

**AGREEMENT FOR PROFESSIONAL PROJECT SUPPORT SERVICES  
BETWEEN THE COUNTY OF SAN MATEO AND EASY ACCESS, INC.**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF SAN MATEO, hereinafter called "COUNTY," and Easy Access, Inc., hereinafter called "EAI";

**W I T N E S S E T H:**

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, and the Assessor-County Clerk-Recorder (hereinafter called "CLIENT") is such a Department;

WHEREAS, it is necessary and desirable that EAI be retained for the specific purpose of implementing an upgrade of CLIENT's two existing assessment systems, which CLIENT operates under an existing contractual relationship with EAI, the terms of which are hereby incorporated herein by reference: (1) a software licensing agreement first entered into on March 19, 1996; and (2) a support services agreement, most recently updated on June 9, 2005 (County #13000-06-C011);

**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:**

**1. Exhibits and Attachments**

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A — Services

Exhibit B — Payments and Rates

Attachment — Declaration of Equal Benefits Compliance

Attachment — Certificate of Insurance and Risk Manager's Approval Form

**2. Services to be performed by EAI**

In consideration of the payments set forth herein and in Exhibit "B," EAI shall perform services (hereinafter called "SERVICES") for COUNTY in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

### **3. Payments**

In consideration of the SERVICES provided by EAI in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," COUNTY shall make payment to EAI based on the rates and in the manner specified in Exhibit "B." COUNTY reserves the right to withhold payment if COUNTY determines that the quantity or quality of the work performed is unacceptable. In no event shall COUNTY's total fiscal obligation under this Agreement exceed one hundred sixty-one thousand two hundred dollars (\$161,200 USD).

### **4. Term and Termination**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from the latter of the execution dates of the parties through implementation of the SERVICES, unless sooner terminated or extended as herein provided through December 31, 2006.

This Agreement may be terminated by EAI or CLIENT's Department Head or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as "materials") prepared by EAI under this Agreement shall become the property of COUNTY and shall be promptly delivered to the CLIENT. Upon termination, EAI may make and retain a copy of such materials. Subject to availability of funding, EAI shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed 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 EAI as soon as is reasonably possible after COUNTY learns of said unavailability of outside funding.

### **6. Relationship of Parties**

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

### **7. Hold Harmless**

EAI shall indemnify and save harmless COUNTY, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including EAI,

or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from EAI's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of COUNTY, its officers, agents, employees, or servants, resulting from the performance of any work required of EAI or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which COUNTY has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of EAI 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**

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

**9. Insurance**

EAI 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 COUNTY's Risk Manager, and EAI shall use diligence to obtain such issuance and to obtain such approval. EAI shall furnish CLIENT with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending EAI's coverage to include the contractual liability assumed by EAI pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to CLIENT of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) Worker's Compensation and Employer's Liability Insurance. EAI 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, EAI 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.
- (2) Liability Insurance. EAI shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability

Insurance as shall protect EAI 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 EAI's operations under this Agreement, whether such operations be by EAI 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.

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

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.

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**

All services to be performed by EAI pursuant to this Agreement shall be performed in accordance with all applicable federal, state, county, and municipal laws, including, but not limited to, the 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 "I," 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, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

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.

EAI will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**11. Non-Discrimination and Other Requirements**

- A. 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.
  
- B. Equal employment opportunity. EAI 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. EAI's equal employment policies shall be made available to COUNTY of San Mateo upon request.
  
- C. Violation of Non-discrimination provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject EAI to penalties, to be determined by COUNTY's County Manager, including but not limited to:
  - (i) termination of this Agreement;
  - (ii) disqualification of EAI from bidding on or being awarded a COUNTY contract for a period of up to 3 years;
  - (iii) liquidated damages of \$2,500 per violation; and
  - (iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine EAI'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 EAI under the Contract or any other Contract between EAI and COUNTY.

EAI shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified EAI 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. EAI shall provide COUNTY with a copy of its response to the complaint when filed.

- E. Compliance with Equal Benefits Ordinance. With respect to the provision of employee benefits, EAI shall comply with the county ordinance which prohibits
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contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

- F. EAI 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.
- G. Compliance with EAI Employee Jury Service Ordinance. EAI shall comply with the county ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

**12. Retention of Records, Right to Monitor and Audit**

(a) EAI 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.

(b) Reporting and Record Keeping: EAI shall comply with all program and fiscal reporting requirements set forth by appropriate federal, state and local agencies, and as required by COUNTY.

(c) EAI agrees to provide to COUNTY, to any federal or state department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant federal, state, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

**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 Assessor  
Attn: Warren Slocum  
555 County Center, Floor 3  
Redwood City, CA 94063

In the case of EAI, to:  
Easy Access, Inc.  
Attn: William C. Hamer, CEO  
4200-A North Bicentennial Drive  
McAllen, Texas, 78504

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

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
Jerry Hill, President,  
San Mateo County Board of Supervisors

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

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

EASY ACCESS, INC.

By: \_\_\_\_\_  
William C. Hamer, Chief Executive Officer

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

## EXHIBIT "A": SERVICES

In consideration of the payments set forth in Exhibit "B", EAI shall provide the following services according to the following requirements and statement of work for completion of the Integrated Secured & Unsecured System Upgrade:

**1. EAI Personnel Required.** James Agnew; John Bodden; Rey Banda; and Sergio Mion.

**2. Other EAI Requirements.**

While on CLIENT's site, office space and equipment to be provided by CLIENT.

All work performed may be done either on-site at CLIENT's office, off-site in Colorado at the home office of James Agnew or in any EAI facility.

**3. Assumptions**

- (a) All existing License Agreements would remain as currently structured.
- (b) On-going Application Software Support Contract would remain in place for all existing EAI products.
- (c) System Security/Authority would be given to EAI personnel in order to perform the necessary work.
- (d) All improvements to the existing Secured and Unsecured System would be a part of the upgrade to the new Secured and Unsecured System.

**4. Services Acceptance**

CLIENT shall accept the qualitative performance of the SERVICES when it has been satisfactorily demonstrated to CLIENT to operate in substantial accordance with the existing AGREEMENT and this Statement of Work.

**5. CLIENT Responsibilities.**

The following responsibilities are in addition to those specified in the AGREEMENT and are to be provided at no additional cost to EAI:

- (a) Designate the Assessor to be the official point of contact for all EAI communication relevant to this project
- (b) Provide appropriate media.
- (c) Provide user IDs, device names, and passwords
- (d) Provide suitable workspace with telephone access for EAI personnel while working on the premises.



(e) Provide access to the AS/400 and all workspace areas used by EAI during all hours.

## **6. Work to be Performed by EAI.**

(a) Delivery and acceptance of Secured and Unsecured Database Elements:

1. Entity Definition Report
2. Entity Attribute Report
3. Entity Attribute Definition Report
4. Entity Attribute Relation Report
5. Entity Attribute Relation Definition Report
6. Data Dictionary including column names, data types, lengths, defaults and descriptions

(b) Delivery and acceptance of entity relationship diagram including Entity Relationship Diagram of logical relationships of all tables

(c) Delivery and acceptance of all primary keys, relationships, views and indexes including a listing of all primary keys, foreign key and index relationships.

(d) Review of system concepts including models, objects, and J2EE framework including samples of models, objects and the J2EE framework.

(e) Review of current and best practices workflow resulting in the following documentation:

1. Gap Analysis Document
2. Best Practices Document by workflow element. Workflows include:
  - a. User Workflow
  - b. Supervisor Workflow
  - c. Principal Workflow
  - d. Department Head Workflow
  - e. Activity Workflow
  - f. Internal Checks and Balances workflow

(f) UI (User Interface):

1. Review and final design of UI based on User requirements
2. Creation of UI based on design specifications
3. Creation of UI based error processing that prevents the creation or changing of data that will corrupt the database
4. Delivery and acceptance of UI

(g) Workflow Design:

1. Review and final design of Object Oriented workflow
2. Creation of workflow based on design specification

3. Delivery and acceptance of workflow
4. Participation and review of Solutions Architecture for the Application Service Buss in regards to the Assessor's application provided by Easy Access, Inc. (not to exceed 40 hours in duration).

(h) Interfaces:

1. Re-design of existing interfaces to work with new Database
2. Verification of interfaces based on new DB
3. Creation of data warehouse for general access to data from other county agencies or general public
4. Delivery and acceptance of all existing interfaces based on new DB

(i) Data Conversion:

1. Convert existing data into new database
2. Verification of converted data
3. Delivery and acceptance of converted data

(j) CRP (Conference Room Pilot):

1. Complete walk-thru of entire system
2. Correction/enhancement change request
3. Completion of change request
4. Delivery and acceptance of system

## EXHIBIT "B": PAYMENTS & RATES

In consideration of the services provided by EAI in accordance with Exhibit "A", COUNTY shall pay EAI based on the following:

**1. Performance Milestones.** COUNTY shall pay EAI an aggregate cash consideration not to exceed \$161,200 United States dollars in accordance with the performance milestones and related cost estimates set forth below. This aggregate cash consideration is inclusive of all present and future federal, state or local sales, use, excise or processing taxes or any other tax or charge, that is or may be imposed upon the product and services provided herein save taxes on net income. EAI's failure to include or correctly compute such taxes on its invoices shall relieve COUNTY of its obligation hereunder. EAI will submit invoices to CLIENT in accordance with said schedule and CLIENT shall pay such invoices upon receipt thereof.

<b><u>PERFORMANCE MILESTONE</u></b>	<b><u>MAXIMUM COST</u></b>
Completion of Professional Services Outlined in Exhibit "A": Integrated Secured and Unsecured System Upgrade	\$130,000
Training of User Staff – up to 80 hours	\$10,400
End User Documentation – up to 160 hours	\$20,800

**2. Billing.** All work shall be billed to CLIENT on a monthly basis, summarizing the work performed on the performance milestones identified above. The hourly billing rate will range from \$130.00 to \$140.00, based on personnel and location.