide those services and facilities necessary for the implementation of the System that are set forth as County's obligations or responsibilities in the Statement of Work. County acknowledges that the dates set forth in the Project Schedule for completion of the Agreement depend, in part, upon the timely fulfillment of County Responsibilities. County's failure to perform County Responsibilities in accordance with the Project Schedule and the Statement of Work shall constitute a material default under the Agreement. In accordance with the Statement of Work, County shall respond within fifteen (15) business days to any written request submitted by Contractor for information, clarification, or approval of any designs, specifications, documents, or proposed change orders or amendments. County's failure to respond within this 15-day response period shall constitute a material default under this Agreement.

**7.2. Change Orders.** The scope and schedule of services and materials provided under this Agreement may be changed from time to time only by a written change order (a "Change Order") mutually agreed upon and signed by duly authorized representatives of each of the parties. When a change causes a modification to the Agreement price or the amount of time needed to complete such change, the Milestone Payment Schedule and Project Schedule shall be

amended, as necessary. Design, development, and implementation work on change order items will be performed at reasonable billing rates to be mutually agreed upon by the parties. Contractor shall negotiate in good faith and in a timely manner as to the price of the change orders. If the parties reach an agreement, the Agreement shall be amended as necessary to reflect the change order.

**7.3. Approval of Change Orders up to 10%.** It is hereby agreed that Contractor and the Sheriff of San Mateo County, as a duly authorized representative of County, shall have the ability to approve Change Orders, mutually agreed upon as per Section 7.2., that either have no fiscal impact, such as an exchange of goods or services within the existing Agreement, or that result in a change of costs, whether increase or decrease, that in the aggregate of all such Change Orders approved during the full course of this Agreement, do not exceed a total dollar value of Ten Percent (10%), or Fifty-Four Thousand Dollars (\$54,000) of the basic Not-to-Exceed obligation (\$540,000) of the County to pay Contractor, as set forth in Section 3 of this Agreement. Any and all Change Orders which would result in a total dollar value change exceeding Ten Percent (10%) or \$54,000, shall require formal approval by the County Board of Supervisors as the final legal authority for the County of San Mateo.

## **8. Additional Terms and Conditions of the Work**

**8.1. Extra Work.** No claims for extra work will be allowed unless the same shall have been previously agreed to by County in a written Change Order pursuant to Section 7.2. hereof.

**8.2. Status Reports.** Contractor shall submit, in a format mutually agreeable to both parties, written monthly reports on the status of the work so that County is kept fully informed of its progress. County shall designate in writing, from time to time, its project manager or other representative to whom required reports shall be submitted to County so that they are received by County no later than the 10<sup>th</sup> day of each calendar month.

**8.3. Verification of Background.** Contractor agrees that any employee, agent, subcontractor or consultant having access to any installation site or to any records or information relating, pertaining to or included in the System shall be required to provide their name, date of birth, and driver's license number and, at County's expense, shall submit to fingerprinting and a "California Identification Search" in order to verify this person's status and fitness to perform under this Agreement. County's Sheriff will have sole discretion on whether to approve or disapprove any Contractor employee.

## 9. License

9.1. **Acknowledgment of Ownership.** Contractor owns all right, title and interest to the *CommandPoint™ Mobile* Software and the FSD, the interface software developed or utilized in the course of this Agreement and related documentation (the "Contractor Software"), including all custom modifications, derivative works and all technical and functional designs relating thereto. None of the services hereunder shall be considered "work for hire" within the meaning of Federal copyright law (17 U.S.C. Section 101 et seq.). County shall not disassemble, decompile, or reverse engineer the Contractor Software and any information obtained in violation of this provision shall be deemed confidential information owned exclusively by Contractor.

9.2. **Operating License.** Subsequent to and upon Acceptance and payment of all amounts due under this Agreement, County shall be granted a paid-up, perpetual, non-exclusive, not transferable operating license in object code form to install, store, load, execute and display (collectively, "Use") the Contractor Software on the System. County may make one (1) archival copy for back-up purposes. Contractor reserves all rights not expressly granted. This license is for operations use only and does not authorize County to make any alterations, adaptations, translations, or derivative works. Any other software provided in this agreement shall be in accordance with the licensors of such software.

### 9.3. Source Code.

9.3.1. **Source Code.** After acceptance of the System and the receipt of the final payment for same, source code, unencrypted and in machine readable form, and related program documentation for all of the installed Contractor software shall be provided to a mutually agreeable escrow agent under the terms and conditions and confidentiality provisions as set forth in this Section 9. Contractor shall be responsible for all fees to be paid under any such escrow agreement, provided the County has the software maintained by Contractor under a valid maintenance agreement. Under no circumstances shall Contractor be obligated to provide source code to the Operating System Dependent Layer (OSDL), or any third party software provided hereunder.

#### 9.3.2.

The escrow instructions shall provide that upon the escrow agent's receipt of written notice from either County or Contractor that Contractor is unable, for any reason whatsoever, to continue to support the software to the satisfaction of the county, the escrow agent is authorized and directed to release the source code, unencrypted and in machine readable form, and related program documentation for all of the installed Contractor software to County. Said release shall take place within five (5) business days of receiving said notice from either County or Contractor.



9.4. **Third-Party Software.** Contractor may provide to County certain third-party software applications in the quantities requested by County pursuant to this Agreement. The right to use any such Third-Party Software may be granted to County under the Software License Agreement or pursuant to a separate software license agreement with the developer of such Third-Party Software. Contractor represents and warrants that, prior to the installation of any Third-Party Software on the System, copies of any license agreement relating to such Third-Party Software will be provided to County for review. County shall have no right to the source code with respect to any Third-Party Software.

9.5. **Documentation.** Contractor shall provide current and accurate Documentation with respect to each software application including, a "user manual" for each software application and sufficient copies, including an electronic copy, thereof, as prescribed in the Statement of Work. It is the intent of the parties that the user manual be written in a manner so that County personnel may utilize the manual as a reliable resource for understanding the System's operations and for trouble shooting while working on the System.

#### **10. Force Majeure**

Neither party shall be responsible for delays caused by acts of God or of the public enemy, fire, floods, tidal waves, earthquakes, epidemics, strikes, labor disputes, shortage of materials and freight embargoes, power failures or spikes, provided that the party desiring to invoke this clause shall notify the other party in writing of the cause or causes of the delay within ten (10) business days of the beginning of such cause or causes and shall exercise due diligence in attempting to avoid any delays and /or the impacts of any delays. A delay caused by a shortage of materials shall not be excused unless the party seeking to invoke this clause furnishes documentary proof that it has diligently made every effort to obtain such materials from all known sources.

#### **11. No Third Party Beneficiaries**

This Agreement is not intended to create any right in or for the public, or any member of the public, any subcontractor, supplier, or any other third party, or to authorize anyone not a party to this Agreement to maintain a suit to enforce or take advantage of its terms. The duties, obligations, and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

#### **12. Severability**

If any provision of this Agreement shall for any reason be held to be invalid, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, such provision shall be construed so as to make it

enforceable to the greatest extent permitted, such provision shall remain in effect to the greatest extent permitted and the remaining provisions of this Agreement shall remain in full force and effect.

### **13. Counterparts**

This Agreement may be executed simultaneously or concurrently in one or more counterparts, each of which shall be deemed a duplicate original but all of which together shall constitute one and the same Agreement.

### **14. Project Managers**

**14.1. Contractor Project Manager.** Within ten (10) days of execution of this Agreement, Contractor shall designate in writing a single individual to act as the project manager (the "Contractor Project Manger"). The Contractor Project Manager shall be knowledgeable regarding the nature, implementation, and use off the System, and shall have sufficient prior working experience with the implementation and use of the System, including its hardware and software components, so that the Contractor Project Manager can serve as a resource and guide to County in the implementation and use of the System. The Contractor Project Manager shall ensure Contractor's compliance with, and shall coordinate appropriate schedules in connection with, Contractor's obligations hereunder. The Contractor shall use its best efforts to maintain the same Contractor Project Manager for the duration of this Agreement. However, Contractor may change the individual designated hereunder by providing County with fifteen (15) days advance written notice designating the new individual authorized to act as the Contractor Project Manager. Notwithstanding the foregoing, Contractor has the right to appoint a temporary Contractor Project Manager in connection with short-term unavailability, sick leave, or reasonable vacations provided that Contractor notifies County in writing of any such temporary appointments.

**14.2. County Project Manager.** Within ten (10) days of the execution of this Agreement, County shall designate in writing a single individual to act as County's project manager (the "County Project Manager"). The County Project Manager shall ensure County's compliance with, and shall coordinate appropriate schedules in connection with, County's obligations hereunder. County shall use its best efforts to maintain the same County Project Manager for the duration of this Agreement. However, County may change the individual designated hereunder by providing Contractor with advance written notice designating the new individual authorized to acct as the County Project Manager. Notwithstanding the foregoing, County has the right to appoint a temporary County Project Manager in connection with short-term unavailability, sick leave, or reasonable vacations provided that it notifies Contractor in writing of any such temporary appointments.

**14.3. Project Manager Communication.** The Contractor Project Manager and the County Project Manager shall be accessible by telephone or by electronic pager throughout the duration of this Agreement. Prior to cutover of the System, both the Contractor Project Manager and the County Project Manager shall be available eight (8) hours per day five (5) days per week, excluding holidays and weekends. From time to time, it may be necessary to adjust those hours to support specific project goals and objectives. Such adjustments shall be made as agreed to by both parties. During any Reliability Testing period, the Contractor Project Manager must be available on a twenty-four (24) hour basis, seven (7) days per week.

**14.4. Project Manager Replacement.** If County should desire that Contractor replace its Project Manager or any other personnel assigned to assist the project, such request shall be made in writing, include County's basis for the request, and delivered in accordance with Section 26 hereof. Contractor's compliance with such requests shall not be unreasonably withheld.

## **15. News Releases**

News releases and all other related information pertaining to this Agreement shall not be made available to anyone by Contractor without the prior written approval of County.

## **16. Entire Agreement**

The making, execution and delivery of this Agreement has been induced by no representations, statements, warranties or other agreements except as expressed by the written terms of this Agreement. The parties acknowledge that no employee, agent, or representative of Contractor has the authority to bind Contractor to any representation not expressly contained in a written agreement signed by a duly authorized representative of Contractor. This Agreement embodies the entire understanding of the parties and supersedes all prior or contemporaneous proposals, purchase orders, understandings, representations, conditions, warranties, covenants, and other telecommunications between the parties, whether oral or written, relating to the subject of the Agreement unless expressly set forth or referred to in the Agreement. The parties agree that this Agreement may not in any way be contradicted by a prior or existing course of dealing between them or by any usage of trade or custom.

## **17. Construction**

The paragraph and section headings used in this Agreement or in any Exhibit hereto are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement. Any term referencing time, days, or period for performance shall be deemed calendar days and not business days, unless otherwise expressly provided herein.

## EXHIBIT B

### Statement of Work

#### 1. General

##### 1.1. Contractor Responsibilities

1.1.1. Contractor will provide *CommandPoint™ Mobile* for County operating on the current County CAD/MSS system. *CommandPoint™ Mobile software enables voiceless dispatch, status updates, database inquiry, and messaging. CommandPoint™ Mobile is touch screen driven, intuitive, and very tightly integrated to the CAD system that the County operates, PSI CAD. As part of the proposed scope of work, Contractor will fully integrate CommandPoint™ Mobile with the Tiburon AFR system so that incident/call data is passed to the AFR in XML format. This software option offers County the best possible configuration. The dispatch functions are handled by the mobile software designed for County's current CAD by the designers of County's CAD. The interface to the Tiburon AFR enables the County to utilize the AFR designed for County's RMS by those who designed the RMS. This approach not only maximizes utility of both the CAD and RMS, but also insures that incident data will flow through the entire process without the need of duplicate entry.*

1.1.2. The CAD/MSS system and Mobile County software will communicate using TCP/IP over EDGE communications. *CommandPoint™ Mobile* will operate alongside the other County mobiles as a new and separate terminal type and will not affect operation or functionality of the existing terminals.

1.1.3. Contractor shall designate a single individual as Project Manager who shall be the single point of contact with whom County shall work for the implementation of the System.

1.1.4. Provide and maintain an implementation plan and project schedule.

1.1.5. Procure and provide the hardware and software listed in Exhibit B.

## 1.2. County Responsibilities

1.2.1. County shall designate a single individual as Project Manager who shall be the single point of contact with whom Contractor shall work for the implementation of the System.

1.2.2. During the course of this Agreement, County shall provide Contractor's personnel with adequate workspace and such other related facilities as may reasonably be required by Contractor to carry out its obligations enumerated herein.

## 2. *CommandPoint*<sup>TM</sup> Mobile

### 2.1. Contractor Responsibilities

2.1.1. Contractor will also provide project management and technical software integration services to implement the *CommandPoint*<sup>TM</sup> Mobile on the County CAD/MSS system.

2.1.2. Configure the baseline version of *CommandPoint*<sup>TM</sup> Mobile to function using the current CAD mobile functionality. This configuration will contain the following features:

2.1.2.1. Customized keyboard layout for function keys F1 through F12. An effort will be made to keep the function key layout as similar to the current software as possible. Functions assigned must either be existing CAD commands or available functions local to *CommandPoint*<sup>TM</sup> Mobile existing in the baseline configuration.

2.1.2.2. Screen layout will include command line, default window, error window, up to 20 function buttons on the screen, 10 across the top and up to 10 on the status bar. Status bar buttons include up to ten status buttons across the bottom of the screen on the status bar. If more than 10 status buttons are required, less essential status commands may be accessed via drop-down menu or on a button menu page. Other button functions will be determined jointly with authorized County personnel from functions currently available to the CAD system or local functions currently supported by the Mobile software.

2.1.2.3. Buttons will be labeled in plain text using any available font or color (font must be installed on the MDC/PC and color must be displayable by the video capabilities of the MDC/PC). Font is not required to be fixed-width on the on-screen buttons.

2.1.2.4.A prior command list display with previous/next function. When activated, this function will split the default display area in two. One-half of the default window will display the last 100 commands entered on the mobile. The other half continues to display the normal default window. The user may select a command by pressing the screen (touch screen MDC/PC only), left clicking with the mouse or by using the cursor keys. The selected command will appear on the command line for re-use by the mobile user. The previous/next function allows the user to move backward and forward through the command queue without opening the list window.

2.1.2.5.A received message list with previous/next and delete functions. When activated, this function splits the default display area in two. One-half of the default window displays the last 100 messages received by the mobile. The time and date received along with the first few characters of the message are displayed on a single line providing a convenient summary list. The other half of the default area continues to display the normal default window. The user may select a message by pressing the screen (touch screen MDC/PC only), left clicking with the mouse or by using the cursor keys. The selected message will appear in the default area. The previous/next function allows user to page backward and forward through the received message queue without opening the list window.

2.1.2.6.A pop-up window for dispatch notifications. When a dispatch notification is sent from the CAD system to the mobile a small window will appear on the screen regardless of whether or not the mobile software has the focus. The window flashes red and gray and has the word "DISP" on it. This window acts as a screen button. Pressing this will bring the mobile software into the foreground and display the dispatch notification.

2.1.2.7.A pop-up window displaying a message waiting notification. This functions similar to the pop-up window for dispatch notifications. This window only appears if no messages were waiting before the arrival of a new CAD message and the mobile software does not currently have the focus.

2.1.2.8.HTML mask modeling. This allows for protected and unprotected fields of a mask to be displayed in separate colors and fonts from the background to make them easier to read. This affects masks requiring user input, such as the Sign On mask.

2.1.2.9. A reply feature for admin messages. A mask local to the mobile software takes the "from" terminal ID of an admin message and starts a "reply" message with this terminal ID as the destination. This reply message also contains a subject field that consists of the first line of the original message. This allows users to follow the thread of a conversation when a series of messages are sent back and forth between CAD and Mobile users.

2.1.3. Modification of the MDT status module to output unit status display information to mobile terminals. This allows for the display of the unit's current status at all times on the mobile terminal. This modification also supports a unit location display that displays the unit's current location if known, and remains blank if the unit is not assigned to a location. The *CommandPoint™ Mobile* Software status buttons will change color upon acknowledgement of status change by CAD.

2.1.4. Provide an interface (TIOP) between the County CAD/MSS system and *CommandPoint™ Mobile* using TCP/IP over EDGE.

2.1.5. Create a new mobile type definition in the CAD system to allow the *CommandPoint™ Mobile* units to receive data and messages without affecting the operation of other currently existing mobile formats on the County system.

2.1.6. *CommandPoint™ Mobile* functionality will be integrated with the existing functionality of Contractor's CAD applications.

2.1.7. Create and deliver to County a *CommandPoint™ Mobile* Training Document and Command Syntax List Document.

2.1.8. Create and deliver a *CommandPoint™ Mobile* Functional Specification Document.

2.1.9. Create and deliver to County a *CommandPoint™ Mobile* Functional Acceptance Test Document.

## **2.2. County Responsibilities**

2.2.1. Before installation can begin, Contractor will work with County to establish a duplicate software environment ("New Project") on County's CAD server. This "New Project" will contain all of the CAD code in use at the time in County's production CAD environment. County will work with

Contractor to apply any County coding changes to the "New Project" environment that reflect changes to County's production CAD environment. Contractor will make all necessary changes in the "New Project" environment and use this environment for testing in fulfillment of this Agreement. Contractor will work with County to schedule and apply the "New Project" environment to County's production CAD system. A total system recompile (ASMALL) will be required. A "cold" restart of the live CAD system may be required.

2.2.2. No new CAD functionality is included with this project unless specified in the above scope of work.

2.2.3. Provide Contractor with a copy of all current CAD/MSS source code on the County CAD/MSS system so that it may be duplicated on Contractor's office test servers. Contractor and County will request source code from the County's CAD/MSS System administrator.

2.2.4. Provide County technical employees knowledgeable with both the function of the CAD system and the mobile system to assist with project implementation, testing, and acceptance. The technical employees will work with Contractor programmer to develop the screen and function-key layout.

2.2.5. Review and approve the *CommandPoint™ Mobile* Functional Acceptance Document provided by Contractor.

2.2.6. Provide knowledgeable technical employees for the Functional Acceptance Test of the *CommandPoint™ Mobile*.

### 3. Hardware

#### 3.1. Contractor Responsibilities

3.1.1. Configure the Panasonic Mobile Data Hardware, Cisco Network Equipment, and Cisco Wireless Communication Infrastructure Hardware. Install and configure the Wireless Communication Infrastructure (Cisco Aironet® 350 Wireless 802.11B/G AP) at the Substations throughout San Mateo County.

3.1.2. Provide Panasonic Mobile Data Hardware (MDC) that has the Windows XP or 2000 OS installed and configured. Contractor will install and configure *CommandPoint™ Mobile* on the MDCs. Connect and integrate the Cisco Aironet® 350



Wireless 802.11B/G AP with the existing San Mateo Sheriff's office LAN at the Substations.

- 3.1.3. Install and configure the RADUIS Servers.

### **3.2. County Responsibilities**

3.2.1. As previously indicated, County prefers to perform the hardware installation in the Patrol cars. County technical staff will be responsible to install and mount the MDCs in the vehicles. Contractor will provide installation instructions and training. If necessary, County will be responsible for the Relocation of radio equipment and center console as specified to accommodate proper location of the keyboard.

3.2.2. County will be responsible for installing and mounting the Cisco Wireless LAN 12 DBI Omnidirect Mast Mount antenna and Lightning Arrestor w/ Grounding on the roof of the substations. County will be responsible for installing, connecting, and running the Wireless LAN antenna cable from the Cisco Aironet® 350 Wireless 802.11B/G Access Point to the antenna.

## **4. Training**

### **4.1. Contractor Responsibilities**

4.1.1. *CommandPoint™ Mobile Software System Management* - one eight-hour class for up to eight (8) students. Provides instructions on installation (both in-vehicle and on CAD), troubleshooting, and basic configuration changes.

4.1.2. *Cisco System Management Training* - one four-hour class for up to eight (8) students. Provides general instruction on management of access points, VPN services, and router configuration.

4.1.3. *CommandPoint™ Mobile Software Train-the Trainer* - two four-hour classes for eight students per class. Provides instructions on field use of CommandPoint™ mobile software. Course covers all aspects of software operation and is designed to instruct attendees in training other users.

- 4.1.4. *MDC Hardware installation* - one eight-hour training session for four students. Provides instructions on installation.

## 4.2. County Responsibilities

- 4.2.1. Provide training facilities for up to eight (8) students and one instructor.  
4.2.2. Schedule and provide training for remaining County users of *CommandPoint™ Mobile*.

## 5. Acceptance

5.1.1. The above referenced *CommandPoint™ Mobile* Training Document and Command Syntax List Document will be the control documents used for testing and acceptance of system commands, functions and procedures. Contractor will provide County with a complete and thorough written Acceptance Test in a checklist format.

5.1.2. Contractor will provide in writing to County that the mobile implementation is ready for functional acceptance testing. As the exercise of each functional command and mask is completed by County, a notation of acceptance will be made corresponding to the appropriate section of the referenced *CommandPoint™ Mobile* Training Document or Command Syntax List Document. Any exceptions will be noted. A Contractor provided Software Incident Report Tracking (SIRT) Form shall be used to document and track the resolution of any noted exceptions.

5.1.3. After functional acceptance testing, Contractor will provide written confirmation to County that the mobile solution is ready for live implementation. At this time, County will provide to Contractor written provisional acceptance of the mobile solution in preparation for live implementation. The live implementation will commence within ten (10) business days from provisional acceptance.

5.1.4. Upon live implementation of the mobile solution, the Thirty-day (30) acceptance period will commence. During this thirty-day period, the project team will resolve any high priority exceptions, which will be tracked by SIRT. After the thirty-day acceptance period, or based upon the terms and conditions of this contract, the mobile solution will be deemed accepted and transitioned to Contractor's Customer Service Technical Support Group for maintenance. The Contractor Project Manager on behalf of County will handle the details and supporting documentation for this transition. Acceptance Testing will begin either when seventeen (17) County vehicles are completely setup if Contractor does the installation work, or however many County vehicles are ready if County does the installation work.

- 5.1.5. If said System operates on-line at a level of effectiveness of ninety-five percent (95%) for a period of thirty (30) consecutive days from the commencement of the Acceptance Test, it shall be deemed to have met the contractual standard of reliability for acceptance of said System. The level of effectiveness is a percentage figure determined by dividing the total system operational time (time the System was available in a production status to on-line users) by the number of hours in the reliability test period [(30) days x 24 hours per day = 720 hours]. Downtime caused by equipment not supplied by Contractor shall be included in the number of hours in the production status and shall not be grounds for restart of the Acceptance Test. The total System operational time defined above shall not be reduced for any periods of time that the system failed to meet System speed objectives so long as the system was capable of being used, or was used, in a production status to on-line users. Periods of sub-optimum System speed are to be measured and addressed as performance issues in accordance with the FSD.
- 5.1.6. Failure of individual System components which do not materially affect System performance or render the System inoperable (including, but not limited to, terminals, printers or components for which backup devices are available) shall not be construed as failure or counted as downtime.
- 5.1.7. If, at any point, the System does not pass the Acceptance Test, Contractor will stop the test, fix the problem, and restart the Acceptance Test. It is not required that one thirty (30) day period expire in order for Contractor to commence another Acceptance Test. When Acceptance Test restarts, there will be a minimum of fourteen (14) consecutive days of acceptance testing.
- 5.1.8. After the successful completion of the thirty (30) day Acceptance Test, the mobile System will be deemed accepted and the one-year warranty shall begin. The Systems shall be transitioned to Contractor's Customer Service Technical Support Group for the warranty period. The Contractor Project Manager on behalf of County will handle the details and supporting documentation for this transition.
- 5.1.9. County will provide written notice of acceptance of the System to Contractor upon successful completion of the Acceptance Test.

**EXHIBIT C****Price, Contract Amount, and Payment Schedule****1. Pricing****1.1. Hardware / COTS Software**

<b>Description</b>	<b>Model Part #</b>	<b>Qty</b>	<b>Price</b>
<b><u>Mobile Data Hardware</u></b>			
Panasonic M34 256MB, 1GHZ Centrino, 40GB HD PDR, Port Replicator	CF-M34CGFZKM CF-VDL02MKB	51	\$252,962
EDGE Modem with external antenna, 15' serial cable	MP 775	51	\$67,163
802.11b/g Wireless LAN Kit	K17804	51	\$22,326
<b><u>Mobile Data Software</u></b>			
PSI Mobile Software		51	\$0.00
<b><u>Network Equipment</u></b>			
1760 VPN Bundle W/ VPN Module	CISCO-1760-VPN-K9	1	\$2,675
Cisco Aironet® 350 Wireless 802.11B/G AP	AIR-AP352E2R-A-K9	2	\$1,457
12 DBI Omnidirect Mast Mount	AIR-ANT4121	2	\$49
150 Ft Ultra Low Loss Cable	AIR-CAB150ULL-R	1	\$326
100 Ft Ultra Low Loss Cable	AIR-CAB100ULL-R	1	\$243
60In (1.5M) Bulkhead Extender	AIR-ACC2537-060	2	\$109
Lightning Arrestor w/ Grounding	AIR-ACC3354	2	\$340
Air Line Cord North American	AIR-PWR-CORD-NA	2	\$21
<b><u>Mounting Hardware</u></b>			
Crown Vic Mounting Hardware		51	\$31,008
<b><u>Optional Hardware</u></b>			
Magnetic Strip Card Reader		51	\$9,302
Radius Servers		2	\$13,072
<b><u>Wireless Communications Infrastructure</u></b>			\$20,618
Includes:			
Cisco Aironet® 350 Wireless 802.11B/G AP (7)		7	
12 DBI Omnidirect Mast Mount (7)		7	

Exhibit C

150 Ft Ultra Low Loss Cable (4)		7	
100 Ft Ultra Low Loss Cable (3)		7	
60In (1.5M) Bulkhead Extender (7)		7	
Lightning Arrestor w/ Grounding (7)		7	
Air Line Cord North American (7)		7	
Installation		7	
Add-On Memory - 256MB for Panasonic		51	
<b>Total Hardware/Software</b>			<b>\$421,671</b>

**2. PSI Services**

Description	Model Part #	Qty	Price
Detailed System Design			\$6,801
Installation			\$5,562
Systems Integration			\$19,346
Project Management			\$17,121
User Training			\$14,890
Formal Testing			\$6,793
Cutover Support			\$12,864
<b>Total PSI Services</b>			<b>\$83,377</b>

**Total Price, less Taxes** **\$505,048**

**Estimated Taxes @ 8.25% on Section A above** **\$34,788**

**Total Obligation to Contractor, Including Estimated Taxes** **\$539,836**

**Contingency Amount Held in Reserve by County** **\$54,000**

**3. Payment Schedule**

**3.1. Hardware/Third Party Software**

The line item equipment price listed on Exhibit "C", Section 1.1. (plus applicable taxes) shall be due as follows:

30% upon signing of Agreement	\$126,501
65% plus applicable taxes upon delivery to customer site or storage area.	\$ 274,086*
5% upon Acceptance, as provided in this Agreement	\$21,084
Subtotal	\$421,671

\* does not include sales taxes that will be added to invoices as applicable

Partial deliveries, invoicing, and payment based on the individual line item prices set forth in Exhibit "B", Section I.A. shall be permitted. Title to all equipment provided hereunder shall pass to County upon payment of all amounts due Contractor for the equipment under this Agreement. Risk of loss shall be borne by Contractor until delivery to the County's site. County shall pay any personal property taxes that may be assessed on the equipment after delivery to Customer's site.

**3.2. Software and Services and Miscellaneous**

The milestone payments are as follows:

Sign Agreement	\$41,689
Acceptance	<u>\$41,688</u>
Total	\$83,377

**3.3. Total Contract Value**

Total Contract value, excluding applicable sales taxes	\$505,048
Estimated sales taxes on Section 1.1.	<u>\$34,788</u>
Total, Including Estimated taxes	<u>\$539,836</u>
<u>Contingency amount held in reserve by County</u>	<u>\$54,000</u>

**4. Terms**

Payments are net thirty (30) days from date of invoice. Late payments shall be subject to interest at the rate of 1.25% per month, or the maximum rate allowed by law, whichever is less.

**5. Sales and Use Taxes**

Customer shall be liable for all federal, state, and local sales, use, and excise taxes that become due as a consequence of this Agreement. Customer shall be liable for any increase in tax rates or change in the scope of tax assessments whether due to changes in any statutes or interpretation by any taxing authority.

Customer shall not be liable for the payment of such taxes, provided it shall furnish to Contractor an exemption certificate sufficient to exempt Contractor from the payment of all such sales, use, and excise taxes. Should any such certification furnished not be sufficient to exempt Contractor from the payment of such taxes, County shall indemnify and hold Contractor harmless for all such taxes assessed.

