

ATTACHEMENT 1

Construction Contract Amendment with BIRDI Systems, Inc.

**FIRST AMENDMENT TO
SANTA MARIA JUVENILE HALL VIDEO SURVEILLANCE SECURITY UPGRADE #20005
BY AND BETWEEN
COUNTY OF SANTA BARBARA
AND
BIRDI Systems, Inc.**

THIS FIRST AMENDMENT (“Amendment”) to Santa Maria Juvenile Hall Video Surveillance System Agreement (BC22151; Project # 20005) is made by and between the County of Santa Barbara, a political subdivision of the State of California (“County”), and BIRDI Systems, Inc., a California corporation (“Contractor”) whose principal place of business is located at 723 E. Green Street Pasadena, CA 91101-2111.

WHEREAS, the County and Contractor are parties to that certain Agreement dated July 12, 2022 (BC22151), for services relating to the County’s Santa Maria Juvenile Hall Video Surveillance System (the “Agreement”); and

WHEREAS, the parties hereto desire amend the Agreement in order to amend the scope of work to be performed under the Agreement, extend the term of the Agreement, and increase the amount of compensation payable under the Agreement by One Hundred Fifteen Thousand, Eight Hundred Seventy-Five Dollars (\$115,875.00), for an amended base contract amount of Nine Hundred Thirteen Thousand, Three Hundred Sixty-Nine Dollars and Seventy-Three Cents (\$913,369.73).

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, County and Contractor agree to amend the Agreement as follows:

1. Section 1 of the Agreement is hereby amended by replacing Section 1 to read in its entirety as follows:

“1. CONTRACT DOCUMENTS: This agreement incorporates by reference all of the Exhibits hereto, all of the General and Special Conditions and Specifications provided by the COUNTY for the Santa Maria Juvenile Hall Security System Upgrade Project No. 20005 (“Project”), the Request for Proposals, the Bid Bond, the Faithful Performance Bond, the Payment Bond, the Proposal executed and submitted by the CONTRACTOR for the Project (“Proposal”), to the extent that the Proposal is consistent with the provisions of this agreement other than the Proposal (all of the foregoing documents together with this agreement, collectively, the “Contract” or “Contract Documents”). Copies of all Contract Documents are on file in the Department of General Services Office of the COUNTY, and have been and will be made available to the CONTRACTOR during the term of this Agreement. CONTRACTOR acknowledges receipt of all Contract Documents.”

2. The Agreement is hereby amended by adding a new Exhibit A to the Agreement in the form attached hereto as Exhibit A and incorporated herein by this reference.
3. Section 2 of the Agreement is hereby amended by replacing Section 2 to read in its entirety as follows:

“**2. WORK:** CONTRACTOR agrees, at CONTRACTOR’s own cost and expense, to furnish all the work and all equipment and materials necessary to perform and complete the work described in the Contract Documents (“work”) in a good and workmanlike manner to the satisfaction of the Director of General Services of COUNTY, all in strict accordance with the plans approved by COUNTY for the Project (“Plans”) and the Contract Documents.”

4. Section 5 of the Agreement is hereby amended by replacing Section 5 to read in its entirety as follows:

“**5. PAYMENT:** As full compensation for furnishing all labor, supervision, overhead, materials and equipment, and for completing all of the work and services set forth in, and in accordance with the provisions of, this Contract and subject to adjustments and liquidated damages, if any, as provided in the Contract Documents, the base amount to be paid to the CONTRACTOR for satisfactory completion of all requirements of the Contractor under this Contract is and shall be Nine Hundred Thirteen Thousand Three Hundred Sixty-Nine Dollars and Seventy-Three Cents (\$913,369.73), to be paid as provided in the Contract Documents. The CONTRACTOR assumes and will provide against any and all loss or damage arising out of the nature of the work undertaken, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the performance of the work until its acceptance by the COUNTY, and assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the work, for well and faithfully completing the work and the whole thereof, in the manner and to the requirements of the Contract and directions of the County Representative, hereunder.”

5. Section 12 of the Agreement is hereby amended by replacing Section 12 to read in its entirety as follows:

“**12. TERM:** CONTRACTOR shall complete all work to be performed, and deliver all deliverables to be delivered, under this Contract in accordance with the Contract Documents no later than December 30, 2023. The provisions of the Contract Documents pertaining to Liquidated Damages shall apply in the event that CONTRACTOR fails to complete all work required pursuant to the Contract Documents by December 30, 2023.

6. Section 13 of the Agreement is hereby amended by replacing Section 13 to read in its entirety as follows:

“**13. INSURANCE AND INDEMNIFICATION:** CONTRACTOR shall, at all times during the Term, comply with the indemnification and insurance provisions set forth in EXHIBIT C, attached hereto and incorporated herein by reference. CONTRACTOR certifies that CONTRACTOR has knowledge of, is in compliance with, and warrants that CONTRACTOR at all times during the TERM shall remain in compliance with, the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance by the provisions of that Code. CONTRACTOR shall comply with such provisions before commencing the performance of the work.”

7. The Agreement is hereby amended by adding a new Exhibit B to the Agreement in the form attached hereto as Exhibit B and incorporated herein by this reference.
8. The Agreement is hereby amended by adding a new Section 20 to the Agreement to read in its entirety as follows:

“20. NON-ASSIGNMENT; PERMITTED SUBCONTRACTOR(S): CONTRACTOR shall not assign, delegate, subcontract, or otherwise transfer, by operation of law or otherwise, this Contract or any of CONTRACTOR’s rights or obligations under this Contract without COUNTY’s prior written consent in each instance, and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for immediate termination of this Contract by COUNTY. CONTRACTOR shall not enter into agreements with or otherwise engage any person or entity, including all subcontractors and affiliates of CONTRACTOR, other than CONTRACTOR’s employees, to provide any Services to COUNTY without the prior written consent of COUNTY in each instance (each such approved subcontractor or other third party, a “Permitted Subcontractor”). COUNTY’s consent with respect to a Permitted Subcontractor shall not relieve CONTRACTOR of any of its obligations under this Contract, and CONTRACTOR shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Contract as if they were CONTRACTOR’s own employees. CONTRACTOR shall ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of CONTRACTOR, are properly licensed, certified and accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the work. Nothing contained in this Contract shall create any contractual relationship between COUNTY and any subcontractor or supplier of CONTRACTOR.”

9. Effectiveness of Agreement. Except as expressly modified by Sections 1 through 8, above, all of the provisions of the Agreement remain in full force and effect.
10. Authority. Each of the parties hereto represents and warrants that such party’s respective signatories to this Amendment have the power and authority to enter into this Amendment in the capacities set forth in such party’s signature block(s), below, and such party has fully complied with all formal requirements necessary for such party to enter into this Amendment, and for this Amendment to be legally binding on such party. Contractor hereby certifies and warrants that entering into this Amendment shall not cause Contractor to breach the terms or conditions of any other contract or agreement to which Contractor is a party or which is otherwise binding on Contractor.
11. Counterparts. This Amendment may be executed in several counterparts, all of which taken together shall be deemed to be originals and shall constitute a single agreement between the parties hereto. A signed copy of this Amendment delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to be effective as of the first date fully executed by all of the parties hereto.

COUNTY

County of Santa Barbara

By: _____ DAS
WILLIAMS, CHAIR
BOARD OF SUPERVISORS

Dated: _____

ATTEST:

MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Clerk of the Board

CONTRACTOR

Birdi Systems, Inc.
723 E. Green Street
Pasadena, Ca. 91101-2111

DocuSigned by:
By: Moninder Birdi
BA44E8DAD70540F...
AUTHORIZED
REPRESENTATIVE
Name: Moninder Birdi Deputy
Title: President

**APPROVED AS TO FORM:
FORM:**

RACHAL VAN MULLEM,
COUNTY COUNSEL

DocuSigned by:
By: Lauren Wideman
8F464D822C84458...
County Counsel

APPROVED AS TO ACCOUNTING

BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

DocuSigned by:
By: Robert Geis Deputy
D25019E2AF094BE...
Deputy Auditor-Controller

APPROVED AS TO FORM:

GREG MILLIGAN, ARM
RISK MANAGER

DocuSigned by:
By: Greg Milligan
DC240AC1E64247D
Manager

RECOMMENDED FOR APPROVAL

KIRK LARGERQUIST, DIRECTOR
GENERAL SERVICES DEPARTMENT

DocuSigned by:
By: Kirk Lagerquist
19AEDA90054E4CE...
Department Head

Dept 063 Fund 00030 Program 1930 Account 8200 Project 20005

Exhibit A

Additional Scope of Work

1. Furnish and Install Network Switches.

Network Switches

The switches will be installed to complete the closed network.

Exclusions

- Fiber, wire, patch cables or other work connecting the switches to the closed network.
- 2nd or 3rd shift labor.
- Cutting, patching & painting.
- Labor cost for Overtime.

The total price to complete the Furnish and Install Network Switches scope of work set forth above in this Section 1 of Exhibit A is \$29,310.00.

2. Furnish and Install Bosch VMS client workstation, racks and UPS.

Furnish and Install PoE+ network switches in each of the server rooms to power Bosch cameras throughout the facility

Client computer

The client computer will be installed and setup as the Bosch VMS Client.

- 1 Tower computer

Network Switch cabinets

The switches will be installed to complete the closed network.

- o 1 CWR-12-22PD Wall mount 12U rack cabinets
- o 2 CWR-18-22PD Wall mount 18U rack cabinets
- o 3 SMC-1500-2UC UPS for cabinet and switches
- o 3 120vac power, breaker, THHN and EMT conduit to supply power to cabinets.

Exclusions

- Fiber, wire, patch cables or other work connecting the switches to the closed network.
- 2nd or 3rd shift labor.
- Cutting, patching & painting.
- Labor cost for Overtime.

The total price to complete the Furnish and Install Bosch VMS client workstation, racks and UPS scope of work detailed above in this Section 2 of Exhibit A is \$58,000.00.

3. Work Performed Towards Rescinded Change Order

\$ 28,565.00 for costs for “Server Room ID Base Bid Vs Change Order” work that was performed towards “Change Order-1” which was issued approval 03/07/2023 and rescinded on 03/31/2023.

EXHIBIT B

Indemnification and Insurance Requirements (For Construction Contracts)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is caused by the active negligence, sole negligence, or willful misconduct of the COUNTY.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope and Limit of Insurance
Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Contractor's Pollution Legal Liability and/or Asbestos Legal Liability:** (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the

COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – **CONTRACTOR hereby agrees to waive rights of subrogation which any insurer of CONTRACTOR may acquire** from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. This provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY, either: the CONTRACTOR shall cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officers, officials, employees, agents and volunteers; or the CONTRACTOR shall provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required

insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.