

# Attachment A

## AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR SUPPORT SERVICES

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and NEC Corporation of America, a Nevada corporation with an address at 6535 N. State Highway 161, Irving, Texas 75039-2402 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

### **1. DESIGNATED REPRESENTATIVE**

Carl Thornton at phone number 805-681-5581 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Bret Rome at phone number (562) 506-2350 - is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

### **2. NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Communications Manager, 4568 Calle Real Bldg. C, Santa Barbara, CA 93110  
To CONTRACTOR: NEC Corporation of America, 6535 N. State Highway 161, Irving, TX 75039  
Attn: Legal Division – Contract Administration Department

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

### **3. SCOPE OF SERVICES**

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

### **4. TERM**

CONTRACTOR shall commence performance on July 1, 2014, and end performance upon completion, but no later than June 30, 2015, unless otherwise directed by COUNTY or unless earlier terminated. The Contractor has been performing the contract since the expiry date of the maintenance renewal term, which actions and obligations are ratified by both parties and made subject to this Agreement. This Agreement is renewable each year by the COUNTY giving sixty (60) days' notice of intent to renew. The maximum number of renewals shall not exceed four (4) years.

## **5. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

## **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

## **7. STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

## **8. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

## **9. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

## **10. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

## **11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

The County acknowledges that the products provided by CONTRACTOR hereunder are commercial in nature and all intellectual property rights for those products are owned exclusively by CONTRACTOR or its licensors, notwithstanding any other provision of this Agreement to the contrary, all pre-existing practices, procedures, materials, development tools and reusable components, including, but not limited to the CONTRACTOR's or its vendors' library of generic, reusable software code, procedures, manuals and business practices as well as any modification or extension of them are and remain the sole property of the CONTRACTOR and the County will have no interest in or claim to them except to the limited extent that may be necessary to exercise its rights under this Agreement. Pre-existing practices, procedures, materials, development tools and reusable components include any routines, libraries, tools, methodologies, processes or technologies created, adapted or used by the CONTRACTOR in its business generally, including generic, reusable software code components and related documentation which contain the basic components of CONTRACTOR's software architecture and which are used in most software projects delivered by the CONTRACTOR plus all associated intellectual property rights. In addition, notwithstanding any provision of this Agreement to the contrary, CONTRACTOR is free to use any ideas, concepts or know-how developed or acquired by CONTRACTOR during the performance under this Agreement, to the extent obtained and retained by CONTRACTOR's personnel as impressions and general learning.

To the extent that the products or services provided hereunder contain, embody or are based on, patented or patentable inventions, trade secrets, copyrights and other intellectual property rights owned or controlled by CONTRACTOR or the applicable manufacturer, CONTRACTOR, or the manufacturer, respectively shall continue to be the sole owner of all intellectual property rights in such products and services.

**12. LIMITATION OF LIABILITY.** EXCEPT FOR INDEMNITY OBLIGATIONS UNDER EXHIBIT C BELOW; OR AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, OR FOR EITHER PARTY'S LIABILITIES ARISING FROM USE OF INTELLECTUAL PROPERTY BEYOND THE SCOPE PERMITTED BY THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR DAMAGES EXCEEDING THE FEES PAID OR OWED TO THE OTHER PARTY HEREUNDER; AND NEITHER PARTY SHALL HAVE ANY LIABILITY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR SPECIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE), ARISING OUT OF THIS AGREEMENT, (INCLUDING ANY DAMAGES ARISING UNDER ANY CLAIM OR NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY), EVEN IF THE PARTY INCURRING SUCH DAMAGES HAS ADVISED THE OTHER PARTY OF THE POSSIBILITY OF SUCH DAMAGES.

13. **SERVICES WARRANTY.** CONTRACTOR represents and warrants that all Services provided to the COUNTY pursuant to this Agreement shall be performed by competent personnel, with professional diligence and skill, consistent with industry standards, and will conform in all material respects to the specifications and requirements set forth, and for the period stated or incorporated herein.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT AND THE APPLICABLE ORDER, CONTRACTOR DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT AND/OR SERVICES COVERED HEREUNDER, AND IN PARTICULAR DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, ALL WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND ALL WARRANTIES RELATED TO THIRD PARTY EQUIPMENT, MATERIAL, SERVICES OR SOFTWARE NOT PROVIDED HEREUNDER ARE EXPRESSLY EXCLUDED.

**14. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

**15. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

**16. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

**17. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to procure and maintain insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

## **18. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

## **19. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

## **20. NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

## **21. TERMINATION**

- A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
  2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice - provided that CONTRACTOR has been given thirty (30) days prior written notice of the default and failed to cure the default within such thirty (30) day period. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

## **22. SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

## **23. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## **24. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

## **25. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

## **26. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

## **27. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

## **28. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

## **29. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

## **30. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

## **31. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

## **32. AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

## **33. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

## **34. PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

## **35. BUSINESS ASSOCIATE**

The parties agree to the terms and conditions set forth in Exhibit D – **Confidentiality Agreement, HIPAA Incidental Disclosure for Services Contracts**, attached hereto and incorporated herein by reference.

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Agreement for Services of Independent Contractor between the County of Santa Barbara and CONTRACTOR Corporation of America.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors

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

**RECOMMENDED FOR APPROVAL:**

{ENTER DEPARTMENT NAME}

**CONTRACTOR:**

NEC CORPORATION OF AMERICA

By: Karen L. Milosfor  
Department Head  
*Matt Pontes*

By: \_\_\_\_\_  
Authorized Representative

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Michael C. Ghizzoni  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Robert W. Geis, CPA  
Auditor-Controller

By: Brian Cott  
Deputy County Counsel

By: Julia A. Hagen  
Deputy

**APPROVED AS TO FORM:**

Risk Management

By: [Signature]  
Risk Management



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Agreement for Services of Independent Contractor between the County of Santa Barbara and  
CONTRACTOR Corporation of America.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by  
COUNTY.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors

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

**RECOMMENDED FOR APPROVAL:  
GENERAL SERVICES**

**CONTRACTOR:  
NEC CORPORATION OF AMERICA**

By: \_\_\_\_\_  
Department Head

By: Michael J. Ventresca Jr.  
Authorized Representative  
Name: Michael J. Ventresca Jr.  
Title: Director of Operations

**APPROVED AS TO FORM:**  
Michael C. Ghizzoni  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**  
Robert W. Geis, CPA  
Auditor-Controller

By: \_\_\_\_\_  
Deputy County Counsel

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

**APPROVED AS TO FORM:**  
Risk Management

By: \_\_\_\_\_  
Risk Management

## EXHIBIT A

### STATEMENT OF WORK

CONTRACTOR shall provide the following Maintenance Support Services ("SERVICES") as set forth in the services descriptions below. The pricing for SERVICES purchased by COUNTY are listed in Exhibit A.1.

Suspension for Convenience. COUNTY may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the services under this Agreement in whole or in part for up to five (5) days. COUNTY shall incur no liability for suspension under this provision and suspension shall not constitute a breach of this Agreement.

#### 1 Definitions

- 1.1 Principal Period of Maintenance ("PPM") - The days and hours of the days when service is delivered to COUNTY.
- 1.2 Service Level Agreement ("SLA") - The cumulative time (Response Time) in which CONTRACTOR will make commercially reasonable efforts to respond to COUNTY's reported maintenance incident.
- 1.3 Response Time - Response Time is measured according to the PPM. If PPM is less than 24 hours per day, 7 days a week, then Response Time is measured within that PPM. Response Time begins upon CONTRACTOR's receipt of maintenance service request from COUNTY, verification of problem found, and dispatch or initiation of remote labor required to affect repairs.
- 1.4 Major System Failure - A general inability of the PBX system to receive incoming or originate outgoing calls, or a majority of either the central office trunks or tie trunks are inoperable, or more than twenty-five percent (25%) of either the stations or terminals are inoperable.
- 1.5 Time and Materials (T&M) Rates - In the absence of a contractual agreement, except under contract negotiations during the renewal of an existing agreement, T&M is the prevailing local dispatch labor rate, plus list price of materials required to affect repairs. Onsite T&M hours require a one (1) hour minimum charge during normal business hours or a four (4) hour minimum charge after normal business hours per request, plus travel charges.
- 1.6 Covered Components – Covered Components are the hardware and/or software identified in Exhibit A.1 under Covered Systems.
- 1.7 Incident Management - The process of managing the lifecycle of unplanned interruption to service or service alarms detected through the process of remote monitoring of COVERED COMPONENTS.
- 1.8 Incident Prioritization – Service requests and service alarms will be prioritized in order to determine severity and response time. These incidents will be categorized in one of the four priorities below, based on the impact to the COUNTY's business  
*Priority 1:* System is down or there is a critical impact to the COUNTY's business operations.  
*Priority 2:* Operation of System is severely degraded, or significant aspects of the COUNTY's business operation are being negatively impacted by unacceptable System performance.  
*Priority 3:* Operational performance of the System is impaired while most business operations remain functional.
- 1.9 *Priority 4:* COUNTY requires information or assistance regarding CONTRACTOR Product capabilities, or configuration capabilities. There is clearly little or no impact to the COUNTY's business operation.  
MACD - (Moves Adds Changes Deletes) Changes that are requested by the COUNTY to modify the functionality of the Covered Component.
- 1.10 SNMP - Simple Network Management Protocol (SNMP) is an "Internet-standard protocol for managing devices on IP networks". Devices that typically support SNMP include PBX's, routers, switches, servers,

workstations, printers, modem racks, and more. It is used mostly in network management systems to monitor network-attached devices for conditions that warrant administrative attention.

## 2 Performance of Services

CONTRACTOR shall provide the SERVICES in this Statement of Work for the applicable hardware and software components ("COVERED COMPONENTS") defined in the Covered Components List (Exhibit A.1). CONTRACTOR reserves the right to change the SERVICES from time to time, and COUNTY will be notified of any material changes or updates to the SERVICES which may affect COUNTY. Both the County and CONTRACTOR shall agree in writing to any changes in scope or standard of SERVICES listed in Section 3 - Services Description. CONTRACTOR may use a subcontractor with the COUNTY'S consent to provide the SERVICES, including, without limitation, any CONTRACTOR parent company, subsidiary, or affiliate.

## 3 Services Descriptions:

### Certified Parts Replacement:

Certified Parts Replacement provides extended parts coverage for faulty or defective parts. If any covered part listed in Exhibit A.1 – Covered Components List and Pricing is found to be defective under normal usage, COUNTY will be entitled to a full replacement of the covered part. CONTRACTOR shall, during the contract period, furnish all parts necessary to maintain the System in good working order. Any replacement parts may be either new or refurbished but equivalent to new in operation. Parts will be furnished on an exchange basis, and any parts removed shall become the property of CONTRACTOR.

Certified Parts Replacement includes CONTRACTOR'S Advance Replacement Program: CONTRACTOR will use commercially reasonable efforts to provide Advance Replacement service for COVERED COMPONENT as follows:

- 1) An Advance Replacement will ship the same day to arrive the next business day, provided both the COUNTY call to CONTRACTOR for notification and CONTRACTOR'S diagnosis and determination of the failed COVERED COMPONENT has been made before 3:00 p.m., local time, Monday through Friday (excluding CONTRACTOR-observed holidays). For requests after 3:00 p.m., local time, the Advance Replacement will ship the next business day. Next day delivery is subject to parts availability.
- 2) Advance Replacements will be shipped using CONTRACTOR's preferred carrier, freight prepaid by CONTRACTOR.
- 3) COUNTY has thirty (30) days to return the failed COVERED COMPONENT to CONTRACTOR. If COUNTY fails to return the failed COVERED COMPONENT to CONTRACTOR within thirty (30) days, COUNTY will be billed for the replacement cost of the COVERED COMPONENT. COUNTY agrees to pay the replacement cost of the COVERED COMPONENT, plus any shipping charges, if COUNTY does not return the original part(s) within thirty (30) days.

### Software Assurance:

Software Assurance is CONTRACTOR'S software subscription and support program that provides access to future software versions and scheduled upgrades. Both software upgrades and limited support is included.

With Software Assurance, COUNTY is entitled to bug fixes, service packs, and new major and minor version upgrades for COVERED COMPONENTS at no additional cost. CONTRACTOR will

provide notice of such bug fixes, service packs, and upgrades as they become available. COUNTY will be provided with access to CONTRACTOR technical experts through CONTRACTOR's Technical Support Center who can help ensure COUNTY's current software for COVERED COMPONENTS includes all the latest features and bug fixes. COUNTY will also be granted access to the Software Assurance collaboration site and technical knowledgebase.

CONTRACTOR will make all software upgrades available, including any necessary licensing, from CONTRACTOR's licensing server. CONTRACTOR's onsite support team will be responsible for obtaining these upgrades, software patches, and bug fixes for COUNTY as they become available.

COUNTY is responsible for coordinating software upgrades from CONTRACTOR as new software becomes available and is also responsible for any costs associated with installing patches, service packs, and/or new major and minor version upgrades. This Service does not provide coverage for any labor or materials.

**Certified Basic Remote Monitoring:**

Certified Basic Remote Monitoring provides remote monitoring of CONTRACTOR voice network components. CONTRACTOR's fully automated monitoring system will immediately notify COUNTY of critical component alarms in order to help identify and isolate failures.

CONTRACTOR will provide COUNTY with 24x7 remote monitoring of SNMP enabled voice components and critical voice network functions in order to identify component and voice related network issues. Basic Remote Monitoring service provides alarm notifications along with the following:

- *Event Monitoring:* Selected elements of COVERED COMPONENTS will be proactively monitored for system events 24 hours per day, 365 days per year. When an event is detected, notifications are provided according to the appropriate escalation procedures established with COUNTY.
- *Availability Monitoring:* Selected elements of COVERED COMPONENTS will be proactively monitored for availability 24 hours per day, 365 days per year. If applicable, availability indicators will be collected from COVERED COMPONENTS. When an incident is detected, notifications are provided according to the appropriate escalation procedures established with COUNTY.
- *Performance Monitoring:* Selected elements of COVERED COMPONENTS will be proactively monitored for performance 24 hours per day, 365 days per year. Performance indicators will be collected from COVERED COMPONENTS. When an incident is detected, notifications are provided according to the appropriate escalation procedures established with COUNTY.
- *Web Portal:* CONTRACTOR will provide COUNTY with an online portal in which COUNTY may review incidents, metrics and certain reports for monitored or COVERED COMPONENTS.

Certified Basic Remote Monitoring provides COUNTY notification of detected component alarms. This service does not provide Incident Management of the detected component alarms. COUNTY is responsible for further troubleshooting detected component alarms unless Certified Advanced Monitoring is purchased. This Service does not provide coverage for any additional labor unless Certified Remote Support, Certified Onsite Repair or Certified On-Premise Services is purchased.

**Certified Advanced Remote Monitoring:**

(Co of SB Std Terms Ver 4-21-95)

Certified Advanced Remote Monitoring includes all of the services provided with Certified Basic Remote Monitoring along with the following services:

- *Incident Management:* CONTRACTOR will detect, isolate, and correct faults encountered in the COVERED COMPONENTS. Incident Management includes tracking and troubleshooting of incidents to resolution.  
Event Monitoring PPM is 24x7 and Incident Management PPM is 8x5, unless Premium Service Level is selected in section 2, Maintenance Support Services Service Levels then Incident Management PPM is 24X7.
- *Performance and Availability Management:* In addition to monitoring key metrics related to availability and performance of COVERED COMPONENTS, CONTRACTOR will make periodic recommendations regarding enhancement of COUNTY's environment based on the information gathered via monitoring.
- *Problem Management:* CONTRACTOR will track incident trends to determine root causes of recurring events so that the underlying problem can be resolved.
- *Environmental Monitoring:* Monitoring of environmental conditions through contact sensors. CONTRACTOR will monitor conditions such as temperature, water, humidity or any condition from devices that signal fault conditions using contact closures or a TTL logic signal. COUNTY is responsible for providing or purchasing from CONTRACTOR, all contact sensors and contact closures.

Certified Advanced Remote Monitoring provides COUNTY notification of the detected component alarms and also provides Incident Management of the detected component alarms. CONTRACTOR will be responsible for further troubleshooting and resolving the component alarms. This Service is not applicable unless Certified Remote Support, Certified Onsite Repair or Certified On-Premise Services is purchased.

**Advanced Quality of Experience (QOE) Network Analysis**

CONTRACTOR Direct Monitoring QOE continually reviews VoIP quality in existing VoIP environments. CONTRACTOR will simulate VoIP calls in 10-15 minute increments between each installed end point. A minimum of two end points are required for this service. After the completion of each simulated call, the results are sent to the portal, which is accessible 24x7, 365 days a year. COUNTY may view the current and past statistics, as part of the service. This service will help to quickly identify Mean Opinion Score (MOS) which is a measure of voice quality expressed in a number, from 1 to 5, 1 being the worst and 5 the best. Delay, jitter, and loss are also measured to quickly identify issues affecting VoIP traffic. If issues are identified, the COUNTY will be notified electronically and is responsible for correcting any network issues that will affect the VoIP application. COUNTY must have **Certified Advanced Remote Monitoring** to add this service.

- \* All hardware provided for the purpose of Remote Monitoring, QOE, or Incident Management is the property of CONTRACTOR and shall be returned to CONTRACTOR, at the COUNTY's expense, upon termination or cancellation of the Agreement.

**Certified On-Premise Services**

Certified On-Premise Services provides a dedicated CONTRACTOR service technician placed on COUNTY premise to manage and maintain COUNTY's PBX platform and peripherals. CONTRACTOR shall, during the contract period, furnish all labor necessary to maintain the COVERED COMPONENTS in good working order, or provide such other coverage as specified in this Statement of Work.

PPM is 8x5 (Monday through Friday, excluding CONTRACTOR-observed holidays, from 8 AM to 5 PM COUNTY local time zone unless otherwise authorized by CONTRACTOR management). Services include a maximum of forty (40) hours per week of onsite labor provided by an assigned service technician. The assigned service technician is to be allowed up to five (5) sick days per annum without backfill, credit, or refund of any payments made. CONTRACTOR will provide a report to the County on the 15th day of each month showing sick time used and available for each of the on-site technicians ("Sick Time Report"). This section will be not valid, if the Contractor fails to provide monthly reports for any two-periods in a contract year. Repair services must be prioritized as primary responsibility. Any hours expended above and beyond forty (40) hours per week will be billed at the hourly T&M rates listed in Exhibited A.1. Hours not expended upon the expiration of this Statement of Work will not be carried over or credited.

***Certified On-Premise Services does not provide parts coverage for faulty or defective parts unless Certified Parts Replacement is also purchased.***

#### **4 Maintenance Support Services Service Levels**

CONTRACTOR shall provide only the SERVICES as specified in this Statement of Work. Performance metrics associated with the SERVICES are specified below. The SERVICES and Service Levels described in this Statement of Work are applicable only to the applications and components listed in Exhibit A.1 - Covered Components List.

**Standard Service Level:**

PPM is 8x5 (Monday through Friday, excluding holidays observed by CONTRACTOR, from 8 AM to 5 PM COUNTY local time zone). SLA is next business day following the request for routine maintenance service. However, CONTRACTOR will exercise all commercially reasonable efforts to respond to incidents of Major System Failure within four (4) hours, as requested.

#### **5 Non-Covered Services**

CONTRACTOR will attempt to respond promptly to all requests for service. If service is required outside CONTRACTOR's normal service hours, labor for such non-covered service calls will be chargeable to COUNTY in accordance with CONTRACTOR's hourly labor rates listed in Exhibit A.1 and onsite hours require a four (4) hour minimum charge after normal business per request, plus travel charges. Any service specifically requested by COUNTY outside standard PPM is billable at the after-hours or Holiday time and materials rates listed in Exhibit A.1, respectively, according to holidays observed by CONTRACTOR, and on-site hours require a four (4)-hour minimum per request, plus travel charges. After hours service calls are billed at one and one-half times the T&M rate, and services calls on CONTRACTOR-observed holidays are billed at twice the T&M rate.

CONTRACTOR shall be the primary responsible party for troubleshooting Systems covered under this Agreement and listed in Exhibit A.1 for maintenance and repair. CONTRACTOR shall coordinate local area network issues with the County ICT and the carriers for the proper resolution and operation of the System.

#### **6 Rework**

For any rework or additional work that CONTRACTOR is required to perform because of inaccurate information provided by COUNTY and/or COUNTY's failure to perform its responsibilities under this Statement of Work, CONTRACTOR will invoice COUNTY on a time and materials basis and COUNTY agrees to pay such invoice.

#### **7 EXCLUSIONS**

(Co of SB Std Terms Ver 4-21-95)

- 7.1 This Statement of Work will not cover repair work in replacement of battery backup or expendable items such as headsets, video conferencing equipment, paper, diskettes, and printer ribbons. This Statement of Work also will not cover service required when due to: (i) COUNTY's unauthorized maintenance or repair of the Equipment, (ii) COUNTY's unauthorized add, move, or changes to the Equipment, (iii) negligence, (iv) abuse, (v) connection to inappropriate power supplies, (vi) fire, flood, wind, lightning, or other similar acts of God, (vii) failure of COUNTY to maintain proper environmental conditions for the System (as stated in (b) below), (viii) improper wiring, installation, repair, or alteration of the Equipment by anyone other than CONTRACTOR or its agents, (ix) software changes or attempted software changes in the System by persons not authorized by CONTRACTOR, or (x) data base reprogramming required because of COUNTY error of any kind. If requested by COUNTY, repairs necessitated by any of the above excluded causes shall be performed by CONTRACTOR at CONTRACTOR's local rates for such services and/or materials as listed in Exhibit A.1.
- 7.2 The COUNTY is responsible for maintaining suitable environmental conditions for the System. Suitable conditions shall include, but are not limited to: the provision of proper electrical power, air conditioning, and humidity control, and other environmental requirements for the configured system, in accordance with the manufacturer specifications for the applicable System. The presence of asbestos, other hazardous materials or unsafe conditions ("Hazards") on the Premises shall be deemed an unsuitable environment for the System and CONTRACTOR shall be entitled to cease performance under this Statement of Work until such Hazards have been cured to CONTRACTOR's reasonable satisfaction.

## **8 ACCESS**

COUNTY agrees to provide reasonable accessibility to the Premises as required for CONTRACTOR personnel to perform services, and will make available to CONTRACTOR a reasonable amount of secure space for storage of such maintenance parts as CONTRACTOR deems reasonably necessary to affect repairs in accordance with this Statement of Work.

CONTRACTOR will be liable in the event of lost keys in the possession of the CONTRACTOR for all costs to re-key and or re-program an electronic key for all locations involving the lost key. CONTRACTOR will be required to sign for a key. Once the key is returned, the COUNTY will provide CONTRACTOR with a receipt that the key was returned.

Personnel assigned by CONTRACTOR for each component of the Agreement who have or need access to confidential Customer computer systems, networks, software or related infrastructure, or the locations where they are housed, shall apply for and be granted a clearance by the Sheriff's Office subsequent to a background check at the COUNTY'S expense. Only those who pass will be allowed admittance. Generally a photo ID such as a driver's license with a date of birth and a DL number will suffice for the records check. This applies to any and all subcontractors as well. Generally these clearances can be granted within a 24-hour period, Monday through Friday.

## **9 Restrictions on Use of Services**

COUNTY agrees not to (i) rent, lease, or loan the SERVICES or any part thereof, or provide or use the SERVICES on a third party's behalf; (ii) permit third parties to benefit from the use of the SERVICES; (iii) reverse engineer, decompile, or disassemble any software that provides the SERVICES, or otherwise attempt to derive the source code of such software; or (iv) download, export, or re-export any software or technical

data received hereunder, regardless of the manner in which received, without all required United States and foreign government licenses.

## **10 COUNTY Cooperation**

COUNTY agrees to provide all information, access, and full good faith cooperation reasonably necessary for CONTRACTOR to deliver and provide the SERVICES and agrees that CONTRACTOR's delivery of the SERVICES depends upon COUNTY's timely cooperation and assistance as CONTRACTOR may require. CONTRACTOR shall bear no liability or otherwise be responsible for delays or failure in the provision of the SERVICES caused by COUNTY's failure to provide such information, cooperation, assistance or access.

## **11 COUNTY acknowledges and agrees that:**

- 11.1 Criminals, terrorists, or others may commit or attempt to commit unlawful, disruptive, violent, terrorist and/or warlike acts at times and places, and in manners, that cannot be predicted or prevented;
- 11.2 Information technology developments, configuration or implementation changes, software modifications (including routine maintenance, patches, enhancements and upgrades), human factors and other circumstances can create new, unknown and unpredictable security exposures;
- 11.3 Information technology "hackers" and other third parties continue to develop and employ increasingly sophisticated and powerful techniques and tools, which result in ever-growing security risks and potential for causing damage to persons and property;
- 11.4 CONTRACTOR does not make any representation or warranty (a) that COUNTY's or any third party's information technology, software, information, equipment, facilities, or personnel are or will be, (i) secure or safe from harm or (ii) secure or safe from intrusion, disruption, interception, viruses, or other security exposures, or damage to persons or property caused by the preceding, or (b) that CONTRACTOR will provide ongoing warnings regarding such exposures;
- 11.5 COUNTY is solely responsible for complying with the legal obligations of all local country data protection legislation, in particular with the legality of transmission of data to CONTRACTOR or its subcontractor and the legal requirements for processing of data.

## **12 COUNTY Responsibilities**

- 12.1 COUNTY is responsible for the physical security of the COVERED COMPONENTS.
- 12.2 COUNTY is responsible for ensuring proper environmental conditions for COVERED COMPONENTS as required by the manufacturer.
- 12.3 If COUNTY needs to send equipment to CONTRACTOR, COUNTY agrees to ship such equipment via pre-paid freight. No Charge on Delivery (COD) of returned equipment will be accepted.
- 12.4 COUNTY agrees to provide SSL, VPN and/or IP connectivity between CONTRACTOR and COUNTY site and COVERED COMPONENTS for SERVICES.
- 12.5 COUNTY is responsible for provisioning, maintaining and any cost related to the private connections required for service delivery (For example: Private T1, MPLS, and Frame Relay).
- 12.6 COUNTY is responsible for allowing reasonable access to all COVERED COMPONENTS as required by CONTRACTOR and its subcontractor. Any access-control servers required to provision access will be provided by COUNTY.
- 12.7 COUNTY is responsible for the management, support and maintenance of any non-covered component.
- 12.8 COUNTY is responsible for providing and maintaining an escalation path among COUNTY personnel.
- 12.9 COUNTY is responsible for end-user training unless otherwise agreed to in writing.



12.10 COUNTY shall provide or make available to CONTRACTOR, in advance and in writing, any COUNTY processes or policies with which CONTRACTOR and its subcontractor are expected to comply in connection with this Statement of Work.

**EXHIBIT A.1**

(Co of SB Std Terms Ver 4-21-95)

**COVERED COMPONENTS & PRICING**

**EXHIBIT A.1: CUSTOMER SITE - PRODUCT SUMMARY**

<i>Covered Systems</i>	
<b>SITE - 1000006862; 19 - Civic Center</b>	
SV8500	
Software Assurance (5/27/15 - 6/30/15)	
<b>SITE - 1000006862; 20 - E. Cook Street</b>	
SV8500	
Software Assurance (4/9/15 - 6/30/15)	
<b>SITE - 1000006862; 21 - Calle Real</b>	
SV8500	
Software Assurance (1/1/15 - 6/30/15)	
<b>SITE - 1000006862; 22 - 2400 Professional Highway</b>	
DRU	
<b>SITE - 1000006862; 46 - Burton Mesa</b>	
2000IPS	
<b>SITE - 1000006862; 49 - Foster Road</b>	
SV8500	
Software Assurance (1/3/15 - 6/30/15)	
<b>SITE - 1000006862; 53 - Solvang</b>	
SV8500	
Software Assurance (6/16/15 - 6/30/15)	
<b>SITE - 1000006862; 58 - Betteravia</b>	
SV8500	
Software Assurance (1/1/15 - 6/30/15)	
<b>SITE - 1000006862; 61 - Juvenile Hall</b>	
2000IPS	
<b>SITE - 1000006862; 63 - North B. Street</b>	
2000IPS	
<b>SITE - 1000006862; 64 - WRC Broadway</b>	
SV8500	
Software Assurance (1/21/15 - 6/30/15)	
<b>SITE - 1000006862; 67 - Courthouse/Admin.</b>	
SV8500	
Software Assurance (4/3/15 - 6/30/15)	
<b>SITE - 1000006862; 68 - Los Prietos Boys Camp</b>	
2400IPX	

**EXHIBIT A.1: CUSTOMER SITE - PRODUCT SUMMARY**

**Covered Systems**

<b>SITE - 1000006862; 69 - Air Pollution Control</b>	
2000IPS	
<b>SITE - 1000006862; 73 - Social Services</b>	
SV8500	
Software Assurance (2/6/15 - 6/30/15)	
<b>SITE - 1000006862; 75 - Emergency Ops Center</b>	
SV8500	
Software Assurance	
UCB	
Software Assurance	
<b>SITE - 1000006862; 76 - Carmen Lane</b>	
2000IPS	
<b>SITE - 1000006862; 77 - De La Vine</b>	
2000IPS	

**EXHIBIT A.1 -PRICING SUMMARY**

**Price**

	Ea				Price
On Site Technician	Ea		3		\$417,522.00
SV8500 Ports based on 8082 from RFP	Ea	<i>Recount w//PCCIS</i>	8,906		\$76,369.56
SWA Prorate to 6/30/2015	Ea				\$27,182.00
SWA UCB - EOC (included in SWA Prorate)	Ea		1		\$0.00
UM8700 (Under warranty)	Ea		1		\$0.00
UM8700 SWA (Under Warranty)	Ea		1		\$0.00
Global Navigator (SWA under warranty)	Ea		1		\$0.00
Global Navigator - Hardware	Ea		1		\$714.25
Forum Consortium	Ea		1		\$9,791.10
Nuance	Ea		1		\$30,121.07
MTS	Ea		1		\$24,549.18
Advanced Monitoring (PBX's)**	Ea		10		\$10,500.00
Environmental for Temp and/or Rectifier**	Ea		10		\$5,040.00
QOE Endppoints**	Ea		10		\$5,040.00
<b>Warranty included in RFP</b>					<b>(\$119,295.00)</b>
<b>TOTAL ANNUAL AMOUNT</b>					<b>\$487,534.16</b>

On-site maintenance support is Monday through Friday 8:00 AM to 5:00 PM excluding weekends and holidays. \*Due to manufacturer discontinuance all Magnetek power systems will not be covered in this agreement.

\*\*Coverage and pricing for these items will be pro-rated. Coverage will begin upon signature of agreement and will end co-terminously with all other coverage on this agreement.

**EXHIBIT A.1: SPECIAL PARTS AND LABOR PRICING**

ITEM DESCRIPTION	PART NUMBER	Equipment Cost (Pre-Tax)	LABOR COST	Total w/o TAX	Quant Discou..
<b>NEC SV8500</b>					
<b>INTERFACE CARDS</b>					
Analog Interface Card	8530006	\$2,026.85		\$2,026.85	
Digital Interface Card	8530203	\$5,543.30		\$5,543.30	
SIP Trunk Interface Card	8526013	\$4,386.80		\$4,386.80	
Analog Ground Start Trunk Interface Cards (Include power fail eqpmt)	8524003	\$3,253.58		\$3,253.58	
PRI Circuit Card	8524008	\$6,202.78		\$6,202.78	
<b>TELEPHONES</b>					
Analog Telephone w Message Waiting Light	780020	\$28.35		\$28.35	
Multibutton Analog Telephone w/speakerphone & msg waiting light	430055	\$84.22		\$84.22	
Single Line Digital Telephone (2 lines)	680000	\$94.04		\$94.04	
Single Line VoIP SIP Telephone	690084	\$87.55		\$87.55	
6 Button Digital Telephone	680001	\$117.71		\$117.71	
8 Button Desi-Less Digital Telephone	680010	\$230.50		\$230.50	
12 Button Digital Telephone w/Display & Speakerphone	680002	\$158.44		\$158.44	
24 Button Digital Telephone w/Display & Speakerphone	680004	\$175.53		\$175.53	
32 Button Digital Telephone w/Display & Speakerphone	680006	\$202.90		\$202.90	
6 Button VoIP SIP Telephone	690001	\$133.74		\$133.74	
8 Button Desi-Less VoIP SIP Telephone	690071	\$163.38		\$163.38	
12 Button VoIP SIP Telephone w/Display & Speakerphone	690002	\$163.38		\$163.38	
24 Button VoIP SIP Telephone with Display and Speakerphone	690004	\$181.35		\$181.35	
32 Button VoIP SIP Telephone with Display and Speakerphone	690006	\$202.90		\$202.90	
Analog Adapter for Digital Telephone	680600	\$72.45		\$72.45	
Softphone CD	0221766	\$65.87		\$65.87	
Busy Lamp Field (specify number of buttons in Column F)	680012	\$177.34		\$177.34	
(25) ACD License	8510559	\$6,850.45		\$6,850.45	
<b>MDF / PAGING / MISC</b>					
12 Foot Line cord 4 conductor (silver)	LC-0000009	\$3.34		\$3.34	
12 Foot coil cord (BK)	HSC-0000040	\$4.02		\$4.02	
25 PAIR 25' DEMF (X2)	400253	\$32.00		\$32.00	
66M 150 BLOCK	660085	\$7.30		\$7.30	
89 B BRACKET	660520	\$1.15		\$1.15	
25 FT TERMINAL CABLE	652137	\$40.00		\$40.00	
25 FT CONVERTER CABLE	652127	\$54.00		\$54.00	
Kentrox CSU T- SERV II	652135	\$1,033.00		\$1,033.00	
24 VDC POWER SUPPLY FOR KENTROX	652138	\$50.00		\$50.00	
Channel Service Unit CSU (ADTRAN)	1200307L1	\$381.59		\$381.59	
STAINLESS STEEL PHONE	632598	\$555.00		\$555.00	
412541-TP1-27S (4 LINE ANALOG PHONE)	412541-T-P-127S	\$195.00		\$195.00	
WALL SPEAKER 4 PAGING SYSTEM	664880	\$39.00		\$39.00	
PAGING AMPLIFIER (100 WATT)	GB95010947	\$490.00		\$490.00	

**Pricing contained in this Exhibit A.1 is applicable for the 2014-2015 service term. Changes to the pricing contained herein may be changed annually subject to the following:**

- 1. Exhibit A.1 pricing from the cost schedules, which are adjusted based on the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI), U.S. City Average all items, 1984 = 100, as published by the U.S. Bureau of Labor Statistics for the previous calendar year. However, in no case shall an annual upward adjustment exceed four (4%) percent regardless of the amount of change in the CPI.**
- 2. Adjustments shall be made by calculating the CPI factor in effect on March 1st , immediately prior to the adjustment date. This factor is multiplied by the old unit prices to establish the new unit prices. If the CPI factor is greater than 1.04, then the factor 1.04 shall be used in all calculations.**

## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$4,000,000.00.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **EXHIBIT A & EXHIBIT B1** (Schedule of Fees). Invoices submitted for payment that are based upon **EXHIBIT A1 & EXHIBIT B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Quarterly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **EXHIBIT B1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

**EXHIBIT B1**

The COUNTY shall pay CONTRACTOR \$ 487,544.16 for fiscal year 2014/2015 for the SERVICES listed in Exhibit A.1 – PRICING SUMMARY. The payments shall be made to the CONTRACTOR at the start of each quarter. Table B1.1 represents breakdown of each payment.

The CONTRACTOR will invoice parts purchased on an as needed basis listed in EXHIBIT A.1: SPECIAL PARTS AND LABOR PRICING at the completion of such work.

<b>2014-2015 Fiscal Year – B1.1 – QUARTERLY PAYMENT SCHEDULE</b>	
July	\$121,883.54
October	\$121,883.54
January	\$121,883.54
April	\$121,883.54
<b>TOTAL</b>	<b>\$487,544.16</b>



## EXHIBIT C

### Indemnification and Insurance Requirements

#### INDEMNIFICATION

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees (hereinafter County Indemnitees) from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the active negligence or willful misconduct of the COUNTY. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with 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, his agents, representatives, employees or subcontractors.

##### A. Minimum Scope 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 \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** 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.

##### 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 if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR’s insurance coverage shall be primary insurance 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 grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but 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. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention
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 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.
9. **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 special 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.

## EXHIBIT D

### CONFIDENTIALITY AGREEMENT HIPAA INCIDENTAL DISCLOSURE SERVICES CONTRACTS

#### 1.0 OVERVIEW

In the course of providing professional communication system services to Covered Entities, CONTRACTOR is not in the business of creating, maintaining, receiving, storing or transmitting Protected Health Information ("PHI") as described in 45 CFR Sec 160.308. The services offered by CONTRACTOR do not require access on a routine basis to PHI, and exposure to electronic PHI ("E PHI") (collectively referred to hereafter as "PHI") is purely on a random or occasional basis incidental to ensuring that the electronic transmission conduit used by the Covered Entities' network is operating properly and is properly maintained. As a result, CONTRACTOR is not a Business Associate under HIPAA, but nonetheless, will abide by reasonable safety and security measures designed to protect any PHI that may come into its possession.

##### 1. Definitions:

- 1.1 "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.2 "Electronic Protected Health Information" means Protected Health Information, which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.
- 1.3 "Covered Entity" means any health care provider that transmits health information covered by the HIPAA Transaction Rule whether directly or through a business associate.

##### 2. CONTRACTOR Safeguards & Requirements

NECAM's independent compliance firm audited its processes and procedures for compliance with HIPAA statutory provisions. The following findings reflect significant compliance with security and access management requirements even though NECAM is not a Business Associate:

###### Administrative Safeguards:

- |                      |  |
|----------------------|--|
| 164.308(a)(1)(i)     | Security Management policies & procedures            |
| 164.308(a)(1)(ii)(A) | Risk Analysis Assessment                             |
| 164.308(a)(1)(ii)(B) | Risk Management Measures                             |
| 164.308(a)(1)(ii)(C) | Sanctions for non-compliance                         |
| 164.308(a)(1)(ii)(D) | Information System Activity Review                   |
| 164.308(a)(2)        | Assigned Security Responsibility                     |
| 164.308(a)(3)(ii)(A) | Supervision & authorization of workforce with access |
| 164.308(a)(3)(ii)(B) | Workforce clearance procedures                       |
| 164.308(a)(3)(ii)(C) | Workforce termination procedures                     |

164.308(a)(4)(ii)(C)	Workforce access establishment & modification procedures
164.308(a)(5)(i)	Security Awareness Training
164.308(a)(5)(ii)(A)	Security Reminders
164.308(a)(5)(ii)(B)	Protection from malicious malware
164.308(a)(5)(ii)(C)	Log-in monitoring procedures
164.308(a)(5)(ii)(D)	Password management procedures
164.308(a)(6)(i)	Security Incident procedures
164.308(a)(6)(ii)	Response and reporting requirements
164.308(a)(8)	Periodic evaluation of standards implemented

Physical Safeguards:

164.310(a)(1)	Facility access controls
164.310(a)(2)(i)	Contingency operations
164.310(a)(2)(ii)	Facility security plan
164.310(a)(2)(iii)	Access control and validation process
164.310(a)(2)(iv)	Maintenance records for physical facility

Technical Safeguards:

164.312(a)(1)	Technical access control
164.312(a)(2)(i)	Unique User identification
164.312(a)(2)(iii)	Automatic logoff procedures

Organizational Requirements:

164.316(a)	Relevant NOC Policies & Procedures to comply with standards
164.316(b)(1)	Maintenance of Policies & Procedures
164.316(b)(1)(ii)	Retention of documentation for 6 years
164.316(b)(1)(ii)	Availability of documentation for those responsible for implementing.
164.316(b)(1)(iii)	Updates to policies to reflect operational changes.

The following statutory provisions were found to be **not applicable** due to the fact that PHI was not retained, transmitted, used or stored by CONTRACTOR in its network management or maintenance operations.

Administrative Safeguards:

164.308(a)(3)(i)	Workforce security policies re: PHI
164.308(a)(4)(i)	Information access management of PHI
164.308(a)(4)(ii)(A)	Isolation Health Clearinghouse functions
164.308(a)(7)(i)	Contingency plan for loss of PHI
164.308(a)(7)(ii)(A)	Data backup plan for PHI
164.308(a)(7)(ii)(B)	Disaster recovery plan for PHI
164.308(a)(7)(ii)(C)	Emergency Mode Operation Plan
164.308(a)(7)(ii)(D)	Testing and revision procedures
164.308(a)(7)(ii)(E)	Applications & data criticality Analysis
164.308(b)(i)	Business Associate Contracts & other arrangements
164.308(b)(4)	Other arrangements of satisfactory assurances.

Physical Safeguards:

164.310(b)	Workstation use for PHI
164.310(c)	Workstation physical safeguards
164.310(d)	Device and Media Control
164.310(d)(2)(i)	Disposal of PHI
164.310(d)(2)(ii)	Media Re-use
164.310(d)(2)(iii)	Accountability record of movements of hardware & media
164.310(d)(2)(iv)	Data backup and storage

Technical Safeguards:

164.312(a)(2)(ii)	Emergency access procedure
164.312(a)(2)(iv)	Encryption & decryption of PHI
164.312(b)	Audit controls to examine activity in system containing PHI
164.312(c)(1)	Integrity policy for PHI
164.312(c)(2)	Mechanism to authenticate PHI
164.312(d)	Person or entity authentication
164.312(e)(1)	Transmission Security
164.312(e)(2)(i)	Integrity controls preventing improper modification
164.312(e)(ii)(2)	Encryption of PHI

Organizational Requirements:

164.314(a)(1)	Business Associate contract-cure or termination for breach
164.314(a)(2)(i)	Business Associate contract obligating safeguards & reporting
164.314(a)(2)(ii)	Other arrangements-governmental entities

**3. Agents and Subcontractors of NECAM**

NECAM shall ensure that any agent, including a subcontractor shall comply with the same restrictions and conditions that apply through this Agreement to NECAM with respect to the random exposure to PHI. NECAM shall ensure that any agent who may incidentally obtain PHI, including a subcontractor, agrees to implement the same degree of care and safeguards to protect such information as is provided in this agreement.

**4. Records Available to Covered Entity and Secretary**

NECAM shall make available records, to the extent that such records exist, related to the use, disclosure, security and privacy protection of PHI that may have been randomly exposed during the course of performing services for a Covered Entity. Given the random nature of such exposure the Covered Entity acknowledges that reports of individual events may not be retained, however, NECAM shall make reasonable efforts to make available to the Covered Entity or the Secretary of the United State Department of Health and Human Services any information about the incident and its confidentiality policies solely for purposes of investigating or auditing the Covered Entities' compliance with the HIPAA privacy and security regulations.

**5. Retention and Destruction:**

NECAM shall make available records, to the extent that such records exist, related to the use, disclosure, security and privacy protection of PHI that may have been randomly exposed during the course of performing services for a Covered Entity. Given the random nature of such exposure the Covered Entity acknowledges that reports of individual events may not be retained, however, NECAM shall make

reasonable efforts to make available to the Covered Entity or the Secretary of the United State Department of Health and Human Services any information about the incident and its confidentiality policies solely for purposes of investigating or auditing the Covered Entities' compliance with the HIPAA privacy and security regulations.

The foregoing security processes and procedures are reasonable and acceptable for the conditions under which NECAM provides Services to the County and will maintain all COUNTY information in confidence as required by the Agreement.