

SECTION III TERMINATION

- 3.01 County may terminate this Agreement at any time by providing ten (10) days written notice to the Contractor.
- 3.02 Upon receipt of such notice, the Contractor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 3.03 Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 3.04 County shall then pay the Contractor that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 3.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

SECTION IV LIABILITY INSURANCE

Contractor shall, prior to performing billable services and for the duration of term of this Agreement, keep in full force and effect a policy of general liability insurance of not less than \$1,000,000.00 for each claim aggregate, which shall be approved by the Fort Bend County Risk Management Department prior to purchase. The policy shall contain a clause that the insurer will not cancel or change the insurance without first giving County ten (10) days prior written notice. The insurance shall be in a company acceptable to the Fort Bend County Risk Management Department and a copy of the policy or certification of insurance shall be delivered to the Fort Bend County Risk Management Department as soon as available.

SECTION V NOTICE

- 5.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Contractor at the addresses set forth below.
- 5.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 5.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to the Contractor:

Tiburon, Inc.
6206 Stoneridge Mall Road, Suite 400
Pleasanton, CA 94588

B. If to County notice must be sent to both the Fort Bend County Purchasing Agent and County Project Manager:

Fort Bend County Purchasing Department
Gilbert D. Jalomo, Jr., CPPB
4520 Reading Road, Suite A
Rosenberg TX 77471

Lt. Larry Riendeau
Fort Bend County Sheriff's Office
1410 Ransom Road
Richmond, Texas 77469

5.04 Either party may designate a different address by giving the other party ten (10) days written notice.

SECTION VI LIMIT OF APPROPRIATION

- 6.01 Prior to the execution of this Agreement, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that County shall have available the total maximum sum of \$48,152.00, specifically allocated to fully discharge any and all liabilities which may be incurred by County.
- 6.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that County shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$48,152.00.

SECTION VII SUCCESSORS AND ASSIGNS

- 7.01 County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 7.02 Neither County nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

SECTION VIII
PUBLIC CONTACT

- 8.01 Contact with the any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of County.
- 8.02 Under no circumstances, whatsoever, shall Contractor release any material or information developed or received in the performance of its services hereunder without the express written permission of County, except where required to do so by law.

SECTION IX
COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with generally accepted standards of Contractors practicing in Fort Bend County, Texas applicable thereto and shall use that customary degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Contractor's performance. Contractor's liability hereunder for damages shall not exceed the contract price paid to Contractor for the work hereunder. In no event shall Contractor be responsible to County for any indirect, consequential, incidental, or tort damages.

SECTION X
OWNERSHIP OF DOCUMENTS

- 10.01 County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Contractor and his Contractors (deliverables).
- 10.02 No reuse fees or royalty payments will be paid to the Contractor in connection with future reuse or adaptation of designs derived under this contract.
- 10.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 10.04 Contractor is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of County.
- 10.05 The documents referenced in this Section are not intended or presented by the Contractor to be suitable for reuse by County or others on extensions of this Project or on other unrelated projects.
- 10.06 Any adaptation or use by County of such documents on extension of this Project or other unrelated projects shall be at County's sole risk.

SECTION XI
INDEMNIFICATION

- 11.01 CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- 11.02 CONTRACTOR SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH ACTIVITIES BY THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

SECTION XII
MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIII
MISCELLANEOUS


- 13.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 13.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 13.03 Contractor agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Offices has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Contractor and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

EXECTION XIV
EXECUTION

This Agreement shall become effective on the date executed by County.

FORT BEND COUNTY:



Robert E. Hebert, County Judge

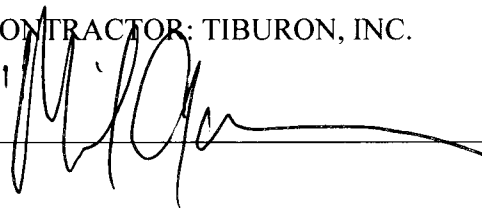
September 22, 2009
Date

Attest:



Dianne Wilson, County Clerk

CONTRACTOR: TIBURON, INC.



9.21.09.
Date

I:MER:Tiburon.SO.3297(09162009)

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$48,152.00 to accomplish and pay the obligation of the Fort Bend County under this Agreement.



Ed Sturdivant, Fort Bend County Auditor

Attachments: Exhibit A: Enhancement Proposal (EP)-290043: ProQA Interface
Exhibit B: Enhancement Proposal (EP)-288390: MDS2000 NMEA
Configuration

EXHIBIT A

Statement of Work

Scope Description

Tiburon will provide an interface to the Priority Dispatch ProQA EMD v12 product to its CAD/2000 system at the client's agency that will provide the following general functionality:

- Allow the Call Taker/Dispatcher to push a button in the Event Entry window to go into ProQA EMD system.
- When ProQA recommends dispatch or the ProQA case is closed or cancelled in ProQA, the Event Entry window reappears to allow the Call Taker/Dispatcher to enter/updates to the call with ProQA data, if there is data from ProQA.
- If ProQA case is not completed yet, the Call Taker can push a button in the Event Entry window to return to ProQA to complete the ProQA case.

Tiburon Responsibilities

- 1) Prepare internal design documents.
- 2) Modify the application per the "Scope Description."
- 3) Install the modified code in the client's test environment.
- 4) Correct any discrepancies in operation, based on the "Scope Description," post client testing.
- 5) Install the modified code in the client's production environment.

Client Responsibilities

- 1) Designate a person to be the principal point of contact for all technical questions and administrative arrangements relating to this Enhancement Proposal.
- 2) Provide VPN access to Tiburon development personnel.
- 3) Test the code for conformance with the "Scope Description."

Completion Criteria

This work will be considered complete ten (10) business days after Tiburon has provided the Client with written notification that the ProQA EMD interface is ready for review, or the ProQA EMD interface has been delivered to the client, whichever comes first. If Client does not confirm completion with a sign off letter presented by the Tiburon project manager within ten (10) business days of submittal of such letter, or otherwise notifies Tiburon in writing why completion sign-off has not been provided any final invoice(s) will be issued and will be payable in accordance with the payment terms of this Enhancement Proposal.

EXHIBIT B
Statement of Work

Scope Description

Tiburon will modify the configuration file for the MDS to expect and receive NMEA data. Tiburon will put the updated code in place and work with client to ensure the data is coming through. This change to the configuration for the one (1) device can confirm that data is being sent to the message switch without having updated AVL code in place.

Tiburon Responsibilities

- 1) Prepare internal design documents.
- 2) Modify the application per the "Scope Description."
- 3) Install the modified code in the client's test environment
- 4) Correct any discrepancies in operation, based on the "Scope Description," post client testing
- 5) Install the modified code in the client's production environment.

Client Responsibilities

- 1) Designate a person to be the principal point of contact for all technical questions and administrative arrangements relating to this Enhancement Proposal.
- 2) Provide VPN access to Tiburon development personnel.
- 3) Test the code for conformance with the "Scope Description."

Completion Criteria

This work will be considered complete ten (10) business days after Tiburon has provided the Client with written notification that the NMEA data standard is ready for review, or the NMEA data standard has been tested with the client, whichever comes first. If Client does not confirm completion with a sign off letter presented by the Tiburon project manager within ten (10) business days of submittal of such letter, or otherwise notifies Tiburon in writing why completion sign-off has not been provided any final invoice(s) will be issued and will be payable in accordance with the payment terms of this Enhancement Proposal.

A CUMMINS COMPANY